

Timber Legality Risk Assessment

GHANA

Version 2.0 | 24 March 2022

This risk assessment has been developed by Preferred by Nature with support from EU LIFE programme. Donors are not responsible for any claims or views presented in this material.

COUNTRY RISK
ASSESSMENTS



LIFE - Support EUTR II - LIFE18 GIE/DK/000763

This risk assessment has been developed by Preferred by Nature with support from EU LIFE programme. Donors are not responsible for any claims or views presented in this material.



Preferred by Nature has adopted an “open source” policy to share what we develop to advance sustainability. This work is published under the Creative Commons Attribution Share-Alike 3.0 license. Permission is hereby granted, free of charge, to any person obtaining a copy of this document, to deal in the document without restriction, including without limitation the rights to use, copy, modify, merge, publish, and/or distribute copies of the document, subject to the following conditions: The above copyright notice and this permission notice shall be included in all copies or substantial portions of the document. We would appreciate receiving a copy of any modified version.

Disclaimers

This Risk Assessment has been produced for educational and informational purposes only. Preferred by Nature is not liable for any reliance placed on this document, or any financial or other loss caused as a result of reliance on information contained herein. The information contained in the Risk Assessment is accurate, to the best of Preferred by Nature's knowledge, as of the publication date.

The European Union support for the production of this publication does not constitute endorsement of the contents which reflect the views only of the authors, and the Union cannot be held responsible for any use which may be made of the information contained therein.

Contents

A. Introduction	4
B. Overview of the forest sector in Ghana	10
C. Legality Risk Assessment	13
LEGAL RIGHTS TO HARVEST	13
1.1. Land tenure and management rights	13
1.2. Concession licenses	16
1.3. Management and harvesting planning	20
1.4. Harvesting permits	24
TAXES AND FEES	29
1.5. Payment of royalties and harvesting fees.....	29
1.6. Value added taxes and other sales taxes	32
1.7. Income and profit taxes.....	34
TIMBER HARVESTING ACTIVITIES	36
1.8. Timber harvesting regulations	36
1.9. Protected sites and species	39
1.10. Environmental requirements.....	44
1.11. Health and safety	48
1.12. Legal employment	51
THIRD PARTIES' RIGHTS	55
1.13 Customary rights.....	55
1.14. Free prior and informed consent.....	58
1.15. Indigenous/traditional peoples' rights.....	61
TRADE AND TRANSPORT	61
1.16. Classification of species, quantities, qualities	61
1.17. Trade and transport	64
1.18. Offshore trading and transfer pricing	67
1.19. Custom regulations	70
1.20. CITES.....	72
1.21. Legislation requiring due diligence/due care procedures	75
PROCESSING	76
1.22. Legal Registration of business.....	76
1.23. Environmental requirements for processing	79
1.24. Processing requirements.....	81
1.25. Health and Safety in the timber processing sector	82
1.26. Legal employment in the timber processing sector	85
Annex I. Timber source types.....	86

A. Introduction

This Timber Legality Risk Assessment for Ghana analyses the risk of sourcing timber from illegal harvesting and transport areas. Preferred by nature has been working on risk assessments for timber legality, in partnership with several organisations, since 2007.

Version history

Version 1.0: Published November 2017

Version 2.0: Published March 2022

Overview of methodology

Preferred by Nature would like to recognise the huge contribution our consultants working in Ghana have performed in connection with this report. Their involvement has been invaluable in obtaining the latest information across the broad range of timber legality issues presented in this report. Preferred by Nature's country, risks assessments are by definition always evolving, and by retaining local experts, we are confident the advice expressed in this report is truthful and reliable.

The risk assessments are developed with local forest legality experts and use an assessment methodology jointly developed by FSC and Preferred by Nature. A detailed description of the methodology can be found on the [Preferred by Nature Sourcing Hub](#).

Interviews with experts

The list of experts is not included in the risk assessment. However, all experts are known to Preferred by Nature.

Version 1.0: Expert consultation in October 2016

Public consultation

Online public consultation on the Sourcing Hub: February 22 – March 22, 2022

Overview of Legality Risks

Timber Risk Score: 54 / 100 in 2022

This report contains an evaluation of the risk of illegality in Ghana for 6 categories and 26 sub-categories of law.

We found:

- Specified risk for 12 sub-categories.
- Low risk for 13 sub-categories.
- No legal requirements for 1 sub-category.

The key legality risks identified in this report concern legal rights to harvest, timber harvesting activities, trade and transport, and processing.

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

- Concession leases are not converted to Timber Utilisation Contract (TUCs) (1.2)
- Plantation and reforestation plans are lacking (1.3).
- Area plans, and operational plans are lacking or not meeting legal requirements (1.3).
- Logging takes place without a permit (1.4).
- Award of salvage permits for banned species in violation of salvage permit conditions (1.4).

For Timber Harvesting Activities, there is a risk that/of:

- Protected species are illegally harvested (1.9).
- Protected areas are illegally harvested (1.9).
- Personal safety and protective equipment are not provided to or used by workers (1.11).
- When a union is in place there is a risk that collective bargaining agreements are not in place, or that the terms of the collective bargaining agreements are not met by companies (1.12).
- Workers do not have contracts and obligatory insurance (1.12).
- Risk that pensions contribution payment (tier 1 contributions and tier 2 deduction payments) are not paid by the employer (1.12).

For Trade and Transport, there is a risk that/of:

- Transport of logs for the domestic market takes place without Log Measurements Conveyance Certificates (LMCCs) (1.17).
- CITES species are illegally harvested and exported with a CITES permit fraudulently issued (1.20).

For Processing, there is a risk that/of:

- Processing entities do not have a valid operating environmental permit obtained from the EPA (1.23).
- Timber processing entities are not registered with the TIDD (1.24).
- Personal safety and protective equipment are not provided to or used by workers, especially among the small and medium operations (1.25)
- Workers do not have contracts and obligatory insurance (1.26)

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 some differences between source types.

Natural forest

In forest reserve

A natural forest within Ghana's forest reserves (permanent forest estates).

These forests are on stool/skin lands¹ and owned by stools and skins, of which chiefs are the custodians but vested in Ghana's president and managed by the Forestry Commission. Small-Scale Timber Utilisation Contracts (Small-Scale TUC), Large-scale Timber Utilisation Contracts (Large-scale TUC), and Salvage permits are the applicable permits to this source of timber.

Off-forest reserve

The natural forest outside Ghana's forest reserves, on land owned by stools and skins, families, individuals, and public institutions. The FC shall assess if the land qualifies as a small or large scale TUC based on area and timber stock if a landowner wants to allocate a TUC to a company.

Small-Scale Timber Utilisation Contracts (Small-Scale TUC), Large-scale Timber Utilisation Contracts (Large-scale TUC), and Salvage permits are the applicable permits to this source of timber.

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. The entry and salvage permits are applicable permits to plantations established and managed by the Forestry Commission or private investors. The Forestry Commission monitors plantations and issues the Plantation Production Certificate for plantations, replacing the requirements for tree information form (TIF) and the log information form (LIF). Log Measurement and Conveyance Certificate to convey harvested products is required.

¹ In Ghana, about 80% of the land is owned by traditional leaders/rulers. Stools and skins refer to traditional leaders in Ghana (north and south). Traditional leaders or chiefs in the northern half of Ghana sit on the skin of animals. The northern part of Ghana is mainly savanna vegetation and has lots of wildlife and parks so by tradition the people use skin of animals. Traditional leaders in the southern half of Ghana which is the high forest zone sit on stools carved from the trees in the forest.

'Stool land' is used for both north and south land in Ghanaian laws. "Stool land" includes land controlled by a person for the benefit of the subjects or members of a stool, clan, company or community, and the land in the Upper and Northern Regions other than land vested in the President and accordingly "stool" means the person exercising that control or the authority or position of the traditional leader.

Plantation off-forest reserve	<p>Plantations outside forest reserves, on lands owned by stool (community), family, individuals or public institutions. The plantations are privately managed. The Forestry Commission monitors plantations and issues the Plantation Production Certificate for plantations, replacing the requirements for tree information form (TIF) and the log information form (LIF).</p> <p>This type of plantation does not need any permit to operate or harvest, but a Log Measurement and Conveyance Certificate to convey harvested products is required.</p>
Submerged forest	<p>Permits are issued only in special cases.</p> <p>Underwater forests, off-reserve, on a stool and family lands. The Forestry Commission grants timber harvesting rights through salvage permits for Volta Lake in Ghana.</p> <p>There are no management requirements related to harvesting wood from submerged forests. However, there are requirements for harvesting, health and safety of the workers, legal employment, environmental requirements, and trade and transport of the timber.</p>

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

Legal Category	Sub-Category	Natural forest	Plantation		Submerged forest
			Reserve	Off reserve	
Legal rights to harvest	1.1 Land tenure and management rights	Low	Low	Low	Not applicable
	1.2 Concession licenses	Specified	Not applicable	Not applicable	Not applicable
	1.3 Management and harvesting planning	Specified	Specified	Not applicable	Not applicable
	1.4 Harvesting permits	Specified	Specified	Low	Low
Taxes and fees	1.5 Payment of royalties and harvesting fees	Low	Low	Low	Low
	1.6 Value added taxes and other sales taxes	Low	Low	Low	Low
	1.7 Income and profit taxes	Low	Low	Low	Low
Timber harvesting activities	1.8 Timber harvesting regulations	Low	Low	Low	Not assessed
	1.9 Protected sites and species	Specified	Low	Low	Not applicable
	1.10 Environmental requirements	Low	Low	Low	Not assessed
	1.11 Health and safety	Specified	Specified	Specified	Specified
	1.12 Legal employment	Specified	Specified	Specified	Specified
Third parties' rights	1.13 Customary rights	Low	Low	Low	Not assessed
	1.14 Free prior and informed consent	Low	Low	Low	Not assessed
	1.15 Indigenous/traditional peoples rights	Low	Low	Low	Not assessed
Trade and transport	1.16 Classification of species, quantities, qualities	Low	Low	Low	Low
	1.17 Trade and transport	Specified	Specified	Specified	Specified
	1.18 Offshore trading and transfer pricing	Low	Low	Low	Low
	1.19 Custom regulations	Low	Low	Low	Low
	1.20 CITES	Specified	Low	Low	Not assessed
	1.21 Legislation requiring due diligence/due care procedures	Not applicable	Not applicable	Not applicable	Not applicable
Processing	1.22 Legal Registration of business	Low	Low	Low	Low

	1.23 Environmental Requirements for processing	Specified	Specified	Specified	Specified
	1.24 Processing requirements in the timber industry	Specified	Specified	Specified	Specified
	1.25 Health and safety	Specified	Specified	Specified	Specified
	1.26 Legal employment	Specified	Specified	Specified	Specified

B. Overview of the forest sector in Ghana

Ghana has a forest area covering 7,985,000 ha². Ghana's forests are classified into (i) forest reserve (FR), 1.63 million hectares of gazetted permanent forest estates in the high forest zone, which includes reforested areas, permanently protected areas (national parks, globally significant biodiversity areas of 352,500ha in 2016)³, (ii) off-forest reserve (OFR) (farmlands and patches of forests on non-gazetted lands), (iii) plantations (on and off forest reserve, estimated at 297,000ha as at 2020⁴), and (iv) submerged forest (SF). The forests are mainly found in the high forest zone; and savannah woodlands zone.

Forest reserves (production and protection forest), plantations in FRs, and protected areas (PAs) are on stool/skin lands but vested in Ghana's president and managed by the forestry commission (FC). Submerged forest (SF) and private plantations on OFRs are 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 usually leased or established by landowners.

The Forest Services Division (FSD) monitors harvesting operations on-site, including stumpage fee computation, through harvest and post-harvest inspections by FSD technical officers. The Resource Management Support Centre and FC also conduct quarterly monitoring of field inspections⁵.

Before harvesting in any FR compartment or OFR area, the FSD conducts an inventory of all trees. A tree information form (TIF) that 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 are prepared by the FSD for trucking logs 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.

The Ghana FLEGT VPA

Ghana entered into Voluntary Partnership Agreement (VPA) with the European Union (EU) on 1st December 2009 under the EU Forest Law Enforcement, Governance and Trade (FLEGT) Programme. The FLEGT VPA is a legally binding agreement. It seeks to prevent illegal logging and improve forest governance by ensuring that timber exported to Europe from the partner country complies with all legal requirements of the country's forest laws. Ghana has since been implementing various aspects of the agreement. The forest sector now has been influenced largely by actions implemented as part of this agreement. Ghana's VPA with the EU applies to both domestic and international markets. Under the VPA, Ghana has developed a Legality Assurance System (GhLAS) comprising Legality standard, verification protocols, wood tracking system (GWTS) and licensing system. All information required to demonstrate the legality of any volume of timber traded must be held in the WTS. Several legal reforms have also been carried out, resulting in Legislative Instrument (LI) Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254).

Among other initiatives to curb illegality within the forest sector, the Validation of Legal Timber Programme (VLTP) was designed in 2007 to tackle some of the identified gaps within the Ghana forest control system, including:

- Lack of definition of legal timber

² FAO 2020. Global Forest Resources Assessment 2020. Report. Ghana, p.16. Rome.

³ <https://www.fao.org/3/cb0004en/cb0004en.pdf>

⁴ Environmental Protection Agency, Ghana 2016. Critical analysis of building a national capital accounts for Ghana

⁵ FAO 2020 Global Forest Resource Assessment, Main Report. Rome. <http://www.fao.org/3/ca9825en/CA9825EN.pdf>

Forestry Commission of Ghana. Manual of Procedures for Forest Resource Management Planning in the High Forest Zone of Ghana. <https://www.oldwebsite.fcghana.org/assets/file/Publications/Manuals/MOP.pdf>

- Absence of secure chain of custody system
- Absence of independent verification
- Absence of independent forest monitoring
- Issuance of license

The GhLAS is implemented by the Timber Validation Department (TVD) of the Forestry Commission (FC), Forest Services Division (FSD) of FC, Timber Industry Development Division (TIDD) of FC, and Civil Society Organisations. Implementation is overseen by the Joint Monitoring and Review Mechanism, Multi-stakeholder implementation Committee, Ministry of Lands Forestry and Mines, and Timber Validation Committee.

The GhLAS defines legal timber and provides a set of principles, criteria, and indicators, a performance standard used for auditing. The standard clarifies the evidence required to demonstrate compliance with all the Timber Legality Licence/FLEGT licence requirements. These requirements are provided in the Legislative Instrument, L.I. 2254.

The GWTS ensures that timber entering the supply chain originates from legal sources and that timber flows are controlled throughout the supply chain. The GWTS is predominantly electronic and used to monitor and track operators' compliance along the chain of custody of timber from the forest gate to the point of export or on the domestic market. The GWTS has been extensively and intensively field-tested during the roll-out exercise, which included a range of small-medium and large companies and was effective and efficient, providing real-time data reconciliation along the chain of custody.

The final report of Ghana and the European Union (EU) independent assessment of the legality assurance system described in the Voluntary Partnership Agreement (VPA) on FLEGT between Ghana and the EU, which was shared with both parties on 31 December 2020, concluded that the system was not ready due to several gaps, including the effective resolution of non-compliances associated with the supply chain.⁶

Ghana has an Independent Monitor (IM) that monitors the GhLAS to ensure that it functions effectively and is fit for its purpose. The IM's work covers the entire timber supply chain, starting from the forest through to the domestic market, shipping at ports in Ghana, and the receiving points of competent authorities in the EU. Since 2014, the IM has undertaken annual audits. Each audit report raises corrective action requirements, which helps enhance the robustness of the GhLAS.

Since January 2018, the FSD of FC has been implementing the GWTS alongside the existing manual system, helping to identify challenges with the GWTS which need to be addressed before a total switch to the GWTS. When the system becomes fully operational, and issuance of the FLEGT License begins, the GWTS will help to check illegalities in the timber industry, such as discrepancies in the classification of species, wood qualities and quantities, and ensure the use of required timber rights or permits and implementation of social obligation requirements by operators.

Additional sources:

- Mayers et al. 2018. Assessment of Potential Impacts in Ghana of a Voluntary Partnership Agreement with the EC on Forest Governance. https://www.researchgate.net/publication/265540937_Assessment_of_Potential_Impacts_in_Ghana_of_a_Voluntary_Partnership_Agreement_with_the_EC_on_Forest_Governance
- Ghana FLEGT VPA (2020). <http://fcghana.org/fctvd/index.php>
- EU FLEGT Facility (2017). The Ghana-EU Voluntary Partnership Agreement. <http://www.euflegt.efi.int/background-ghana>

⁶ Ghana and EU finalise assessment of Ghana Timber Legality Assurance System https://www.euflegt.efi.int/ghana-news/-/asset_publisher/FWJBfN3Zu1f6/content/ghana-and-eu-finalise-assessment-of-ghana-timber-legality-assurance-system

- FLEGT Independent Market Monitor. Report on Ghana's FLEGT shipment test.
<https://www.flegtimm.eu/index.php?view=article&id=19:ghana-and-eu-field-test-shipment-procedures&catid=64>

C. 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

- The Constitution of the Republic of Ghana, 1992, Article 267 stool and skin lands and properties (vests stool lands in the appropriate stools for the subjects of the stool). Article 36 (8) (the guiding principles of state policy): ownership and possession of land carry a social obligation to serve the larger community. Article 36 (8) The guiding principles of state policy stating that ownership and possession of land carry a social obligation to serve the larger community. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/31976/101268/F-1229887249/GHA31976.pdf>
- Forest Act 1927 section 17 (1) (CAP 157). It clarifies that ownership of land with forest reserve is unchanged by its establishment as a forest reserve. Section 17(2) A forest reserve can be managed by the owner (stools or private) under the direction of the Forestry Commission or the Government for the benefit of the owner. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha40761.pdf>
- Forest Concession Act 1962 Act 124. Section 16 Forest reserves and timber concessions (Vests 1) all stool lands with forest reserves, 2) all off-reserves and Kumasi town lands which timber concession has been granted before commencement of this Act and 3) all timber on any other land in the President in trust for the stools concerned, except forest reserve constituted at the request of the private owner). Available at: <https://www.ecolex.org/details/legislation/concessions-act-1962-act-no-124-lex-faoc003110/>
- Timber Resources Management Amendment Act 2002, (Act 617) (Replaces section 2b to exclude private timber plantations from the award of timber rights. Available at: <https://www.ecolex.org/details/legislation/timber-resources-management-amendment-act-2002-no-617-of-2002-lex-faoc068409/#:~:text=An%20Act%20to%20amend%20the,and%20wildlife%20and%20to%20provide>
- Forestry Commission Act 1999 (Act 571) (defines legal authority for forest management). Available at: <https://www.ecolex.org/details/legislation/forestry-commission-act-1999-act-no-571-of-1999-lex-faoc034739/>
- Companies Code 1963 (Act 179) (contains business registration requirements). Available at: <https://www.resourcedata.org/document/rji-companies-code-1963-act-179-as-amended->
- Incorporated Private Partnerships Act, 1962 (Act 152) Section 4 Registration of Partnership Firms (Provides for the registration of partnerships and set the maximum number of persons which can form a partnership). Available at: <https://acts.ghanajustice.com/actsofparliament/incorporated-private-partnerships-act-1962act-152/>

- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: https://gra.gov.gh/wp-content/uploads/2020/09/tin_act.pdf

1.1.2. Legal authority

- The Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Available at: <http://fcghana.org/>
- The Lands Commission (responsible for land registry for interest in land). Available at: <https://www.documents.clientearth.org/wp-content/uploads/library/2008-01-01-the-lands-commission-act-2008-ext-en.pdf>

1.1.3. Legally required documents or records

- Registered interest in land with timber rights (optional) for the legal protection of timber rights interest in the area of the timber rights (e.g. land deed).
- Business registration certificate.
- Certificate to commence business.

1.1.4. Sources of information

Government sources

- 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/1lsn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWworOI_E/edit?pref=2&pli=1#gid=0 [Accessed 12 June 2019]

Non-Government sources

- Client Earth (2013). Ownership and Use rights of Forest Natural Resources. Available at: <https://www.documents.clientearth.org/library/download-info/ownership-and-use-rights-of-forest-natural-resources-ghana/> [Accessed on 12 June 2019].
- Frimpong Boamah, E., et al. (2019). Planning by (mis)rule of laws: The idiom and dilemma of planning within Ghana's dual legal land systems, *Environment and Planning C: Politics and Space* (2019). Available at: <https://journals.sagepub.com/doi/10.1177/2399654419855400>
- Expert consultation: Joseph Osei, Resourcetrust, date: January 2022

1.1.5. Risk determination

Overview of Legal Requirements

All stool lands in Ghana are vested in the appropriate stool on behalf and in trust for the stool's subjects following customary law and usage (The Constitution of the Republic of Ghana, 1992. Chapter 21, Article 267 (1)). The ownership of land within a proposed forest reserve shall not be altered by being classified as a forest reserve (Forest Act 1927, section 17 (1) (CAP 157)).

Concession Act of 1962 Act 124 (Section 16 Forests reserves and timber concessions) vests all lands with forest reserves in the President in trust for the stools concerned, except for a reserve constituted at the request of a private owner, all off-reserve lands and Kumasi Town lands which had timber concession granted before the commencement of this act, and all timber on any other land. The Timber Resources Management Amendment Act, 2002 (Act 617) excludes private timber plantations from the award of timber rights. The stool chiefs, clan heads and skins hold trusteeship titles to land on behalf of the people. Outright land ownership is not a common form of land tenure in Ghana. Leases and rentals (alienations) are possible, but the land reverts to the allodial titleholders at the expiry of the lease.

Article 36 (8) The guiding principles of state policy of the 1992 Constitution of Ghana also provides that ownership and possession of land carry a social obligation to serve the larger community. The managers of public, stool, skin and family lands are trustees charged with the obligation to discharge their functions for the benefit of the people of Ghana, of the stool, skin, or family concerned.

The above mentioned constitutional and legislative provisions clarify land and tree ownership. Stools and owners of alienated land⁷ remain the owners of forests, including reserved forests. All naturally occurring trees are vested in the President in trust for the people, while planted trees belong to the landowner. There are ongoing processes to share the benefit from naturally occurring trees outside the forest reserves with those who tend such trees, but this does not affect naturally occurring trees vested in the president.

The Forestry Commission has the legal authority to manage Ghana's forest reserves and protected areas. This includes granting timber rights and wildlife licenses (Forestry Commission Act 1999 (Act 571), Section 2b). The responsibilities of the Forestry Commission include harvest planning and monitoring the forest condition. After granting harvesting rights, the forest management in practice becomes the "co-responsibility" of the rights holder and the Forestry Commission.

A forest reserve can be managed by the owner (stools or private) under the direction of the Forestry Commission or the Government for the benefit of the owner (Forest Act 1927, CAP 157, Section 17(2)). Except for Pra Anum forest reserve, which the state has taken ownership of, all forest reserves in Ghana are owned by their respective stools. The stool manages none under the direction of the Forestry Commission; the Forestry Commission is managing all forest reserves.

The FC uses Timber Utilisation Contracts (TUCs) and other permits established with timber companies to execute its management responsibilities. There is, therefore, legal clarity in terms of management responsibilities.

Description of risk

Ghana has a dual legal land system based on customary rules and a legal system dating back to British Colonial rule. The competing systems create power vacuums and opportunities for exploitation by both customary and statutory officials (Frimpong Boamah, 2019).

According to experts consulted (Osei, January 2022), when focusing on land rights related to forest and timber specifically, the legislation is clear about land and tree ownership and management responsibilities of forests, including plantation establishment. If conflicts occur related to land rights, these are usually not about forest areas but in farmland and settlement areas and relate to who becomes the chief, etc. (Frimpong Boamah, 2019).

According to expert consultation, there are no known forest land and tree ownership issues, disputes or violations which have been identified related to the current legal framework. Consequently, the risk is considered as low risk

Risk conclusion

This indicator has been evaluated as low risk. There is clarity in land and tree ownership, and these are respected without any known conflict or violations of legal provisions.

1.1.6. Risk designation and specification

Low risk

⁷ Type of land ownership right

1.1.7. Control measures and verifiers

N/A.

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 organisations are obtaining concession licenses via illegal means such as bribery, or where organisations 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, 2, 3, 4, 5, 6, 7, 8, 9 (defines requirements and procedures for the award of timber rights in Ghana). Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management Amendment Act 2002 (Act 617). The amendment excludes private timber plantations from the award of timber rights and the award of timber rights on alienation holdings or land with farms without the written consent of the owners. It provides for maximum area of timber rights and duration of contract. It also categorises timber rights into small, medium, and large and specify their maximum sizes. Available at: <https://www.ecolex.org/details/legislation/timber-resources-management-amendment-act-2002-no-617-of-2002-lex-faoc068409/#:~:text=An%20Act%20to%20amend%20the,and%20wildlife%20and%20to%20provide>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254). Sections 12-21 provide for the regulation of the grant of small and large-scale timber rights, other sources of timber and provide a licensing scheme. Sections 27-30 defines other sources of legal timber apart from timber rights. Sections 22-26 define the terms of timber rights to include social responsibility agreement. Available at <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Companies Code 1963 (Act 179). This contains business registration requirements. Available at: <http://indepth-network.org/documents/INDEPTH%20Regulations.PDF>
- Incorporated Private Partnerships Act, 1962 (Act 152) Section 4 Registration of Partnership Firms. This provides the registration of partnerships and set the maximum number of persons which can form a partnership. Available at: <https://acts.ghanajustice.com/actsofparliament/incorporated-private-partnerships-act-1962act-152/>
- Taxpayers Identification Numbering System, 2002 (Act 632). This outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority. Available at: https://gra.gov.gh/wp-content/uploads/2020/09/tin_act.pdf
- National Pension Act 2008 (Act 766) Section 58-63. This defines the requirements for Social Security registration for companies and employees. Available at: <https://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>

- Trees and Timber Act 1974 (NCRD 273) sections 2 and 4. This provides for possession of a property mark and registration of property mark for felling and processing of timber for export Registration of property marks. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha68404.pdf>
- Trees and Timber Amendment Act 1994 (Act 493) section 2. This regulates the issuance of Property Marks. Available at: <https://www.ecolex.org/details/legislation/trees-and-timber-amendment-act-1994-act-no-493-of-1994-lex-faoc068404/>

1.2.2. Legal authority

- Forestry Commission (FC). The principal authority overseeing forest management in Ghana; makes recommendations to the Minister for grant of TUC or other permits
- Ministry of Lands 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

Pre-qualification requirements:

- Certificate of Business Registration;
- Proof of full payment of required forest levies;
- Evidence of value-added processing to maximise income (if applicable);
- Statement of all timber rights and other logging permits held by applicant at the time of application;
- Qualification and competence of the company's staff, with the manager being a professional forester;
- Proof of membership of a recognised timber trade association (if applicable);
- Evidence of a labour certificate;
- Income tax, value added tax and social security clearance certificates, and;
- Timber Operational Specifications (TOS) covering social and environmental considerations.

Concessions:

- Small- or large-scale timber utilisation contract signed by the Minister and ratified by the Parliament of Ghana.
- Lease Agreements (for on and off reserve plantation operations).

1.2.4. Sources of information

Government sources

- 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/1lsn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWworOI_E/edit?pref=2&pli=1#gid=0

Non-Government sources

- Euflegt.efi.int (2021). Ghana and EU finalise assessment of Ghana Timber Legality Assurance System. [Online]. EU FLEGT Facility. 12/02/21 <https://www.euflegt.efi.int/ghana-news/>

1.2.5. Risk determination

Overview of Legal Requirements

The legal right to harvest timber in Ghana in the form of concession is granted through the award of small and large scale timber utilisation contracts (TUC) (Act 547, Act 617, LI 2254) by the sector (MLNR) minister acting on the recommendation of the FC. TUC agreements are ratified by the Parliament of Ghana (ACT 547; LI 2254). Both small- and large scale TUCs can be granted on- and off-reserve areas. Timber felling rights are awarded in only production zones. A TUC is not renewable (LI 2254, Art 23).

Large scale TUC allocation process

Large scale TUCs are required to be awarded through competitive bidding processes based on the applicant's technical and financial capabilities, regulatory compliance, one-off Timber Rights Fees (TRF) and Social Responsibility Agreement (SRA). Competitive bidding involves:

- 1) pre-qualification evaluation and,
- 2) the main bidding process for timber rights.

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-added processing to maximise income;
- 5) A statement of all timber rights, including sizes, held by the applicant at the time of the application;
- 6) Qualification and competence of the timber operations staff of the applicant;
- 7) Where applicable, proof of membership of a recognised timber trade association; and
- 8) evidence of a labour certificate.

For the main bidding process, for each area proposed for granting of timber rights, the chief executive of the commission, based on the timber inventory and other relevant information, shall specify:

- 1) A timber harvest schedule for the area;
- 2) The amount of performance bond to be posted by the person to whom timber rights to the area may be granted;
- 3) The amount of a reserve bid below which the grant of timber rights for the area will not be made;
- 4) Any management requirements and restrictions specific to the contract;
- 5) The time and place at which the bids will be opened; and
- 6) 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.

Small scale TUC allocation process

Small scale TUC are granted on 1) production forest reserves or on public land which do not qualify for a full cycle harvest rotation because the timber on those lands is insufficient for long term viable timber operations, and; 2) in an off-reserve area where the tree stocking per unit area is very low and will not qualify for a large scale TUC. The specific time needed for harvesting timber shall not exceed 2 years, and the area identified for small-scale TUC shall not exceed 6 km² or cover more than 5 compartments. A production forest reserve shall not be fragmented to grant small-scale timber rights (LI 2254, Art 10)

As provided under section 18 - Manner of selection for small scale timber utilisation contracts of LI 2254, small scale timber rights go through competitive allocation rather than competitive bidding for large-scale timber rights. The competitive allocation is a more simplified process than the bidding process for large-scale TUCs, as some process steps have been removed.

According to LI 2254, art 20, a Small Scale TUC shall be awarded based on

- a) Technical and financial capabilities as well as the compliance of the applicant with the relevant regulations;
- b) A proposal of SRA with local communities and
- c) A proposal for the payment of a one-off timber rights fee based on the tree stocking of the area.

The small scale TUC rights shall be awarded to the qualified applicant with the highest offer in terms of the selection criteria in article 20 a-c) (see above) (LI 2254, Art 21(12)).

Public access to information

The FC is to guarantee public access to information on the following key timber rights information on its website or upon request (LI 2254, section 76):

- (a) A list of preregistered timber companies;
- (b) A list of companies with valid property marks;
- (c) A list of large-scale timber utilisation contracts (with specified details);
- (d) A list of small-scale timber utilisation contracts (with specified details);
- (e) List of salvage permits (with specified details);
- (f) A list of certificates of purchase.

Description of risk

Concessions or leases used to be granted under the Concessions Act, 1962 (ACT 124). However, with the enactment of the Timber Resources Management Act, 1997 (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 opened between March and September 1998, 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 the (currently revoked) LI 1721, which introduced TRFs. The timber companies contested whether LI 1721 could have a retrospective effect and resolved not to pay the TRF. Regulation 77 of the new LI 2254 (2017) provides that these timber companies shall apply to the Forestry Commission (FC) within six months to have their leases, contracts, licenses, or other permits other than TUCs converted to large- or small-scale TUCs. Companies that did not pay their TRFs under the original permit, lease or contract shall pay a one-off TRF and companies that did not have a social responsibility agreement (SRA) (See 1.13 Customary Rights) under the original permit, lease, or contract shall negotiate SRA at the value of 5% of the stumpage fee with the affected communities as part of the conversion process.

The LI 2254 revoked all the previous timber regulations. It helped to do away with their controversial issues such as "special permits", which some stakeholders felt was being abused by the Forestry Commission to allocate timber rights instead of competitive bidding administratively. The LI 2254 has replaced this with the small-scale TUC through competitive allocation based on the applicant's technical and financial capabilities, regulatory compliance, one-off TRF and SRA. In addition, the FC is to guarantee public access to information on the key timber rights information on its website or upon request. Currently, this information is not available online.

The previous clearly shows that the introduction of LI 2254 in 2017 have attempted to resolve the contentious issues such as the conversion of leases to TUCs, (as well as the issues related to special permits, SRA on salvage permit areas) and lack of timber rights allocation transparency and information disclosure. The transitional provisions of LI 2254 are in the process of implementation. The FC announced the opening of the conversion of extant leases to TUCs in May 2019 with 7 June 2019 as

the deadline, and applications are being processed. The law has addressed the challenges, and the process is back on track, but the transfer of leases to TUC is still in process. As of January 2022, some leases and permit conversion applications had gone through administrative processing but still lacked the approval of the Parliament.

Though it is believed that the conversion of leases and permits will be done soon, there is a legality risk until these leases are converted to TUCs. The final report of Ghana and the European Union (EU) independent assessment of the legality assurance system described in the Voluntary Partnership Agreement (VPA) on FLEGT between Ghana and the EU, which was shared with both parties on 31 December 2020, concluded that the system was not ready due to several gaps, including the long-standing issue of conversion of extant leases to Timber Utilization Contracts, which requires the political approval of the Parliament to happen.

Risk conclusion

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

1.2.6. Risk designation and specification

Specified risk for a natural forest in and outside forest reserves

- The risk that concession leases are not converted to Timber Utilisation Contract (TUCs)

Not applicable for all other source types

1.2.7. Control measures and verifiers

Mitigating the risk that concession leases are not converted to Timber Utilisation Contract (TUCs)

Review and verify documents:

- Collect a Timber Utilisation Contract (TUC) (if available), or:
- Evidence of application for transferring of lease from the Forest Entity

Webpage/Database verification:

- Check the Forestry Commission's website for a list of TUC Holders in Ghana to verify if the FME has a valid TUC: https://docs.google.com/spreadsheets/d/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWworOI_E/edit?pref=2&pli=1#gid=0

Consult:

- Consult with Timber Validation Division of the Forestry Commission on the status of TUC application

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: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>

- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254). It regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Manual of Procedures (MoPs) and Revised Logging Manual (operationalises the Timber Resources Management Act 1997 (Act 547 and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) and are statutory guidance documents for forest management in Ghana). Available at: <https://fcghana.org/wp-content/uploads/2021/08/MOP.pdf>

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. 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, institutionalisation, implementation, and monitoring of effective and affordable forest management systems in Ghana. 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 (for natural forest) or yield markings (for plantations);
- Approved TUC area plans for Forest Reserves (FRs)
- Approved TUC area plans for Off Forest Reserves (OFRs)
- Approved TUC operational plans for FRs and OFRs
- Approved Compartment Logging Plan for FRs (harvesting plan)
- Approved Annual Logging Plan for OFRs (harvesting plan)
- Commercial plantation plans for FRs

1.3.4. Sources of information

Government sources

- Manual of Procedures (MOPs) and Revised Logging Manual (operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) and statutory guidance documents for forest management in Ghana). Available at: <https://fcghana.org/wp-content/uploads/2021/08/MOP.pdf>

Non-Government sources

- Ghana and EU finalise assessment of Ghana Timber Legality Assurance System
https://www.euflegt.efi.int/ghana-news/-/asset_publisher/FWJBfN3Zu1f6/content/ghana-and-eu-finalise-assessment-of-ghana-timber-legality-assurance-system

- Expert consultation: Joseph Osei, Resourcetrust, date: January 2022

Summary of FSC CW/FM audit reports (July 2019-December 2020 (CVA January 2021):

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM> (CW/FM, July 2019);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA> (CW/FM, October 2020);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE> (Corrective verification audit, January 2021);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE> (FM, May 2020);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM> (CW/FM, September 2020);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU> (CW/FM, December 2020);
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000015GZi1EAG> CW/FM, July 2020);

1.3.5. Risk determination

Overview of Legal Requirements

There are different levels of forest management planning in Ghana.

1. Strategic management plans are prepared and implemented by the Forestry Commission at the forest reserve level and the TUC area level,
2. the TUC Holder prepares and implements TUC area plan and TUC 5-year operational plan for TUCs in Forest Reserves (FRs) and Off Forest Reserves (OFRs) covering one coupe (or group) of compartments, and;
3. Compartment Logging Plan covering a single compartment for FRs and annual logging plan for OFRs.
4. Plantations in forest reserves require commercial plantation or afforestation plans prepared by the plantation developer to apply to the Forestry Commission.

The Forestry Commission is responsible for harvesting and monitoring forest conditions (Section 2b of the Forestry Commission Act 1999 (Act 571)). The Forestry Commission (FC) has developed Manual of Operations (MOPs) sections A-F, which operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254).

For any forest reserve (Natural Forest and plantations in forest reserve), the strategic planning sets objectives to guide forest resource management in the long term and delineate the area into production and protective (coarse-grained protection) zone. Timber felling rights are awarded in only production zones. For any Defined Forest Area (DFA) for which harvesting rights are granted, a map delineating the boundary must be prepared by the Forest Services Division. The whole DFA is required to be divided into felling coupes or blocks. The felling coupes or blocks are sub-divided into smaller harvesting units called compartments for on-reserve.

As part of the process of awarding and managing the implementation of the TUCs, the Forestry Commission requires companies to prepare operational plans at varying levels of detail using the approved formats contained in the Forestry Commissions Revised Logging Manual the Revised Logging Manual Appendices.

The compartment and annual plans involve pre-harvest inspection and enumeration of commercial species and yield selection. The stock survey or pre-survey inspections must be conducted, and the results of this survey fed into the yield allocation process. The pre-inspection survey and enumeration are 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) are submitted to the RMSC for vetting.

Thus, before 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 with a diameter greater than 50 centimetres belonging to FIP Class I is identified and recorded. Other FIP Class I species with a minimum felling limit of 50 centimetres, and trees in the 30-50 centimetres class, are identified and measured. Unless specially requested by the TUC holder, FIP Class 2 species are not enumerated. The identified and recorded trees are given species code and stock survey numbers. The stock survey number is marked on each tree with ascribing knife, in a position that will not be disturbed if the tree is felled (e.g. at the stump).

Within a month after the stock survey, the FSD conducts a 10% check survey of each compartment to confirm fieldwork accuracy and 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 the stock survey has been completed and checked, the FSD prepares a stock map showing the location of all trees assessed (i.e. summary of the stock survey). A yield that 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 documents are vetted against the requirements of MoP Section D. In particular, the compartment level plan or the logging plan is a guide to provide compartment level protection (fine-grained protection) for individual species, habitats etc. The plan identifies the site of log dumps, forest road network and planned skidding trails. It is only after this elaborate process that the yield summary (yield marking), harvesting plan/schedule for forest reserves (Act 547 3 (3a), LI 2254 Section 56; 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.

Plantations

Planning for an entry permit for on-reserve plantations is managed by the FC.

Salvage permits

Planning requirements for salvage permits are specified in the contract terms and follows the timber harvesting standards and specifications in Section 3 of the Logging Manual.

Description of risk

The management and harvesting planning procedures are detailed and laid out in the FC's MoPs (Section A-F). The roles of the various divisions of the FC (FSD and RMSC) and the TUC holders in the process are clearly defined. The planning process involves several cross-checking by different divisions of the FC, which ensures the planning regulations are implemented. A review of a sample of the public summaries of FSC Controlled Wood audit reports for the period 2019-2020 found no instance of non-compliance with the management and harvesting planning requirements. However, not all forest reserves have the strategic management plans required. The final report of Ghana and the European Union (EU) independent assessment of the legality assurance system described in the Voluntary Partnership Agreement (VPA) on FLEGT between Ghana and the EU, which was shared with both parties on 31 December 2020, concluded that the system was not ready due to several factors, including the absence, or obsolescence, of forest management plans by the Forestry Commission. As part of the preparation for FLEGT licensing in Ghana, there is ongoing capacity building. Most small and

medium scale companies seek to meet the TUC area plans and TUC operational plans for FRs and OFRs. Still, many are currently not meeting the requirements.

In March 2021, at least 70 management plans, including new and outdated plans, were under review. In February 2022, FC was almost done reviewing all the management plans for all the production forest reserves (Osei, January 2022).

Risk Conclusion

This indicator has been evaluated as a specified risk for natural forest and plantations in the forest reserve. Not applicable for plantations outside forest reserve and submerged forest.

1.3.6. Risk designation and specification

Specified risk for commercial plantation forest in forest reserves:

- Plantation and reforestation plans are lacking

Specified risk for TUCs in the natural forest reserve and off forest reserves:

- Risk that area plans and operational plans are lacking or not meeting legal requirements

1.3.7. Control measures and verifiers

Mitigating the risk that plantation and reforestation plans are lacking

Review and verify documents:

- Plantation or reforestation plan approved by the Forestry Commission shall be available

Mitigating the risk that area plans and operational plans are lacking or not meeting legal requirements

Review documents and verify:

- TUC holders must have a TUC area plan covering the whole TUC area in forest reserves and off forest reserves that the Forestry Commission has approved.
- TUC holder must have a harvesting plan or 5 year TUC operational plan covering one coupe or group of compartments to be logged over five years.
- 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 compartment logging plan for forest reserves and an annual logging plan for off forest reserve areas 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. It defines main regulations covering management of harvesting operations. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Manual of Procedures (MOPs) and Revised Logging Manual (operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) are statutory guidance documents for forest management in Ghana). Available at: <https://fcghana.org/wp-content/uploads/2021/08/MOP.pdf>

1.4.2. Legal authority

- Timber Right Evaluation Committee (TREC) (main body that assesses bids for timber utilisation 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). Available at: <http://fcghana.org/>
- Ministry of Lands 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/ field inspection report for salvage permits;
- Approved yield/yield marking;
- Logging plan;
- Entry permit or released letter issued by the FSD Forest District.

1.4.4. Sources of information

Government sources

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

- Manual of Operations (MOPs) and Revised Logging Manual (operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) are statutory guidance documents for forest management in Ghana). Available at: <http://www.fcghana.org/assets/file/Publications/Manuals/MOP.pdf>

Non-Government sources

- Joint monitoring and review mechanism of the Ghana EU-FLEGT Voluntary Partnership Agreement. Aide Memoire Meeting of the JMRM 14 and 15 May, 2019, Accra. Available at: <http://www.euflegt.efi.int/documents/10180/463576/Ghana-EU+VPA+Aide+Memoire+May+2019.pdf/a90c2de3-12d3-8afe-2236-ae6e858818b5>
- Yoda, A. S. S, (2021). Rosewood trafficking worsens in Ghana, EIA releases shocking data for December 2020 exportation to China. 15 February 2021. Ghenvironmnet.org. Available at: <https://ghenvironment.org/rosewood-trafficking-worsens-in-ghana-EIA-releases-shocking-data-for-december-2020-exportation-to-china> [Accessed on 1 June 2021]
- Environmental Investigation Agency (EIA) (2019). BAN-BOOZLED How corruption and collusion fuel illegal rosewood trade in Ghana. Available at: <https://www.ghanaweb.com/GhanaHomePage/search.php> [Accessed on 8 August 2019].
- My Joy Online (2019). Government Illegally under Declaring Rosewood Export to China, New Study. Available at: http://myjoyonline.com/business/2019/August-8th/govtillegallyunder-declaring-rosewood-export-to-china-new-study.php?utm_source=vuukle&utm_medium=talk_of_town
- OKKA (2019). Forestry Commission disputes BBC report on rosewood trade. Available at: <https://www.myjoyonline.com/news/2019/August-7th/forestry-commission-disputes-bbc-report-on-rosewood-trade.php> [Accessed on 8 August 2019].
- Okeke, C.C. (2019). *\$17bn annual loss: African countries move to halt illegal rosewood trade*. Available at: <https://www.dailytrust.com.ng/17bn-annual-loss-african-countries-move-to-halt-illegal-rosewood-trade.html>. [Accessed on 8 August 2019].
- Pearce, F. (2020). How Small-Scale Loggers can Help Save Africa's Tropical Forests. Yale Environment 360. Yale E360. October 22, 2020. Published at the Yale School of the Environment [Online]. Available at: <https://e360.yale.edu/features/how-small-scale-loggers-can-help-save-africas-tropical-forests>
- Ghenvironment.org (2021). The government sued over continuous issuance of "Special Permits" as timber rights contrary to the law. Available at: <https://ghenvironment.org/government-sued-over-continuous-issuance-of-Special-Permits-as-timber-rights-contrary-to-the-law>

1.4.5. Risk determination

Overview of Legal Requirements

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

- Small Scale and Large-Scale Timber utilisation contracts (TUC) (Act 547, Act 617 and LI 2254) by the Minister of the Ministry of Lands and Natural Resources (MLNR), acting on the recommendation of the Forestry Commission. TUC agreements shall be ratified by the Parliament of Ghana (ACT 547). TUC is considered concessions, and the allocation of TUCs are covered under sub-category 1.2.

Apart from TUCs, the Chief Executive, upon recommendations from the FC, and following provisions made in LI 2254, may also grant administrative harvest permits, such as:

- Salvage permits: for abandoned logs or forest areas undergoing developments. For example, farmlands or areas undergoing settlement expansion or road construction (Regulation 28 and 29, LI 2254).
- 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.
- Timber Utilisation Permit (TUP) grants permission to use a specific number of trees in an area not subject to a TUC for social or community use purposes. See 1.15. Timber from TUP cannot be used for commercial purposes.

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 or 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 (FSD) of FC. The whole DFA is required to be divided into felling coupes or blocks. 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 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 inspections (stock survey or pre-survey inspections) must be conducted, and the survey results fed into the yield allocation process. An independent team from the FSD verifies the pre-inspection survey. The FSD prepares a list of individual trees for harvesting (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 (with pre-inspection data), and a logging plan (completed by the TUC holder) are 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 must obtain approval for the trees or volume to be harvested (including a permit for restricted species) by an application through the Regional Forest Manager and to hold a valid property mark.

For non-TUC areas, salvage and entry permits are obtained through an application to the Chief Executive of the FC and do not require parliamentary approval. Harvesting requirements are set out in the permit conditions, including volumes to be salvaged, duration and location of the salvage.

Description of risk

The LI 2254 has attempted to resolve the contentious “special permit” allocation of timber rights by competitively allocating small-scale TUCs. However, illegal harvesting and trade of rosewood (*Pterocarpus Erinaceus*) is still happening, despite a ban placed on the harvest and trade for the fifth time in Ghana since March 2019. Rosewood has also been listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since January 2017. According to the EIA undercover investigative report (EIA, 2019), an institutionalised scheme, fuelled by bribes, is to mask the timber’s illegal harvest, transport, export, and CITES licensing. The key illegal schemes used include fraudulent use of “salvage permits,” misdeclaration of timber species, use of “escorts” to deal with control points, forging of official documents, and retrospective issuance of CITES permits.

According to the EIA report, “...salvage permits have turned into a massive laundering mechanism for illegal timber and a source of profit for vested political interests.” (EIA 2019, p. 4)

The Forestry Commission has challenged the EIA report (EIA, 2019), but there are other public reports of illegal harvesting of Rosewood; some of the cases are in the courts. It is argued that this is a case of a single species and can be isolated. However, given that the alleged modus operandi of the “illegal” scheme includes misrepresenting the species, it is possible to apply the same methods to harvest other banned species. News items on published scientific analysis by researchers at the Forestry Research

Institute of Ghana (FORIG) also indicate lower reported rosewood export figures to China. In contrast, China's figures for rosewood imports indicate high figures from Ghana. Besides Rosewood, even after the LI 2254 was passed, the Forestry Commission continues to issue special permits instead of competitive allocation (Ghenvironment.org, 2021).

The FSD fines arrested illegal operators, and the lumber was confiscated and auctioned (Derkyi and Dietz, 2014). Such products, therefore, become legal and enter the legal sources of timber. However, these products are mainly traded in the domestic market space.

Chainsaw milling is not allowed in Ghana, but there are an estimated 100,000 chainsaw millers. The numbers have only increased since they were made illegal in 1998 in a failed effort to halt deforestation. In October 2020, according to an unpublished EU review seen by Yale Environment 360, around two-thirds of the timber traded domestically in Ghana was illegal and thus placed on the market without required permits. These operations are publicly known, support some 650,000 mostly rural people, and deliver more than twice as much economic benefit as the commercial legal sector. The situation opens for corruption by leaving the loggers and those who trade in their produce to extortion by local officials and police (Pearce, 2020).

Risk conclusion

This indicator has been evaluated as a specified risk for natural forest and plantations in forest reserves managed by the Forestry Commission.

Private plantations in and outside forest reserves do not require a harvesting permit.

1.4.6. Risk designation and specification

Specified risk for natural forests and plantations in forest reserves managed by the Forestry Commission:

- Logging takes place without a permit
- Award of salvage permits for banned species in violation of salvage permit conditions

1.4.7. Control measures and verifiers

Mitigating the risk that logging takes place without a permit

For natural forest:

Review and verify documents:

- TUCs shall be available and contain the required documentation/ information.
 - Concession map,
 - Valid property mark,
 - Approved harvesting schedule/blocking or coupes delineation,
 - Pre-harvest compartment inspections,
 - Approved yield/yield marking,
 - Logging plan
- Salvage permit

For plantation forest in forest reserve managed by the Forest Commission:

Review and verify documents:

- Receive a copy of and verify that the relevant entry permit is in place
- Entry permits are obtained through application to the Chief Executive of the Forestry Commission. Verify that harvesting requirements are set out in the permit conditions.

Mitigating the risk of an award of salvage permits for banned species in violation of salvage permit conditions (for both natural forest and plantations in forest reserves)

Review and verify documents:

- Receive a copy of and verify that salvage permits are not issued for banned species or misused to harvest banned species;
- Salvage permits shall be issued through application to the Chief Executive of the Forestry Commission.
- Verify that species specified in terms of permits are not misrepresented or changed and that these species are not on the list of banned/restricted species.
- Verify that harvesting requirements are set out in the permit conditions, including volumes to be salvaged, duration and location of the salvage. The location and duration of salvaging shall be verified with supply chain documentation.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covers 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 and Legality Licensing Regulations, 2017 (LI 2254), regulates the granting of small- and large-scale timber rights, other sources of timber and provides a licensing scheme. [Regulation 63, 64 and 65 on payment of fees, services and rents]. Also, the fifth schedule (regulation 60 (1) and 61 (3) formula for calculation of stumpage fee. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

1.5.2. Legal authority

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

1.5.3. Legally required documents or records

- Approved yield/markings;
- Operator FC statement account;
- SRA payment records;
- Social responsibility agreement;
- Timber right payment;
- FC receipts of stumpage/bill payment;

Timber right holders accounts statement (from forest district):

- FC stumpage/services bills;
- Contract area rent;

1.5.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Stumpage disbursement procedure published by the Forestry Commission*. [online]. Available at: http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%20Stumpage%20Disbursement%20&id=18
- The Forestry Commission of Ghana (n.d.). *Quarterly stumpage disbursement published by the Forestry Commission*. [online]. Available at: <http://fcghana.org/>
- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations (Publications)*. [online]. Available at: <http://fcghana.org/library.php?id=15>
- Auditor general reports, 2015-2018. Available at: https://ghaudit.org/web/?page_id=277&ftags=cad%2Ccgad%2Cperformance&cfrom=01+-+01+-+2015&cto=31+-+12+-+2018
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. Third summary monitoring report (2017): <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- Forestry Commission (2017). Guidelines for Social Responsibility Agreement. Resource Management Support Centre, Collaborative Resource Management Department. August 2017.

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forestry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020 <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.5.5. Risk determination

Overview of Legal Requirements

Royalties and harvesting fees in Ghana include:

- 1) Timber right fee; (TUCs)
- 2) Contract area rent; (TUCs)

- 3) Stumpage fee; (TUCs and salvage permits)
- 4) Social responsibility agreement (TUCs and Salvage permits).

Timber right fees are paid to the Forestry Commission after the award of harvesting rights and before harvesting commences. Contract area rent is paid annually on a per hectare basis over the area of timber rights. Stumpage fees are paid on the tree by tree basis for each company harvest tree.

Social Responsibility Agreement (SRA) is a social tax that a timber company pays to support the 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. Small scale and large-scale TUC permits in both natural forests and plantations, and salvage permits require SRAs (LI 2254, Section 3 (e) of Act 547; Sections 29(5), 17(11) b and 20(1)b).

Description of risk

In 2014, there was a general improvement in the forestry sector's fiscal regime due to the introduction of computer-based revenue management programs used by the Forestry Commission (Hoare 2014). The FC publishes quarterly revenue disbursement 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 from 2003 to 2012, a total loss in real revenue of \$16 million was recorded due to the Forestry Commission not adjusting stumpage to the applicable dollar value as contained in the Fifth schedule of LI 2254. However, already in 2016, it was found that the Forestry Commission had made progress in reviewing the stumpage rates and estimating the potential stumpage rates and corresponding SRAs before logging commenced. Copies of these estimates are available at the various Forest Services Division offices (expert consultation conducted by NEPCon, 2016). As of December 2020, no newer research was done by CSOs on the matter.

The payment of timber rights fees (TRF), a key issue related to royalties and harvesting fees, has been resolved. The TRF is about the conversion of leases to TUCs. Timber rights holders and the Forestry Commission have resolved their differences, which paved the way for companies to submit their conversion applications for processing. Unlike the lease conversion process, which ends at parliamentary ratification, the TRF payment is completed within the administrative process. It is therefore low risk given the level of progress achieved so far.

Expert consultation conducted by NEPCon (Now Preferred by Nature) in 2016 showed that payment agreed under Social Responsibility Agreements (SRAs) were sometimes violated by some timber contractors. However, most contractors provided additional support to the communities than only the legally required 5% of stumpage fee. Communities can ensure they receive the due amount if they have information on stumpage value. The information on the actual volumes of timber extracted is the basis for calculating royalties and SRAs available at the FC and its district offices (FSD) located within or near the forest areas. Landowners can obtain this information to verify the appropriate revenue independently. Most companies employ forest operations workers from the forest fringe communities, and some of these workers also have access to extracted volumes. They are sometimes included in SRA committees in the communities. 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 has improved with the involvement of civil society organisations in awareness-raising and establishment of SRA committees in some forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to an increase in 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 and timber rights operators to pay SRA in advance before the logging begins. These

estimates are available at the Forest Services Division offices and are accessible by communities and other stakeholders. Continuous audits carried out by the Timber Validation Division is improving the system. Royalty disbursement has improved (expert consultation conducted by NEPCo, 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). The Forestry Commission's Guidelines for Social Responsibility Agreement (Forestry Commission, 2017) contains the SRA requirements, processes, and procedures, including a template for SRA and GhLAS Social Responsibility Agreement Checklist (Osei, January 2022).

Risk conclusion

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

1.5.6. Risk designation and specification

Low risk.

1.5.7. Control measures and verifiers

N/A.

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: [https://www.bcp.gov.gh/acc/registry/docs/VALUE%20ADDED%20TAX%20ACT,%202013%20\(Act%20870\).pdf](https://www.bcp.gov.gh/acc/registry/docs/VALUE%20ADDED%20TAX%20ACT,%202013%20(Act%20870).pdf)http://gra.gov.gh/docs/info/vat_act_870.pdf
- Value Added Tax (Amendment) Bill, 2017. Available at: <http://ir.parliament.gh/bitstream/handle/123456789/722/Value%20Added%20Tax%20%28Amendment%29%20Bill%2C%202017.pdf?sequence=1&isAllowed=y>
- Value Added Tax Act (Amendment) (No.2), 2017 (Act 954). Available at: https://gra.gov.gh/wp-content/uploads/2020/09/VAT_AMENDMENT_ACT_954.pdf
- Trees and Timber Amendment Act 1994 (Act 493) Part IIA (specifies regulations related to levies imposed on wood products). Available at: <https://www.ecolex.org/details/legislation/trees-and-timber-amendment-act-1994-act-no-493-of-1994-lex-faoc068404/>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large- scale timber rights, other sources of timber and provide a licensing scheme). Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Trees and Timber Act 1974 (Act 273) Section 15A imposes export levy on unprocessed and processed timber. Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC093274>

1.6.2. Legal authority

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

1.6.3. Legally required documents or records

- GRA tax clearance certificate.
- Export levy receipts/letters of credit/bank advice.

1.6.4. Sources of information

Government sources

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

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE2>
- Logs and Lumber Limited, July 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.6.5. Risk determination

Overview of Legal Requirements

The Trees and Timber (Amendment) Act 1994 (Act 493) contains fees, fines, and export levies in the forestry sector. Sections 1 – 3 of this Act reviewed the fees and fines upwards, whereas Section 4 introduced an 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 imposes value added tax and defines the persons and businesses liable to pay tax. The Value Added Tax Act was amended in 2017, but amendments did not apply to the forestry sector.

Description of risk

The Ghana Revenue Authority (GRA), Customs Division and the Timber Industry Development Division (TIDD) enforce the applicable laws relating to VAT and other taxes. Wood products exports are well-documented to ensure there are few risks. The GRA, with the help of the TIDD, tracks companies with the tax identification number (TIN) to ensure taxes are paid. Exports are mostly through the banking system and are well documented (expert consultation conducted by NEPCon, October 2016). In some isolated cases, wood could be concealed and exported without paying taxes. Summary reports of the FSC audit also confirm that VAT and other sales taxes are enforced for FSC certified wood from natural forests.

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: [https://www.bcp.gov.gh/acc/registry/docs/TAX%20896-INCOME%20TAX%20ACT,%202015%20\(ACT%20896\)%20AS%20AMENDED%20BY%20ACTS%20902,%20907,%20915,%20924,%20941,%20956,%20967%20AND%20973.pdf](https://www.bcp.gov.gh/acc/registry/docs/TAX%20896-INCOME%20TAX%20ACT,%202015%20(ACT%20896)%20AS%20AMENDED%20BY%20ACTS%20902,%20907,%20915,%20924,%20941,%20956,%20967%20AND%20973.pdf) and http://www.japarliament.gov.jm/attachments/339_The%20Income%20Tax%20%28%20Amendme nt%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>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

1.7.2. Legal authority

- Ghana Revenue Authority (GRA) (Legal authority for Corporate, Income and VAT tax). Website: <http://www.gra.gov.gh/>

1.7.3. Legally required documents or records

- Ghana Revenue Authority (GRA) tax payment receipts;
- GRA tax clearance certificates.

1.7.4. Sources of information

Government sources

- Forestry Laws and Regulations made available by the Forestry Commission of Ghana. [online]. Available at: <http://fcghana.org/library.php?id=15>
- Ghana Revenue Authority (n.d.). *Domestic Taxes (Tax Information)*. [online]. gra.gov.gh. [online]. Available at: <http://www.gra.gov.gh/index.php/tax-information/income-tax>
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). [online]. Available at: http://gra.gov.gh/docs/info/tin_act.pdf
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. Third summary monitoring report (2017). [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

- PWC (2021). *Navigating Taxation 2021 Ghana Tax Facts and Figures*: 2021 PricewaterhouseCoopers (Ghana) Limited. [online]. Available at: <https://www.pwc.com/gh/en/pdf/pwc-ghana-tax-facts-and-figures-2021.pdf>
- Oxford Business Group. *A new look at income taxation in Ghana*. [online]. Oxford Business Group. Available at: <http://www.oxfordbusinessgroup.com/overview/reformed-and-refined-new-look-income-taxation-ghana>

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020 <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

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 (GRA). 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 for companies in the forest sector is 25%.

Free zone companies licensed under the Free zone 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 a taxpayer 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 to renew the timber companies' property mark. The property mark must 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 NEPCo, 2016). A review of a sample of FSC audit summaries of various companies in Ghana from 2020 shows this requirement is met.

Risk conclusion

This indicator has been evaluated as low risk for all source types.

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). [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Manual of Operations (MOPs) and Revised Logging Manual (operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) and are statutory guidance documents for forest management in Ghana). [online]. Available at: <http://www.fcghana.org/assets/file/Publications/Manuals/MOP.pdf>

1.8.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <http://fcghana.org/>
- Forest Services Division (FSD) (they support the commission in the preservation and management of forest reserves in Ghana). Website: <http://fcghana.org/>
- Resource Management Support Centre (RMSC). It 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.

1.8.4. Sources of Information

Government sources

- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations*. [online]. Available at: <http://fcghana.org/library.php?id=15>
- 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>
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

- 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>
- 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>
- Expert consultation: Joseph Osei, Resourcetrust, date: January 2022

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forestry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAA>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.8.5. Risk determination

Overview of Legal Requirements

The Forest Services Division of the Forestry Commission has prepared a 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 natural forests and clear-felling in even-aged commercial plantations (both on- and off-reserve). 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 detailed prescriptions to include the prohibition of harvesting in riparian buffer zones, steep slopes, swampy sites, etc. The manual prescribes directional felling at all possible situations and gives specifications for road, skid tracks, log yard constructions, and maintenance.

Description of risk

The Forest Services Division enforces the minimum girth limit on timber rights holders. Some timber contractors could harvest outside the approved yield.

Much of the illegal actions on the ground is carried out by illegal operators, who do not observe the harvesting regulations, such as no logging in buffer zones; protection of some species; and quantity of trees removed per hectare that is set out in the Logging Manual and Key Standards for Logging in the High Forest Zone at all times. These operators operate illegally, without a permit and do not have the requisite documents to trade legally (see sub-category 1.4). The FC and its divisions, such as FSD and RMSC, have the task force to check illegal activities. However, this level of illegal harvesting is only traded on the domestic market and cannot enter the export market. The introduction of the Domestic Timber Inspection Certificate (DoTIC) and the sustained monitoring by the FSD taskforces are making it less economical and unsustainable for illegal operators for the domestic market. In spite of this progress, more work needs to be done as there is still illegal timber on the domestic market (Osei, January 2022).

The Forest Services Division of the FC monitors the harvesting operations of TUC holders. It carries out 100% post-felling checks and checks for compliance with logging requirements before a compartment closure certificate is issued. These certificates are available at the FSD office that oversees the harvesting area. Implementing the Ghana Legality Assurance System (especially the Wood Tracking System, which verts all required information inputs and outputs including reconciliation of volumes and

flags inconsistencies) makes it impossible to get export permit where discrepancies are flagged (Osei, January 2022). The continuous monitoring by the TVD and the Independent Monitor (IM)⁸ are helping to improve the system to check illegal harvest. Timber exports volumes and related documentary evidence are reconciled in the centralised Wood Tracking System (WTS). Any discrepancies are flagged for the necessary legal regularisation before export permits can be issued. Post-felling checks are required for all harvests regardless if destined for export or the domestic market.

Risk conclusion

This indicator has been evaluated as low risk for all source types. Identified laws are upheld consistently by the Forestry Commission and other authorities.

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

N/A.

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]. [online]. Available at: [https://www.fao.org/faolex/results/details/en/c/LEX-FAOC068402/#:~:text=624%20of%202002\),in%20relation%20with%20timber%20mark](https://www.fao.org/faolex/results/details/en/c/LEX-FAOC068402/#:~:text=624%20of%202002),in%20relation%20with%20timber%20mark)
- Forest Protection Decree, 1974 (N.R.C.D. 234) [Section 12]. [online]. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha40755.pdf>
- Timber Resources Management Act 1997 (Act 547) [Act 547, Sections 18G]. [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Section 74 is on restricted species. Regulation 78, [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

⁸ Under the terms of the FLEGT VPA, Ghana was to engage the services of an Independent Monitoring (IM) in consultation with the EU for the purposes of monitoring the Ghana Legality Assurance System (LAS). This is different from independent monitoring of the VPA by CSOs and local communities as part of participatory implementation of the VPA. In Ghana, the results from Independent monitoring by CSOs and local communities feed into the work of the official IM and the Timber Validation Department of the Forestry Commission regular verification audits as inputs and not as standalone reports as there is no official provision in the agreement for CSO and local communities independent monitoring of the process.

- Environmental Assessment Regulation, 1999 Schedule 1 (Regulation 1(1)) [Sections 1 and 5]. [online]. Available at: <http://faolex.fao.org/docs/pdf/gha78169.pdf>
- Forest Plantation Development Fund Act, 2000 (Act 583). [online]. Available at: https://forestlegality.org/sites/default/files/country_documents/FOREST%20PLANTATION%20DEVELOPMENT%20FUND%20ACT%2C2000.pdf and its Amendment Act 2002 (Act 623) <https://www.ecolex.org/details/legislation/forest-plantation-development-fund-amendment-act-2002-no-623-of-2002-lex-faoc068465/>
- Ghana Forest and Wildlife Policy (2012). [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>
- Trees and Timber Amendment Act 493 (schedule 1 and 2 defines export levies applicable to processed and unprocessed timber of certain species). [online]. 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)
- Manuals of Procedure for forest Resource Management Planning in the High Forest Zone of Ghana. MoP. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha178770.pdf>
- A revised Logging Manual for Ghana: Guidance to companies operating timber utilisation contracts in the high forest of Ghana. Sections 3.1-3.2
- Convention on International Trade in Endangered Species of Wild Fauna and Flora Signed at Washington, D.C., on 3 March 1973 Amended at Bonn, on 22 June 1979 Amended at Gaborone, on 30 April 1983. Available at: <https://cites.org/eng/disc/text.php>
- Convention on Biological Diversity, 1975. Available at: <https://www.cbd.int/>

1.9.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <http://fcghana.org/>
- Ministry of Lands and Natural Resources. Website: <http://mlnr.gov.gh/>
- Administrator of Stool Lands. Website: <http://mlnr.gov.gh/index.php/office-of-the-administrator-of-stool-lands/>
- Forest Services Division (FSD) (they support the Commission in the preservation and management of forest reserves in Ghana). Website: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (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: <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.
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- 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>

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020 <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>
- Convention on Biological Diversity (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>
- Appiah, M. & Bediako, D. B., (2020). Illegal logging driving Afromosia to extinction in Ghana. Nature & Development Foundation. [Online]. Available at: <https://ndfwestafrica.org/illegal-logging-driving-afromosia-to-extinction-in-ghana/>
- Ghana Web (2019). *Gra Intercepts 5 Container Loads Of Rosewood Headed For Tema Port*. [online]. Available at: <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/GRA-intercepts-5-container-loads-of-rosewood-headed-for-Tema-Port-750724> Assessed 08 August 2019
- EIA (2019). *Ban-Boozled How Corruption and Collusion Fuel Illegal Rosewood Trade in Ghana*. Environmental Investigation Agency. Available at: <https://content.eia->

global.org/posts/documents/000/000/906/original/BAN_Boozled_Rosewood_Ghana.pdf?1564513559 [Accessed 08 August 2019].

- EIA (2020). Seizing the Moment: How Ghana Can End the Destruction of the Illegal Rosewood Trade Now. Blog Posts. Environmental Investigation Agency. [Online]. Available at: <https://eia-global.org/blog-posts/20200721-ghana-can-end-destruction-of-illegal-rosewood-trade> [Accessed 29 December 2021].
- My Joy Online (2019). *Forestry Commission Disputes BBC Report on Rosewood Trade Source: Ghana*. [online]. Available at: <https://www.myjoyonline.com/news/2019/August-7th/forestry-commission-disputes-bbc-report-on-rosewood-trade.php>. [Assessed 08 August 2019].
- Daily Trust (2019). *\$17bn Annual Loss: African Countries Move to Halt Illegal Rosewood Trade*. [online]. Available at: <https://www.dailytrust.com.ng/17bn-annual-loss-african-countries-move-to-halt-illegal-rosewood-trade.html> [Accessed on 8 August 2019].
- Yoda, A. S. S., (2019). 'We have cut them all': Ghana struggles to protect its last old-growth forests. Mongabay Series: Forest Trackers. 28 August 2019. [Online]. Available at: <https://news.mongabay.com/2019/08/we-have-cut-them-all-ghana-struggles-to-protect-its-last-old-growth-forests/> [Accessed 29 December 2021].
- Afriyie, J. O., Asare, M. O., Danquah, E., and Pavla, H. (2021). Assessing the Management Effectiveness of three Protected Areas in Ghana. *Conservation & Society*, 2021, Vol. 19, No. 1 (2021), pp. 13-24. Published by: Ashoka Trust for Research in Ecology and the Environment and Wolters Kluwer India Pvt. Ltd. Pp. 17-20. Available at: [jstor.org/stable/pdf/26979974.pdf](https://www.jstor.org/stable/pdf/26979974.pdf)
- FAO Timberlex (2021). Ghana. Database. Page last modified 2021-07-13. Food and Agriculture Organization of the United Nations. [Online]. Available at: <https://www.fao.org/faolex/timberlex/>
- FAO (N.Y). 1. Introduction & status of the Forestry Sector in Ghana. FOSA Country Report – Ghana. Forestry Outlook Study for Africa (FOSA). Available at: <https://www.fao.org/3/ab567e/ab567e02.htm>

1.9.5. Risk determination

Overview of Legal Requirements

Protected areas

Ghana established an extensive forest estate in the high forest zone in the 1920s, consisting of 1.63 million hectares of forest reserves. These reserves include permanently protected areas (352,500 ha of national parks and globally significant biodiversity areas of 117,322 ha). The remaining lands in the off-forest reserve areas are primarily farmlands.

The FC is responsible for the planning of harvesting and monitoring forest conditions (Section 2b of the Forestry Commission Act 1999 (Act 571)). The FC's Manual of Operations (MOPs) sections A-F operationalises the Timber Resources Management Act 1997 (Act 547) and the Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254).

The strategic planning sets objectives to guide forest resource management in the long term and delineate the forest reserve areas into production and protective zones. Timber felling rights are awarded in only production zones.

No logging operation, including felling, skidding, road and log yard construction, is permitted in a Protected Area. Such areas include sacred groves, hill sanctuaries, provenance protection areas, convalescent areas, special biological protection areas, and swamps. Protected Areas must be marked on the TUC Operational Plan and the Annual Logging Plan at the appropriate scales. The Contractor is responsible for ensuring that the Logging Supervisor is familiar with the location of all Protected Areas that fall within or adjacent to the Contract Area (Revised Logging Manual, section 3.2-art. 7) (TimberLex, 2021).

Protected species (Star ratings and restricted species)

Several tree species are put under Ghana's conservation star ratings for conservation purposes. The star rating system was designed to assign each species to a category denoting its conservation priority and is based on an extensive botanical survey of the forest estate completed by the Forest Services Division in 1992. Star values can help forest managers identify genetic hotspots throughout the high forest zone. The numeric value related to the hotspot is known as its Genetic Heat Index (GHI). Forest reserves or portions of reserves with a high Genetic Heat Index (greater than 150) are designated as Special Biological Protection Areas and are permanently removed from production (FAO, N.Y).

Revised Logging Manual. Section 3.2 – Art.6 Protected species. Any tree species classified as Black Star cannot be felled under any circumstances. Any species classified as a Special Permit Species cannot be felled unless this is specifically authorised by a permit from the District Forest Manager for road or log yard construction. Black Star and Special Permit Species are listed in Appendix 6, which the Forestry Department may amend from time to time.

Black Star species are the highest priority for protection, followed by Gold, Blue, Scarlet, Red, Pink and Green Stars, respectively (MoP, Instruction Sheet A2.3)

The 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.

Schedule 8 of the Timber Resource Management and Licensing Regulations (2017), LI 2254, lists the timber species restricted for felling. These species can only be felled with a restricted species permit issued by the FC with the approval of the Minister (LI 2254, Art 74).

Protected species belonging to the classes "Restricted Timber Species" and "Black Star" are identified during the stock survey but not measured (Mop, Instruction Sheet C4.1, 2.4). Black Star species shall be protected with an exclusion zone of 100m radius around the tree location. MoP Introduction sheet No D2, 7.3 lists the current Black star species. In contrast, Introduction sheet MoP, Instruction Sheet D4, 4.2 lists Scarlet species (species threatened in Ghana by over-exploitation) and the approach for yield calculation. Permits for issuing Scarlet species can be issued.

Ghana has ratified the CITES Convention. *Pericopsis Elata* (Afromosia) and *Pterocarpus Erinaceus* (rosewood) are found in Appendix II (See sub-category 1.20).

Ghana's Cabinet introduced a ban, effective from 1st January 2014 (temporary ban introduced in 2012), on the harvesting and exporting of *Pterocarpus Erinaceus* (rosewood) until further notice.

Description of risk

Risks are associated with illegal logging of protected species and in protected areas.

Illegal logging of protected species: following the ban on the harvesting, transport, processing, export, or sale of rosewood (*Pterocarpus Erinaceus*), the Forestry Commission granted Salvage Permits to 13 companies to remove the already harvested rosewood. However, these companies may have abused their permits at the time (NEPCon expert consultation, 2016). There have also been recent reports of illegal harvesting and trade in rosewood (*Pterocarpus erinaceus*) (EIA, 2019, EIA 2020) despite a ban placed on the harvest and trade for the fifth time in Ghana in March 2019. Rosewood has also been listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) since January 2017. Rosewood occurs in the Savannah Regions of Ghana, protected from timber concessions. Rosewood harvesting thus mostly comes from off-forest reserves.

According to Nature and Development Foundation, there are continued sales of *Pericopsis Elata* (also known as Afromosia) on the local market without accompanied licenses (Appiah and Bediako, 2020). *Pericopsis elata* is a scarlet star species listed as a restricted species.

Illegal logging in protected areas: illegal logging is a threat to protected areas and is documented in several studies/reports. A study of six forest reserves by Derkyi and Dietz (2014) showed that the issue was connected to illegal chainsaw milling offences, mainly in forest and off-forest reserves. Also, a Mongabay investigation showed that illegal logging in forest reserves are commonplace. While the FC did seize some illegally logged timber, a chainsaw operator also informed Mongabay that members of the FC

task force to prevent illegal logging were routinely bribed, making it possible to transport in the daytime and to pass the checkpoints established by the FC (Yoda, 2019). Afriyie (2021) reported that logging had taken place in protected areas due to illegal settlements depending on the forest resources for livelihood, high economic gains and corruption between perpetrators and wildlife officials (Afriyie et al., 2021).

In 2019, EIA also reported that encroachment into protected areas takes place to harvest rosewood (EIA, 2019), and Afriyie (2021) supports that the demand for rosewood is a driver for illegal logging in the protected areas and that China is a key market driving this demand for rosewood (Afriyie et al., 2021).

Risk conclusion

This indicator has been evaluated as a specified risk for a natural forest in the forest reserve and off forest reserve.

1.9.6. Risk designation and specification

Specified risk for the natural forest in and off forest reserve:

- Protected species are illegally harvested
- Protected areas are illegally harvested

1.9.7. Control measures and verifiers

Mitigating the risk that protected species are illegally harvested:

Review documents and verify:

- For restricted timber species, loggers must hold a valid **permit for restricted species** issued by the FC for the defined harvesting unit.

Mitigating the risk that protected areas are illegally harvested:

Review documents and verify:

- **Approved harvesting schedule/blocking** excluding large, protected areas (referred to as "coarse grain" protection (e.g. provenance areas, globally significant biodiversity areas, etc.)
- **Forest progress maps**
- **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.

Onsite verification:

- It shall be verified that the above-listed documents are available to the logger onsite

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). [online]. Available at: <https://www.ecolex.org/details/legislation/environmental-assessment-regulations-1999-lex-faoc078169/>
- Environmental Assessment (Amendment) Regulations. 2002. (LI 1703) (Section 8A contains requirements on the publication of notice of environmental permit.
- Logging manual (Section 3.2 Environmental Considerations).
- Riparian Buffer zone Policy for Managing Freshwater Bodies in Ghana. 2011. Available at: http://doc.wrc-gh.org/pdf/wrc_4014e_20120224_1330067407_.pdf

1.10.2. Legal authority

- Environmental Protection Agency (Issuance of Environmental Permit and Monitoring). Website: <http://www.epa.gov.gh/web/>
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <http://fcghana.org/>
- Forest Services Division (FSD) (they support the Commission in the preservation and management of forest reserves in Ghana). Website: <http://fcghana.org/>
- Resource Management Support Centre (RMSC) (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: <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

- Forestry Commission of Ghana. *Logging Manual*. [online]. Available at: <http://fcghana.org/>
- Ministry of Environment, Science, Technology, and Innovation. *National Biodiversity Strategy and Action Plan, November 2016. Section 2.3.1.2: Weak Institutional Capacities*. [online]. Available at: <https://www.cbd.int/doc/world/gh/gh-nbsap-v2-en.pdf>
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third Summary Monitoring Report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

- 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>
- Bosu, D. (2014). *Rosewood: Most Expensive, Fastest Selling Commodity in Ghana Today*. [online]. Available at: <http://www.ghanaweb.com/GhanaHomePage/features/Rosewood-Most-expensive-fastest-selling-commodity-in-Ghana-today-313635>

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forestry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

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) to the timber contractors on the planning and operational aspects of timber harvesting. It provides basic information on good working practices.

Section 3 of Schedule 1 (Regulation 1(1)) of the Environmental Assessment Regulation, 1999 prescribes undertakings that require registration and an environmental permit from the Environmental Protection Agency (EPA). Relevant undertakings include the management of forested land for the primary purpose of harvesting timber in a contract area (logging) and forestry services such as pesticide application and the introduction of exotic species (animals, plants or microbial agents). Applications for the environmental permit are required to detail:

- i. The location and size of the area;

- ii. Technology intended to be used;
- iii. Environmental, health and safety impacts of the undertaking;
- iv. A clear commitment to avoid any adverse environmental impacts which the undertaking could avoid;
- v. A clear commitment to address unavoidable environmental, health and safety impacts and to implement necessary mitigation steps ;
- 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 report on the application which states whether the application is approved or not, or whether the submission of (a) a preliminary environment report or (b) an environmental impact statement is required.

An application is approved at the initial assessment; the EPA registers the undertaking and issues an environmental permit.

Where an application is rejected, the undertaking cannot commence. It is already in existence and discontinued.

Description of risk

Apart from logging in submerged forests, most companies logging in the forest reserve and off forest reserve areas (both natural and plantation forest) approved by the Forestry Commission (FC) may not have an EPA permit as required by law. This is because the EPA certificate is not part of the required documents for timber rights by the FC. Once the companies have met environmental standards prescribed in the forest law, the FC may recommend that companies apply to the Ministry of Lands, Forestry and Mines for the grant of timber rights.

According to most officials at the Forestry Commission, there is an unwritten understanding between FC and EPA that the different levels of forest management planning and operational restrictions, set out in the forest laws, are adequate to safeguard any breaches of other environmental requirements; further, the EPA's environmental requirements can be waived once the forest operator meets the FC's management planning requirements. For example, the EPA's EIA requirements include restrictions on logging in watershed areas. The Forestry Commission's coarse grain protection removes watersheds from the timber production areas of the forest reserves, so this EPA requirement is already addressed. For forest plantations inside forest reserves, plantation developers must prepare commercial plantation plans for approval by the Forestry Commission as part of the plantation development application process. This ensures watersheds are identified and protected. The Ministry of Environment, Science and Innovation, in its 2016 Biodiversity strategy, however, reported that the involvement of EPA in EIA in the forest sector has been non-existent. Though the Biodiversity strategy acknowledged that the Forestry Commission has strict environmental regulations concerning forest management, it proposed that the Forestry Commission be allowed to conduct external environmental auditing to strengthen the process. Private plantation developers outside the forest reserves must meet the EPA requirements.

The review of sampled FSC audit summaries in 2020 shows that companies pursuing FSC certification are making efforts to be provided with environmental permits from the Environmental Protection Agency (FSC audit reports). Companies usually have an EPA permit for their factory or processing operations but not forest operations.

Note: While the EPA requirements are clear, so far, it has not been applied in normal forestry operations (i.e., environmental permits are not issued, 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, an unwritten agreement between the FC and EPA. Ghana's VPA legal timber

definition also does not include EIA. Ghana's legal definition of timber under the VPA does not include this provision.

Risk conclusion

Activities on the ground may not violate environmental requirements, even though the substitution of FCs forest management requirements for EPA requirements in forest management has not been formally documented. The process of ensuring environmental requirements are considered to be in place, and the impact of not having the EPA permit will not have practical implications on the ground. As the impact on the ground is negligible, the risk is considered low.

1.10.6. Risk designation and specification

Low risk.

1.10.7. Control measures and verifiers

N/A.

1.11. Health and safety

Legally required personnel protective 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). [online]. 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). [online]. Available at: <https://acts.ghanajustice.com/actsofparliament/labour-act-2003-act-651/#:~:text=AN%20ACT%20to%20amend%20and,for%20matters%20related%20to%20these.>
- 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)). [online]. Available at: <https://www.nhis.gov.gh/files/ACT852.pdf>
- Pesticides Control and Management Act, 1996 (Act 528) (Section 21 defines safeguards for use of pesticides). [online]. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha10692.pdf>
- The workmen's compensation Law (PNDC law 187) (outlines compensation procedures for injury, accident, or death of persons under employment). [online]. Available at: <https://acts.ghanajustice.com/actsofparliament/workmens-compensation-act-1987-p-n-d-c-l-187/>
- Labour regulations, 2007 (LI 1833). Section 18-20 (Health and employment) specifies safeguard measures to be employed by employees to ensure the health of its workers, accident and fatality reporting requirements, medical examination of employees, and provision of essential services such as drinking water at work place among others. [online]. 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: <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: <http://melr.gov.gh/departement-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: <http://www.nhis.gov.gh/nhia.aspx>
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <http://fcghana.org/>

1.11.3. Legally required documents or records

- Industrial hygiene survey report (from Department of factory inspectorate or their sub-contracted agencies);
- Workers registration on the National Health Insurance Scheme (NHIS);
- 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

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. Third summary monitoring report (2017). [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

- Arts, B.; Heukels, B. and Turnhout, E. (2021). Tracing timber legality in practice: The case of Ghana and the EU. Forest policy and Economics 130 (2021) 102532). Elsevier. Available at: <https://edepot.wur.nl/549123>
- EU FLEGT Facility (2018). Drive for legal timber boosts worker safety in Ghana. EFI. [Online]. Available at: <https://www.euflegt.efi.int/publications/drive-for-legal-timber-boosts-worker-safety-in-ghana>

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>

- Miro Forstry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

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. Section 75 of Act 328 provides the powers of inspectors to enter and inspect a factory at any time. As part of the requirements (Section 118 to 121 of the Labour Act), the employer is responsible to ensure workers are provided with 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.

In the absence of specific health and safety requirements in the forest sector in Ghana, the ILO Code of Practice on Safety and Health in Forestry Work (as set out in Table 1, page 37) is used 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 licensing. However, for some companies, safety requirements are not fully observed (EU FLEGT Facility, 2018). In some cases, Personal Protective Equipment (PPE) is not supplied to workers, or often employers provide PPE to workers but the use is not enforced. Workers in most companies belong to trade unions, and have collective bargaining agreement (CBA) with their employers which requires the provision of PPE as an essential part of the agreement, however in some cases the terms of the CBA, especially PPE provision, are not met (Expert consultation conducted by NEPCon, 2016; Arts et al., 2021). The review of sampled FSC audit summaries, from 2020, did not show any risks with this category (FSC audit reports). Higher compliance with PPE requirements in certified companies are supported by the story of the EU FLEGT Facility, 2018, noting that many of the larger companies have increased awareness due to private certification schemes. However, it was also noted that many smaller companies lack behind (EU FLEGT Facility, 2018).

The Timber Validation Department audit companies to check they comply with health and safety requirements and verify that companies have the required annual health and safety certificate from the Factories Inspectorate Division of the Ministry of Employment and Labour Relations (EU FLEGT Facility, 2018). However, factory inspectors help companies to meet safety requirements in the factories but not within forest operations.

In Arts 2021 auditing and enforcement practices by the FC are covered. The study refers to only one Forest Reserve (multiple forest operators) but provides an indication of compliance level. While it was generally found that the forest operations were in compliance with the requirements related to forest management and harvesting, health and safety was typically violated (regardless of company size), with a high degree of staff not using PPE. When violations were detected, an educational lecture was given to the staff, but with no further consequences for the forest operations, which were allowed to continue as before. The auditors and the local FC department interpreted the lack of PPE as a non-compliance, but not as a “real” illegality, irrespective of the law (Arts et al., 2021).

Risk conclusion

Specified risk. Certification and the FLEGT VPA implementation are helping to improve health and safety, but timber right operators are not adequately compliant.

1.11.6. Risk designation and specification

Specified risk for all source types:

- Personal safety and protective equipment are not provided to or used by workers

1.11.7. Control measures and verifiers

Mitigating the risk that personal safety and protective equipment are not provided to or used by workers :

Review documents and verify (during onsite audit):

- Employers are required to ensure that all their employees are registered on the National Health Insurance Scheme (NHIA). Registration can be verified through;
 - Records from the timber operator to demonstrate that all employees are registered under the NHIS, or;
 - Identity cards for registered persons under the NHIS shall be in place for all staff (issued by NHIA).
- Records on compensations should be available to demonstrate that the worker compensation law is consistently implemented in events of accident, death or injury of an employee arising from work.
- Training records must be available and demonstrate that adequate health and safety training, consistent with the risk associated with their responsibilities, have been given to employees and contractors consistent with the risk associated with their responsibilities.

Onsite verification:

- Verify the following in the field:
 - employees are provided a safe working environment and personal protective equipment (PPE).
 - PPEs are not paid by workers
 - PPEs are being used in the field
 - appropriate health facilities are available to employees and contractors.

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). [online]. Available at: <https://acts.ghanajustice.com/actsofparliament/labour-act-2003-act-651/>
- National Pension Act, 2008 (Act 766) Section, 1, 3, 58-63 (establishes the three-tier pension scheme and defines the requirements for Social Security registration for companies and employees). [online]. Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>
- Factories, offices and shops act 1970 (Act 328). [online]. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/5120/101273/F1855108748/GHA5120.pdf>
- Labour regulations (LI 1833). Regulates the Labour Act, 2003 (Act 651). [online]. Available at: <http://www.ilo.org/dyn/travail/docs/1198/Labour%20Regulations%202007.pdf>
- 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)). [online]. 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). [online]. 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: <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 responsibility of the Factories, Offices, and Shops Act, 1970 (Act 328)). Website: <http://melr.gov.gh/department-of-factories-inspectorate/>
- National Pension Regulatory Authority (NPRA) mandated to regulate and monitor the operation of the three tier Ghana pension Scheme and to ensure the effective administration of pensions in the country.
- Social Security and National Insurance Trust (SSNIT) (operators of the basic national social security scheme referred to as the social security scheme and other schemes as determined by law on recommendations of the National Pensions Regulatory Authority). Website: <http://www.ssnit.org.gh/>

1.12.3. Legally required documents or records

- SSNIT clearance certificates;
- SSNIT contribution payment receipts;
- Tier 2 Payment/deposit receipts to an NPRA approved trustee;
- Workers employment contract;

- Signed Collective Bargaining Agreement (CBA).

1.12.4. Sources of information

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.12.5. Risk determination

Overview of Legal Requirements

Labour Act, 2003 (Act 651) applies to all forestry workers, 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 an employment contract and section 20 provides the requirements for leave entitlement.

Section 12 to 17 of the Labour Act prescribes the conditions for legal employment, a written contract is required for workers engaged in employment for 6 months, or more, or a number of working days that is equivalent to 6 months or more within one year. The employer is required to provide the newly employed worker with written details 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 from preventing or requiring 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. Section 96, 98 refers to Collective agreement. Section 99 provides conditions for collective bargaining. The National Pension Act 2008 (Act 766), establishes National Pensions Regulatory Authority as the regulator and outlines the three-tier pension scheme. Employers are required under Section 3 (Contributions to the Scheme) to make deductions of pension contributions and to make payment to mandatory First and Second Tier schemes within 14 days of the preceding month. Section 33 establishes The Social Security and National Insurance Trust (the SSNIT) as operators of the basic national social security scheme referred to as the social security scheme or Tier 1. Employees are required to make Tier 1 contributions to SSNIT and Tier 2 Contributions to their selected NPRA approved trustee.

Description of risk

Companies in Ghana have improved in terms of legal employment; especially following the pursuit of forest certification and the implementation of FLEGT VPA licencing. Even so, some companies may not have collective bargaining agreement and some companies who have a collective bargaining agreement may not implement some of the clauses such as leave entitlement. Some workers may still work without a contract and therefore lack the obligatory insurances. This violates the legal rights of workers (expert

consultation conducted by NEPCon, 2016). The review of FSC audit summary reports indicates, in most cases employees can secure SSNIT clearance certificate even when they owe significant Tier 1 contributions and penalties payments. Likewise, most companies have deducted Tier 2 pension contributions from their workers over several years as required. But most of these companies have failed to pay the deductions made to the Tier 2 pension fund manager for investment and subsequent payment to the workers when they are on retirement. The National Pension Regulatory Authority (NPRA) is yet to be effective at enforcing this legal requirement. The review of FSC audit summaries for 2019-2020, confirms the existence of legal employment violations by timber rights holders including non-payment of Tier 1 and 2 deductions of workers.

Risk conclusion

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

1.12.6. Risk designation and specification

Specified risk for all source types:

- When a union is in place there is a risk that collective bargaining agreements are not in place, or that the terms of the collective bargaining agreements are not met by companies
- Workers do not have contracts and obligatory insurance
- Risk that pensions contribution payment (tier 1 contributions and tier 2 deduction payments) are not paid by the employer

1.12.7. Control measures and verifiers

Mitigating the risk that when a union is in place there is a risk that collective bargaining agreements are not in place, or that the terms of the collective bargaining agreements are not met by companies:

Review documents and verify:

- Verify that the Collective Bargaining Agreement (CBA) is signed between the employer and the local workers' union). The CBA specifies the condition of employment (including employer and employee responsibilities, wages, and leave) and serves as the basis of employer-employee relations. Employees' contract and condition of service should be consistent with the regulations of the CBA.

Mitigating the risk that workers do not have contracts and obligatory insurance:

Review documents and verify:

- Verify that timber operators have formal employment contracts for their employees and/or contractors.
- Verify that timber operators maintain records which demonstrate that casual workers, who have worked for more than 6 months continuously, are made permanent staff and provided with a formal contract.
- Verify that permanent employees are registered with the Social Security and National Insurance Trust (SSNIT) and given social security numbers. This can be done by checking:
 - records of payment of SSNIT contributions made by the employer, and;
 - receipts for such payments issued by SSNIT

Mitigating the risk that pensions contribution payment (tier 1 contributions and tier 2 deduction payments) are not paid by the employer

Review document and verify:

- Payment receipts which show that employers have made pension contribution payment to the appropriate scheme organisations.

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

- The Constitution of the Republic of Ghana, 1992, Article 267 stool and skin lands and properties (vests stool lands in the appropriate stools for the subjects of the stool). Article 36 (8) (the guiding principles of state policy): ownership and possession of land carry a social obligation to serve the larger community. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/31976/101268/F-1229887249/GHA31976.pdf>
- The Forest Protection (Amendment) Act 2002 (Act 624) [Section 1]. [online]. Available at: [https://www.fao.org/faolex/results/details/en/c/LEX-FAOC068402/#:~:text=624%20of%202002\),in%20relation%20with%20timber%20marks.](https://www.fao.org/faolex/results/details/en/c/LEX-FAOC068402/#:~:text=624%20of%202002),in%20relation%20with%20timber%20marks.)
- 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)). [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Section 26 on Social Responsibility Agreement. [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- Revised 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). [online].

1.13.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <http://fcghana.org/>
- Forest Services Division (FSD) (they support the Commission in the preservation and management of forest reserves in Ghana). Website: <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;
- Approved yield/markings;
- Tree information form (TIF);

- FC stumpage/services bills;
- FC receipts of stumpage/bill payment;
- Operator FC statement account;
- SRA payment records.

1.13.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). New Procedures for Stumpage Collection and Disbursement (Forestry Commission in Association with the Office of Administrator of Stool Lands). [online]. Available at: http://fcghana.org/library_info.php?doc=55&publication:New%20Procedure%20for%20Stumpage%20Disbursement%20&id=18
- The Forestry Commission of Ghana (n.d.). Quarterly stumpage disbursement published by the Forestry Commission. [online]. Available at: <http://fcghana.org/>
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. Third summary monitoring report (2017). [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- Joint Monitoring and Review Mechanism (JMRM) of the Ghana-EU FLEGT Voluntary Partnership Agreement (2016). 17 November 2016: Technical session of the Joint Monitoring and Review Mechanism meeting. [online]. Available at: https://eeas.europa.eu/sites/eeas/files/aide_memoire_-_second_technical_session_jmrm_17112016.pdf
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. Third summary monitoring report (2017). [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- Joint Monitoring and Review Mechanism (JMRM) of the Ghana-EU FLEGT Voluntary Partnership Agreement (2019). 10th Ghana-EU Joint Monitoring and Review Mechanism Meeting. [online]. Available at: <http://www.euflegt.efi.int/documents/10180/463576/Ghana-EU+VPA+Aide+Memoire+May+2019.pdf/a90c2de3-12d3-8afe-2236-ae6e858818b5>

Non-Government sources

- 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>
- 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

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>

- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE>
- Logs and Lumber Limited, July 2020 <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.13.5. Risk determination

Overview of Legal Requirements

Royalties: The 1992 constitution, art 267 (2, 6) stipulates that 10% of the revenue accruing from stool lands (revenue from rents, dues, royalties, revenues or other payments to the Stool lands) shall be paid to the office of the Administrator of Stool Lands to cover administrative expenses; and the remaining revenue shall be disbursed in the following portions; the District Assembly is entitled to 55%, the Stool 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). Small scale and large-scale TUC permits in both natural forests and plantations, and salvage permits require SRAs (LI 2254, Section 3 (e) of Act 547; Sections 29(5), 17(11) b and 20(1)b). According to the law, the monetary value of the timber rights operator's contribution to community development should be 5% of the stumpage paid in respect of trees harvested within a defined forest area (LI 2254 (26) 1 and 2). 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 the priorities for local development and particular conditions for the future logging company's operation. 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 SRA in effect includes social responsibility requirements, environmental restrictions and code of conduct requirements such as observation of taboo days.

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

Description of risk

The first joint assessment of Ghana's Legality Assurance System from January 2010 found that implementation of SRAs is not consistent with the law. SRA agreements are sometimes violated by some timber contractors (expert consultation conducted by NEPCon, 2016); although most contractors pay more than the legally required 5% of stumpage fee (expert consultation conducted by NEPCon, 2016), by supporting development projects in the communities. Communities could ensure they receive the due amount, if they have information on stumpage value. The information on actual volumes of timber extracted, which is the basis for calculating royalties and SRAs, is available at the FC and its District offices (FSD) located within or close to the forest areas. SRA communities can obtain this information to independently verify the appropriate revenue due. Most companies employ forest operations workers from the forest fringe communities and some of these workers also have access to extracted volumes and are sometimes included in SRA committees. The Service Charter of the Forestry Commission use reports and other publications as the main tool for communicating with the public. However, the official

redistribution figures are usually published a year in arrears. Information distribution on SRA and stumpage information to local communities has improved with the involvement of civil society organisations, through awareness creation and establishment of SRA committees in some forest fringe communities. Activities and programmes on the implementation of the VPA has also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission in response to the first Joint Assessment Report of the VPA prepares estimates of potential stumpage and corresponding SRAs for upfront payment by timber right holders 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 and the implementation through the independent monitor of the Ghana Legality Assurance System (GhLAS) is improving the system. Royalty disbursement has improved (Expert consultation conducted by NEPCon, 2016). A template for compliance checklist 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). Currently, several civil society organisations, NGOs and the FC have implemented projects as part of VPA implementation which has improved SRA implementation (10th Ghana-EU Joint Monitoring and Review Mechanism meeting). Payment can be before or after harvesting as the company agrees with the community. And payments are witnessed by the Forest Services Division and the District Assembly. Payments are made to SRA Committees through the bank, and not to individuals.

One key finding from the Joint Assessment of the Ghana VPA in 2019 was the inconsistent implementation of the SRA. This is, however, not a legal compliance issue but an efficiency issue resulting from the different community structures and traditions.

Compensation paid by loggers to farmers/landowners for crop damage due to logging 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). Usually, there is a bargain between the property owner and timber contractor; either party could lose (expert consultation conducted by NEPCon, 2016). The joint assessment of the Ghana VPA in 2019 also found inconsistencies in the calculation of compensation for damaged crops by loggers and recommended the basis for calculating compensation for damaged crops be included in the SRA. This again is not a compliance issue but a matter of inefficient implementation of compensation to farmers for damaged crops by loggers.

Risk conclusion

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

1.13.6. Risk designation and specification

Low risk.

1.13.7. Control measures and verifiers

N/A.

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

- Forest Act, 1927 (clarifies that ownership of land with forest reserve is unchanged by its establishment as a forest reserve. Section 3 requires that information on lands proposed for the creation of forest reserves be published in a gazette.). [online]. Available at: <http://extwprlegs1.fao.org/docs/pdf/gha40761.pdf>
- Timber Resources Management Act 1997 (Act 547) (Section 4 contains requirements for seeking landowners' consent in grant of timber rights). [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-act-1997-act-547-lex-faoc016665/>
- Timber Resources Management Amendment Act 2002 (Act 617). Available at: <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC068409>
 - Article 2 provides that no timber rights shall be granted for land subject to alienation holding or land with farms without the written authorization of the individual, group or owners concerned. No timber right is granted for private forest plantations or land with any timber grown or owned by any individual or group of individuals.). [online].
 - Section 1A contains requirements for seeking landowners' consent in grant of timber rights).
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Sections 4 and 5 on landowners' consent. [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

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

- Landowners written consent (on reserve);
- Landowner and others holding interest in the area 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*. [online]. Available at: <http://fcghana.org/library.php?id=15>
- 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
- Forestry Commission: Copies of Forest Management, Working plans and Forest Reservation reports. Available in Forestry Commission offices.

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>
- Idh (2019). Progressing the Dialogue on Tree Registration in Cocoa Farms in Ghana. News article – 1 July 2019. The Sustainable Trade Initiative [Online]. Available at:
<https://www.idhsustainabletrade.com/news/stakeholder-dialogue-on-tree-registration-in-cocoa-farms/>
- World Cocoa Foundation (2020). Tree Registration in Ghana: “A dream come true” May 19, 2020 [Online]. Available at: <https://www.worldcocoaoundation.org/blog/tree-registration-in-ghana-a-dream-come-true/>

1.14.5. Risk determination

Overview of Legal Requirements

Section 4(2) of Timber Resources Management (TRM) Act 547 (and Section 2 of amendment Act 617) states timber rights shall not be granted for logging on lands subject to alienation or farmlands without written authorisation of the landowner(s).

Regulations 4, 5 and 6 of LI 2254 requires the Forestry Commission must seek the consent and agreement of landowners before lands (public lands and forest reserves) identified as suitable for timber rights can be administered. Regulation 6 provides the procedure for resolving conflicts and objections by landowners 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

Section 17. Ownership of land within forest reserve of the Forest Act, 1927 (CAP 157) clarifies in item (1) that, the ownership of land within a proposed forest reserve shall not be altered by its constitution as a forest reserve. 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 farmers is not usually sought (expert consultation conducted by NEPCon, 2016), but as TUCs are not very common in off reserve areas due to low timber stocking, the issue is minor. When farmers’ consent is sought, farmers, or their representatives, are also involved in the pre-felling survey to identify the trees in off forest reserve areas (expert consultation conducted by NEPCon, 2016). The farmer must agree before a tree can be marked and given out to a timber contractor. The farmer reaches 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.

Currently, the FC has provided the opportunity for farmers to register the trees they have planted on their farms or naturally growing trees they have nurtured on their farms so they can own the trees (Idh, 2019; World Cocoa Foundation, 2020).

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

N/A.

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it is 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.

There are no indigenous peoples in Ghana, but there are traditional peoples living close to or within forest areas. The rights for both traditional peoples and communities surrounding forests are to a large extent based on the customary rights and systems of the traditional peoples. The rights and systems in place are set by traditional people but everyone in the area must follow. Therefore, the finding for sub-category 1.13. Customary Rights and sub-category 1.15. Indigenous/traditional peoples' rights are similar.

Please see sub-category 1.13 for information related to traditional peoples' rights.

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 and Legality Licensing Regulations, 2017 (LI 2254) (regulates grant of small- and large-scale timber rights, other sources of timber and provide a licensing scheme). Regulation 60 and 65 on stumpage. Regulation 78 and 74(1) and Schedule 8 outlines the restricted species that requires special permit for harvesting. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

- Trees and Timber Amendment Act 493 (schedule 1 and 2 defines export levies applicable to processed and unprocessed timber of certain species). [online]. Available at: [https://www.ecolex.org/details/legislation/trees-and-timber-amendment-act-1994-act-no-493-of-1994-lex-faoc068404/#:~:text=493%20of%201994\),,-Country%2FTerritory%20Ghana&text=This%20Act%20amends%20the%20Trees,and%20processe d%20timber%20is%20inserted.](https://www.ecolex.org/details/legislation/trees-and-timber-amendment-act-1994-act-no-493-of-1994-lex-faoc068404/#:~:text=493%20of%201994),,-Country%2FTerritory%20Ghana&text=This%20Act%20amends%20the%20Trees,and%20processe d%20timber%20is%20inserted.)
- 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). [online]. Available at: <https://fcghana.org/wp-content/uploads/2021/08/MOP.pdf>

1.16.2. Legal authority

- Forest Services Division (FSD) of Forestry Commission (FC) (they support the Commission in the preservation and management of forest reserves in Ghana). Website: <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). [online]. 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*. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>
- Ghana FLEGT VPA (2020). Available at: <http://fcghana.org/fctvd/index.php>
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) (2018). *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>
- Expert consultation: Joseph Osei, Resourcetrust, date: January 2022

1.16.5. Risk determination

Overview of Legal Requirements

Under sub-category 1.3 the inventory and marking of trees prior to harvesting are covered. After harvesting FSD range supervisor captures the details of each tree felled on a tree information form (TIF). This translates into 100% post-felling check by the range supervisor. The TIF contains information such as the stock survey number, harvested species, and quantity (volume).

For natural forest, the Contractor completes a log information form (LIF) which covers 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 another FSD Range Supervisor using the information on TIF and LIF. This is to provide assurance that the information provided by the FSD and the contract agree, before logs are trucked from the forest to the processing site or point of sale. The LMCC follow the transport of logs and includes the stock number, species and volumes of logs.

For forest plantations (on- and off-reserve), TIF and LIF are replaced by the Plantation production certificate. A Log measurement and conveyance certificate (LMCC) is issued also for transport of timber from plantations.

Transported logs from both plantations and natural forests 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 stock survey (pre-felling inventory), which might lead to misclassification of timber in transport documents. High value species may be misclassified as low value species and vice versa. Some merchantable trees may not be captured during enumeration and therefore lack a stock number. Timber contractors may 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 and can easily be

detected with the introduction of the WTS which is able to reconcile species and stock numbers to flag inconsistencies and discrepancies (Osei, January 2022),

A wood-balance analysis carried out by Hoare in 2014 on Ghana's timber, compared the legal supply of timber (from official records of harvest and imports) with consumption (based on domestic consumption and exports), this analysis shows a gap between supply and consumption. This gap could be due to under reporting of harvested tree volumes captured on the TIFs. Stock numbers of approved trees are sometimes repeated, in order to harvest more trees outside the yield. This contradicts the procedures in the MOP Section D.

However, this risk is minimized through: enforcement of enumeration check surveys; TIDD volume measurements; regular audits by the TVD; and the Independent Monitor of the GhLAS (JMRM May, 2019). The introduction of the WTS has allowed for volume reconciliation at all levels, as well as the input output volume reconciliation forms, 'introduced at the sawmills, have helped to reduce this risk to insignificant levels.

Risk conclusion

This indicator has been evaluated as low risk. Identified laws are to the large extent upheld consistently by all entities. Violations can easily be identified at checkpoints and postfelling checks with penalties applied.

1.16.6. Risk designation and specification

Low risk.

1.16.7. Control measures and verifiers

N/A.

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 and Legality Licensing Regulations, 2017 (LI 2254) (Regulation 57 set out the allowed time for timber transport and required transport documents respectively). [online]. Available at <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>
- 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. [online]. Available at: <https://www.ecolex.org/details/legislation/forestry-commission-act-1999-act-no-571-of-1999-lex-faoc034739/#:~:text=An%20Act%20to%20establish%20a,to%20provide%20for%20related%20matters.>
- Logging manual (2003) (section 3 defines the regulations for marking and transport of logs). Available at Forestry Commission offices.

1.17.2. Legal authority

- Forest Services Division (FSD) (they support the Commission in the preservation and management of forest reserves in Ghana). Website: <http://fcghana.org/>
- Timber Industry Development Division (TIDD) (main legal authority for Export Levy Tax). Issuance of export permit, Lumber inspection certificate and lumber conveyance certificates (LICs). Website: <http://www.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253>,

1.17.3. Legally required documents or records

- Log measurement and conveyance certificate (LMCC);
- Weekend and holiday log transport permit (if applicable);
- 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);
- TIDD input output statement.

1.17.4. 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>
- Manuals of Procedures (Section A-F). Available in hard copies from the Forestry Commission offices, 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).
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEAE>
- Logs and Lumber Limited, July 2020 <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>

- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

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 57 of Timber Resources Management and Legality Licensing Regulations, 2017 LI 2254 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. Regulation 60 of LI 2254 requires timber is transferred or moved from the forest only under the Log Measurement and Conveyance Certificate, which is issued by the Senior Range Supervisor 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 requires: the registration of timber and timber product vendors and exporters; vetting of export contracts; inspection of timber products (lumber, veneer etc.); issuance of timber products Log Measurement and Conveyance Certificate 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 operations 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

Often, Log Measurement and Conveyance Certificates (LMCCs) are not issued in the forest, as required by law, this is because 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 NEPCo, 2016). The TIDD checkpoints along the major highways and in some cases inside the timber rights' holders' premises ensures that the risk of under-measurement of logs, species misclassifications are minimised for both export and local market, and lumber (at least those for export) or forest products gaining access to the port without the necessary documentations is also minimised. Exporters require an input output statement to justify the volume being exported for an inspection, Log Measurement and Conveyance Certificates and export permits, this results in a further check. Therefore, the risk of violation of trade and transport requirements for forest products for export is low. However, some of the lumber sold on the domestic markets may not meet trade and transport requirements as approved input output statement and Log Measurement and Conveyance Certificates are not required by buyers.

See also sub-category 1.4. Harversing permits, on the issue of trade with timber harvested by the informal sector.

The Ghana Wood Tracking System (GWTS) collects data at critical control points along the supply chain on the status of compliance by operators, with respect to their contractual obligations as required by the contractual requirements. The data sets collected at these control points are reconciled successively with the addition of new data sets in the process chain. On a near real-time bases, the GWTS labels all non-compliance cases as red flags, which may constitute flash points for prompt investigation and verification through field audits by the TVD of FC. If the FLEGT VPA will be implemented in future and, if there are no outstanding Corrective Action Requests, a FLEGT license for export or Domestic Timber Inspection Certificate (DOTIC) for local market will be issued to the operator.

Regular audits by the TVD and the Independent Monitor of the LAS ensure that systems are improved to check compliance. A review of a sample of FSC audit summaries of various companies in Ghana from 2020 did not show any risks with transport of wood.

Risk conclusion

Specified risk for timber for all source types.

1.17.6. Risk designation and specification

Specified risk:

- Transport of logs for the domestic market takes place without Log Measurements Conveyance Certificate (LMCCs)

1.17.7. Control measures and verifiers

Mitigating the risk of Transport of logs for the domestic market takes place without Log Measurements Conveyance Certificate (LMCCs):

Review document and verify:

- Log Measurement Conveyance Certificates (LMCCs)
- TIDD-approved input output statement to justify the volume being sold

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) (it is the main regulation on off-shore trading and transfer pricing). [Online]. Available at: [https://www.bcp.gov.gh/acc/registry/docs/TRANSFER%20PRICING%20REGULATIONS,%202012%20\(L.I.%202188\).pdf](https://www.bcp.gov.gh/acc/registry/docs/TRANSFER%20PRICING%20REGULATIONS,%202012%20(L.I.%202188).pdf)
- Internal Revenue Act 2000 (Act 592) (Section 69 contains the regulations on splitting income. Section 70 contains the regulations on transfer pricing.) [Online].
- Internal revenue (Tax Amnesty) Act, 2012 (Act 853). Available at: [https://www.bcp.gov.gh/acc/registry/docs/Internal%20Revenue%20\(Tax%20Amensty\)%20Act,%202012%20\(Act%20853\).pdf](https://www.bcp.gov.gh/acc/registry/docs/Internal%20Revenue%20(Tax%20Amensty)%20Act,%202012%20(Act%20853).pdf)
- The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders). [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1999-forestry-commission-act-act-571.pdf>
- Foreign Exchange Act, 2006 Act 723 Section 15 Foreign exchange business and international payments. [online]. Available at: <http://sec.gov.gh/wp-content/uploads/Securities-Industry-Laws/Foreign-Exchange-Act-2006-Act-723.pdf> or <http://ghanatrade.com.gh/Laws/banking-and-financial-laws-of-ghana-1998-2006.html>

1.18.2. Legal authority

- Timber Industry Development Division (TIDD) (main legal authority for Export Levy Tax). [online]. 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). [online]. Website: <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;
- Bank of Ghana foreign exchange form 4A.

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>
- 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).
- Ghana Revenue Authority Practice Notes on Transfer Pricing Regulations 2012 (L.I 2188) (Methodologies and Related Issues) PN/CG0001/2013. [online]. Available at: http://www.drtp.ca/wp-content/uploads/2015/02/Ghana_Transfer_pricing_regulations_-_2012L.I2188.pdf

Non-Government sources

- Deloitte (2020). New Transfer Pricing Regulations take off in Ghana. Tax Updates. December 2020. Available at: <https://www2.deloitte.com/content/dam/Deloitte/gh/Documents/tax/gh-deloitte-tax-update-new-transfer-pricing-regulations.pdf>
- EYGM Limited (2020). Ghana publishes Transfer Pricing Regulations 2020. Global Tax Alert. News from Transfer Pricing. 6 November 2020. EY Tax News Update: Global Edition. Ernst & Young Global Limited. Available at: https://www.ey.com/en_gl/tax-alerts/ghana-publishes-transfer-pricing-regulations-2020
- KPMG (2020). Ghana: Transfer pricing regulations (2020). 2 December 2020. [Online]. KPMG LLP. Available at: <https://home.kpmg/us/en/home/insights/2020/12/tnf-ghana-transfer-pricing-regulations-2020.html>.

1.18.5. Risk determination

Overview of Legal Requirements

Ghana's new Transfer Pricing Regulations 2020 (L.I.2412) entered into force on 2 November 2020 and replaced the former regulation from 2012 (L.I.2188).

Ghana is not a member of OECD and the L.I.2412 does not fully follow the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD Guidelines) 2017. However, many of the OECD revisions introduced by the OECD Guidelines has been included in the 2020 regulation.

The Transfer Pricing regulation from 2020 apply to all persons who are in a controlled relationship under the Income Tax Act or any other tax law of Ghana. The principle of an arm's length must be applied between related parties, and the regulations defines the requirements for assessing whether this is in place (EY 2020).

The definition of what constitutes an arm's-length transaction has not changed in accordance with the long-established global practice. In line with the new guidance in the OECD Guidelines, however, the new Regulations now specifically require the consideration of the allocation of the economically significant risks in determining the comparability of transactions. Assumption of risk, performance of mitigation functions and financial capacity to bear risk are explicitly required to be considered in determining transfer prices (EY 2020, p. 2).

The transfer pricing regulations (2020) introduced safe harbor rules that exempt related-party transactions from having to maintain contemporaneous transfer pricing documentation.

Safe harbor rules can be applied for transactions of a value less than the Ghana Cedis equivalent of U.S. \$200,000. However, there are several services not qualifying as a low value-adding service. For trade with timber and wood products it is relevant to note that services do not qualify as low value-adding services when: services constitute the core business of the persons in the controlled relationship; or the service is a manufacturing and production activities and sales (KPMG 2020).

Taxpayers with related-party transactions are required to maintain and file the following documentation with the tax authority (KPMG 2020):

- Annual transfer pricing return—four months after the financial year-end
- CbC report—12 months after the financial year-end
- Local file—four months after the financial year-end
- Master file—four months after the financial year-end

Description of risk

In the NEPCon Timber Legality Risk Assessment for Ghana from 2017 it was found that the Ghana Revenue Authority (GRA) was effective in undertaking desk and field transfer pricing audits in Ghana under the LI 2188. The GRA conducted over 250 reviews, mainly desk audits, by January 2015. This was followed by field audits or visits to company premises. It was not possible to identify actions on transfer pricing audits under the Transfer Pricing Regulations 2020 (L.I.2412).

The TIDD implements an export system to control prices and prevent tax laundry (Forestry Commission Act 571, 1999). All prospective buyers and exporters of timber and wood products are required to register with TIDD

(<https://www.oldwebsite.fcghana.org/page.php?page=46§ion=22&typ=1&subs=253> or <https://www.ghanatimber.org/register.php>). Companies registered with the TIDD negotiate contracts with buyers based on the TIDD Guiding Selling Prices (GSP) and 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 additional documentation and filing requirements for CbC reporting and local and master file submission under the Transfer pricing Regulation 2020 are likely to impose additional compliance burden on taxpayers in respect of related party transactions (Deloitte 2020). This arrangement ensures exported products are not sold at prices which are significantly lower than the market value of products and then sold to the next link in the supply chain at market prices, this arrangement thus avoids tax laundry (expert consultation conducted by NEPCon, 2016).

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

N/A.

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). [online]. 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). [online]. Available at: https://piorin.gov.pl/files/userfiles/wnf/przepisy/ghana/act_803.pdf
- Ghana Revenue Authority Act 2009, Act 791. Establishes the Ghana Revenue Authority (GRA) to replace the Internal Revenue Service, the Customs, Excise and Preventive Service and the Value Added Tax Service for the administration of tax and related purposes. [online]. Available at: https://gra.gov.gh/wp-content/uploads/2018/11/gra_act.pdfcontent/uploads/2018/11/gra_act.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) Sections 11,17, 19, 201and 21 repealed by GRA Act 2009, Act 791. [online]. Available at: <https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/gh/gh007en.html>

1.19.2. Legal authority

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

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

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third Summary Monitoring Report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- The Forestry Commission of Ghana (n.d.). *Forest Laws and Regulations*. [online]. Available at: <http://fcghana.org/library.php?id=15>
- 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
- The Ministry of Food and Agriculture (n.d.). *Plant Protection and Regulatory Services*. [online]. Available at: http://mofa.gov.gh/site/?page_id=85
- Ghana Export Promotion Authority. (n.d.). *FAQ on Ghanaian Export*. [online]. Available at: <http://www.gepaghana.org/exporters/index.php?ct=1&page=64§ion=27&typ=2>
- 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>

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 exported/imported timber and timber products are declared at the Customs Division of the GRA, through GCNet platform, to the TIDD which ensures all exported/imported wood have the relevant legal documents. The Ghana Revenue Authority Act 2009, Act 791 Section 2 (objectives of the Authority) includes the provision for a holistic approach to tax and customs administration. Section 17(b) creates the Customs Division of the Authority.

Description of risk

As required by the law, the Forestry Commission maintains a register of all timber companies licensed within Ghana, as exporters and importer. 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 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 GRA (Customs) officials. The GRA (Customs) officials check the taxes payable per consignment, to the appropriate taxes are paid.

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

N/A.

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

- Convention on International Trade in Endangered Species of Wild Fauna and Flora Signed at Washington, D.C., on 3 March 1973 Amended at Bonn, on 22 June 1979 Amended at Gaborone, on 30 April 1983. Available at: <https://cites.org/sites/default/files/eng/disc/CITES-Convention-EN.pdf>
- Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (regulation 78 and 74(1) and Schedule 8 outlines the restricted species that requires special permit for harvesting). [online]. Available at: <https://www.ecolex.org/details/legislation/timber-resource-management-and-legality-licensing-regulations-2017-li-2254-lex-faoc173919/>

1.20.2. Legal authority

- Wildlife Division of the Forestry Commission (FC) (CITES management Authority in Ghana). Website: <http://fcghana.org/>
- Timber Industry Development Division (TIDD) of the Forestry Commission (monitoring flow or transport of wood). Website: <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: <http://frnr.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>

- Timber Resource Management Regulations (1998). [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1998-timber-resources-management-regulations.pdf>
- Ghana Forest and Wildlife Policy (2012). [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2012-Forest-and-wildlife-policy-GHANA.pdf>
- The FLEGT Newsletter, 4th Edition, March 2016, Page 3. [online]. Available at: <https://foegh.files.wordpress.com/2015/02/flegt4.pdf>.

Non-Government sources

- CITES (2022). Ghana. Convention on International Trade in Endangered Species of Wild Fauna and Flora. [Onsite]. Available at: <https://cites.org/eng/parties/country-profiles/gh/compliance-status>
- Joint Monitoring and Review Mechanism of the Ghana EU-FLEGT Voluntary Partnership Agreement. *Aide Memoire Meeting of the JMRM 14 & 15 May, 2019, Accra*. [online]. Available at: <http://www.euflegt.efi.int/documents/10180/463576/Ghana-EU+VPA+Aide+Memoire+May+2019.pdf/a90c2de3-12d3-8afe-2236-ae6e858818b5>
- Citinewsroom (2019). Savannah Region: Police impound truck loaded with Rosewood. [online]. Available at: <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Savannah-Region-Police-impound-truck-loaded-with-Rosewood-774257>
- Appiah, M. & Bediako, D. B., (2020). Illegal logging driving Afromosia to extinction in Ghana. Nature & Development Foundation. [Online]. Available at: <https://ndfwestafrica.org/illegal-logging-driving-afromosia-to-extinction-in-ghana/>
- Ghana Web (2019). *Gra Intercepts 5 Container Loads Of Rosewood Headed For Tema Port*. [online]. Available at: <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/GRA-intercepts-5-container-loads-of-rosewood-headed-for-Tema-Port-750724> Assessed 08 August 2019
- EIA (2019). *Ban-Boozled How Corruption and Collusion Fuel Illegal Rosewood Trade in Ghana*. Environmental Investigation Agency. Available at: https://content.eia-global.org/posts/documents/000/000/906/original/BAN_Boozled_Rosewood_Ghana.pdf?1564513559 [Accessed 08 August 2019].
- EIA (2020). Seizing the Moment: How Ghana Can End the Destruction of the Illegal Rosewood Trade Now. Blog Posts. Environmental Investigation Agency. [Online]. Available at: <https://eia-global.org/blog-posts/20200721-ghana-can-end-destruction-of-illegal-rosewood-trade> [Accessed 29 December 2021].
- My Joy Online (2019). *Forestry Commission Disputes BBC Report on Rosewood Trade Source: Ghana*. [online]. Available at: <https://www.myjoyonline.com/news/2019/August-7th/forestry-commission-disputes-bbc-report-on-rosewood-trade.php>. [Assessed 08 August 2019].
- Daily Trust (2019). *\$17bn Annual Loss: African Countries Move to Halt Illegal Rosewood Trade*. [online]. Available at: <https://www.dailytrust.com.ng/17bn-annual-loss-african-countries-move-to-halt-illegal-rosewood-trade.html> [Accessed on 8 August 2019].
- Yoda, A. S. S., (2019). 'We have cut them all': Ghana struggles to protect its last old-growth forests. Mongabay Series: Forest Trackers. 28 August 2019. [Online]. Available at: <https://news.mongabay.com/2019/08/we-have-cut-them-all-ghana-struggles-to-protect-its-last-old-growth-forests/> [Accessed 29 December 2021].
- Koomson, M. (2019). Assessing the level of awareness of relevant CITES stakeholders in Ghana. Universidad Internacional de Andalucia. UNIA Master's Degree in Management and Conservation of Species in Trade: The Internaional Framwork (13th edition). Academic year 2017-2018. Masters Thesis. Sede Antonio Machado, Baeza (Jaén), Spain. Available at: https://dspace.unia.es/bitstream/handle/10334/3969/0910_Koomson.pdf?sequence=5

1.20.5. Risk determination

Overview of Legal Requirements

Ghana has ratified the CITES Convention as of 12 February 1976, but is as of January 2022 listed as a Category 3 country without implementing legislation (CITES 2022). According to "...Oppong (2017), old legislations that were enacted for management and regulation of wildlife resources in Ghana are those used for the implementation and enforcement of CITES in the country" (Koomson 2019).

Pericopsis elata (*Afromosia*) and *Pterocarpus erinaceus* (rosewood) are the wooden timber species in Ghana found in CITES, Appendix II.

Pericopsis elata is endemic to specific areas in Ghana and is classified as Scarlet star species (threatened in Ghana by over-exploitation) under Ghana's species conservation star ratings and therefore protected. These species can only be felled with a restricted species permit issued by the FC with the approval of the Minister.

Both *Pericopsis elata* and *Pterocarpus erinaceus* are listed as restricted species in Schedule 8 of L.I.2257.

A ban on the harvesting and export of *Pterocarpus erinaceus* (rosewood) has been in place since 2012 and renewed several times since (EIA, 2019).

Cedrela odorata is included in appendix III. *Cedrela odorata* is an introduced plantation species in Ghana, found in both plantations in forest reserve areas and private plantations in off forest reserve areas. The species is not a native occurring species in Ghana, but as a CITES Appendices III listed species it is protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

Exporters are required to obtain a CITES permit from the Forestry Commission before export.

Description of risk

CITES regulations are integrated into the forest management framework in Ghana. CITES species are not harvested as part of the normal yield process (selection of tree species for harvesting by the Forestry Commission). The local and international media and other publications are inundated with stories of illegal harvesting and trade of Rosewood (*Pterocarpus erinaceus*) despite the ban in place on harvesting and export. EIA, 2019 reported that salvage permits granted to salvage already felled rosewood has effectively been intermittent suspensions to the ban, and traffickers explained to EIA that the ban was no obstacle to their business (EIA, 2019).

According to the undercover investigation by the EIA, 2019, the ruling party members at all levels of government are alleged to have established an institutionalized scheme, fuelled by bribes, to mask the illegal harvest, transport, export, and CITES-licensing of the timber. Illegal schemes used include fraudulent use of "salvage permits"; mis-declaration of timber species; use of "escorts" to deal with control points; forging of official documents; and retrospective issuance of CITES permits. The Forestry Commission challenged the EIA report however other public reports of illegal harvesting of Rosewood exist, some of which are in the courts (EIA, 2020, Yoda, 2019; Citinewsroom, 2019, Daily Trust, 2019; My Joy Online, 2019, 2019; Afriyie, et. al., 2021).

Given that falsification of CITES permits are included in the illegal export of rosewood from Ghana, this poses high risk for CITES certificates.

Although, this may be an isolated incidents of a single species, given the alleged modus operandi of the "illegal" scheme includes misrepresentation of species, it is possible other banned species could also be affected.

The risks identified for natural growing CITES species are only applicable to off reserve areas, as they mainly grow outside forest reserves.

Pericopsis elata (Afrosia) are endemic or confined to a specific forest reserve in Ghana. This area is under the concession of a specific company and this company is allowed to cut restricted amounts.

Pterocarpus erinaceus (rosewood) is a Savanna species which does not grow in the high forest zone of Ghana where forest reserves are located.

Cedrela are planted in plantations inside and outside forest reserves and are partly privately owned by investors in forest reserve plantations and fully privately owned in areas outside forest reserves.

Risk conclusion

This indicator has been evaluated as specified risk for CITES species from natural forests outside forest reserves. Identified laws are not consistently enforced by all entities.

Low risk for plantation in and outside forest reserve for CITES species (*Cedrela odorata*).

1.20.6. Risk designation and specification

Specified risk for CITES species from natural forests outside forest reserves:

- CITES species are illegally harvested and exported with a CITES permit fraudulently issued

1.20.7. Control measures and verifiers

Review documents and verify:

To export CITES species the following documents shall be in place:

- A TIDD approved contract covering products produced from all species (including CITES species) to be shipped is required.
- TIDD Export permit
- CITES export permit approved by the Wildlife Department of the FC.

Consult:

- Consult the Wildlife Division of the Forest Commission to verify that the CITES permit has been legally issued.

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.

Not applicable. There is no legislation in place in Ghana which requires due diligence, or due care procedures by companies. The introduction of Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) provides a licensing scheme for regulating the import and export of timber products to and from Ghana and sets, amongst others, requirements for strengthening the tracking of timber within Ghana and increased transparency of supply chains. But these requirements does not require companies to apply own due diligence/due care systems.

Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254) (Regulations 33 identifies the functions of the Timber Validation Committee, TVC; Regulations 38-51 outlines the requirements for obtaining licenses; 40(2) and 41(4)(a) and the Third Schedule defines what constitutes legal timber in Ghana) Regulation 76. (Public access to information on forest resource management) requires the Commission to make information on the management of forest resources available on its website and on request. It defines the list of information and the procedures for requesting information and the actions to be carried out by the Forestry Commission upon request for information. Available at: <https://www.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

The purpose of these Regulations is to regulate the identification of land suitable for the grant of timber rights; regulate the terms and conditions for small and large scale timber rights; regulate other sources of timber; and provide for a legality licensing scheme.

Regulation 32 of LI 2254 establishes the Timber Validation Committee. Regulation 33 defines the functions of the Timber Validation Committee which includes monitoring and ensuring the Commission responsible for verification and validation of applications for FLEGT licenses, performs its functions independently, and establishing measures to ensure process verification and validation under the regulations are not interfered, among other functions. Regulations 38-51 outlines the requirements for obtaining licenses; 40(2) and 41(4)(a) and the Third Schedule defines legal timber in Ghana.

Section 76 (Miscellaneous Provisions) of LI 2254 Public access to information on forest resource management, makes it mandatory for the Forestry Commission to make information on forest resource management available on its website and on request under Subsection 1. Subsection 2 provides the details of the information that are to be made available on the website. This includes list of registered timber companies, list of companies with valid property marks, list of large scale timber utilisation contracts including names of contract holders, size and duration of the contract, the required payments under social responsibility agreements, the status of account on payment of fees etc.

PROCESSING

1.22. Legal Registration of business

Legislation regulating business registration and approval of business scope and processing. The risk is companies are operating without conformance to legal requirements with regards to legal obligations on business registration (business/sawmill license, operation visas, tax payment cards, approvals, etc.).

1.22.1. Applicable laws and regulations

- Companies Code 1963 (Act 179) (contains business registration requirements). Available at: <https://www.global-regulation.com/law/ghana/6405436/companies-code-1963-%2528act-179%2529.html>
- Incorporated Private Partnerships Act, 1962 (Act 152) Section 4 Registration of Partnership Firms (provides for the registration of partnerships and set the maximum number of persons which can form a partnership). Available at: <https://acts.ghanajustice.com/actsofparliament/incorporated-private-partnerships-act-1962act-152/>
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: https://gra.gov.gh/wp-content/uploads/2020/09/tin_act.pdf
- 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 makes provisions for registration of timber exporters, and 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
- 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/>

1.22.2. Legal authority

- Register General's Department of the Ministry of Justice.
- Ghana Revenue Authority.
- Timber Industry Development Division of the Forestry Commission.
- Social Security and National Trust Registration.

1.22.3. Legally required documents or records

- Business Registration Certificate with Tax Payers Identification (TIN).
- TIDD Registration Certificate.
- Social Security and National Insurance Trust (SSNIT) Registration when employing people.

1.22.4. Sources of information

Government sources

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>
- Forestry Commission (FC) TIDD Registration of Timber processing operators and vendor. [online]. Available at: <http://fcghana.org/>
- Business Registration. Register Generals Department. Available at: <https://rgd.gov.gh>
- Business name search, available at: https://egovonline.gegov.gov.gh/RGDPortalWeb/portal/RGDHome/eghana.portal?_nfpb=true&_st=&_pageLabel=portal_RGDHome_NameSearchPage_page&linksPageTitle=Name+Search&service=namesearch#wlp_portal_RGDHome_NameSearchPage_page
- Taxpayers identification numbering system, available at: http://gra.gov.gh/docs/info/tin_act.pdf
- Social Security and National Insurance Trust (SSNIT). Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020: <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.22.5. Risk determination

Overview of Legal Requirements

The company's code of 1963 requires business entities to register their activities with the Registrar General's department of the Ministry of Justice.

Section 122 (1 & 2) of the Companies Act, 1963, (Act 179), states that a Company shall file its Annual Returns 18 months after incorporation and at least once every year thereafter. Section 6(1) of the Incorporated Private Partnership Act, 1962, makes it mandatory for Partners once in every year, to deliver to the Registrar a statement in the prescribed form which renews the registration. Section 122 (6), clarifies that where a company defaults in complying with these requirements, the company and every officer of the company is liable to a fine, not exceeding, 25 penalty units for every day the default continues.

The Taxpayers Identification Numbering System, 2002 (Act 632) outlines the requirements for registration with the Ghana Revenue Authority to obtain a Tax Identification Number (TIN) by individuals and business entities.

The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders to include the promotion and dissemination of industrial standards and trade guidelines for timber, wood and wildlife products. The TIDD Timber Trade Procedures and Guidelines make specific provisions for registration of processors and traders of timber and timber products. Businesses processing and or trading in timber are required to register with the TIDD of the FC to obtain a registration certification, which must be renewed at the beginning of each year.

Description of Risk

Legal business registration has become more about providing business advantage to business entities by being able to obtain loans and government support. For this reason, even inactive businesses undergo registration. Since 2015, the Registrar General's Department announced for all businesses and partnerships to update records with the department. Registration and the update of records is preceded by the registration for a Taxpayer Identification Number (TIN) of the individual or directors registering the company. The TIN of the registered business can also be found on the business registration certificate. These provisions are largely enforced. See business name search link:

https://egovonline.gegov.gov.gh/RGDPortalWeb/portal/RGDHome/eghana.portal?nfpb=true&st=&pageLabel=portal_RGDHome_NameSearchPage_page&linksPageTitle=Name+Search&service=namesearch#wlp_portal_RGDHome_NameSearchPage_page

Valid registration with the TIDD of the FC as a processor and trader is part of the requirement for setting up a processing facility, as well as securing a Lumber Inspection certificate (LIC), Lumber conveyance certificate and an export permit for each export made. Therefore exporters do not risk defaulting on these requirements. Some timber processors for the domestic market however fail to have this registration with the TIDD and some registered entities do not renew their registration annually, as required by law, and therefore do not possess valid registration. Ghana's implementation of the VPA has helped to improve this situation, if not eliminated the issue. If not adhered to both TIDD and the processors are issued with non-conformities from field verifications carried out by the TVD of the FC and the Independent Monitor of the GhLAS.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are complied. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.22.6. Risk designation and specification

Low risk.

1.22.7. Control measures and verifiers

N/A.

1.23. Environmental requirements for processing

Legislation regulating environmental requirements for the timber processing industry, such as air quality, water, and waste-water management, use of chemicals, and other requirements relevant for the environment and eco-system services.

1.23.1. Applicable laws and regulations

- Environmental Protection Agency ACT, 1994 ACT 490 (Establishes the Environmental Protection Agency (EPA) and its functions to include enforcement and control of environmental impacts sections 12 to 15). Environmental impact assessment. [online]. Available at: <http://www.epa.gov.gh/epa/regulations>
- Environmental Assessment Regulations, 1999 PART I Environmental Permit (items 1 and 2 undertaking requiring registration and issue of an environmental permit) and schedule 1 (Regulation 1(1)) Undertakings Requiring Registration and Environment Permit Manufacturing No. 15 Wood. [online]. Available at: <http://www.epa.gov.gh/epa/regulations>
- Factory, offices and shops Act, 1970 (Act 328) (covers general health and safety requirements applicable to timber processing activities). [online]. Available at: <http://laws.ghanalegal.com/acts/id/82/factories,-offices-and-shops-act>
- Free Zone Act, 1995 (Act 504) as amended by the Free Zone (Amendment) Act, 2002 (Act 618) to enable the establishment of free zones in Ghana for the promotion of economic development; to provide for the regulation of activities in free zones and for other related purposes. Part IV (Licensing) Section 15 (d) gives authority to the Authority to specify which information is needed to accompany enterprises application for freezone licensing. The Ghana Free Zones Authority Procedure for Establishment of Free Zone (Development Projects and Enterprises) 5 (a) requires enterprises to comply with environmental regulations, standards, procedures, and requirements of Environmental Protection Agency, among other requirements and 5 (b) II. requires enterprises to register with the Environmental Protection Agency. [online]. Available at: <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/42005/64978/E95GHA01.htm>

1.23.2. Legal authority

- TIDD of Forestry Commission of Ghana.
- Environmental Protection Agency (EPA).

1.23.3. Legally required documents or records

- Valid environmental permit from EPA;
- Valid TIDD registration permit;
- Valid factory inspectorate registration certificate.

1.23.4. Sources of information

Government sources

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at:

<http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

Summary of Forest Stewardship Council (FSC) Forest Management audit reports:

- John Bitar Company Limited (Suhuma), May 2019:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf300000zbQH9EAM>
- John Bitar Company Limited (Suhuma), August 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000017r93rEAA>
- John Bitar Company Limited (Suhuma), Corrective Action Verification Audit Report, January 2021:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rX2dEAE>
- Miro Forstry (Ghana) Ltd., May 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rFZOEa2>
- Logs and Lumber Limited, July 2020
<http://fsc.force.com/servlet/servlet.FileDownload?file=00Pf3000016dMMnEAM>
- Sunstex Company Limited., November 2020:
<http://fsc.force.com/servlet/servlet.FileDownload?file=00P4y000017rU5NEAU>

1.23.5. Risk determination

Overview of Legal Requirements

Environmental Assessment Regulations, 1999 Schedule 1 (Regulation 1(1)) lists the following applicable industries and products as requiring registration and an environment permit (Manufacturing Item 15 Wood):

- a. Sawmill, planning mill and single mill product industries;
- b. Veneer and plywood;
- c. Other wood products;
- d. Wood preservation facilities which use hazardous chemicals or similar chemical processes;
- e. Particle board or wafer board production.

While this environmental requirement is applicable to the wood processing, an environmental permit is not included in the legality requirements for timber processing and trade under the Ghana Timber Legality Assurance System (GhLAS). However, timber processing companies that want to register with the Ghana Free Zones Authority are required by the Free Zone Board Act to have an environmental permit as part of their application process.

Timber processing entities need to have an Environmental Plan and go through the process of exemption or full EIA to acquire environmental permit from the EPA.

Description of Risk

While the EPA requires timber processing entities to acquire an environmental permit for their operations, this is not required by the Ghanaian legal timber definition for wood processors. Although, free-zone wood processing entities acquire an environmental permit as part of their application process there is a high probability of non-free-zone entities not having an operational environmental permit. The Ghana Free-Zone Board carry out regular audits of free-zone entities, however limited information is available as to how the validity of the environmental permit for wood processing entities, are taken into accounts during such audits.

The review of sampled FSC audit summaries from the last five years, shows that companies pursuing FSC controlled wood certification are making efforts to be provided with environmental permits from the Environmental Protection Agency (FSC audit reports 2008-2018). Companies undergoing forest certification usually have an EPA permit for their factory or processing operations but not for forest operations.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are not enforced by the TIDD or the EPA across all timber processing entities.

1.23.6. Risk designation and specification

Specified risk for Timber processing entities:

- Processing entities do not have a valid operating environmental permit obtained from the EPA

1.23.7. Control measures and verifiers

Review documents and verify

- Verify that an Environmental permit from EPA is in place.

1.24. Processing requirements

Legislation regulation processing of the timber processing industry, such as transformation process thresholds, location of processing, conformance of processing equipment, processing quota, etc).

1.24.1. 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) 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. [online]. Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15

1.24.2. Legal authority

- TIDD of the Forestry Commission.

1.24.3. Legally required documents or records

- Valid TIDD Registration Certificate;
- Company register of all timber material input and product output for different mill transformation points to demonstrate records of materials along their timber supply chain from raw material source through processing to point of sale or export;
- Company's simple work instructions at the different transformation points.

1.24.4. Sources of information

Government sources

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

N/A.

1.24.5. Risk determination

Overview of Legal Requirements

Per Section 2 of the Forestry Commission Act 571 which sets out the functions of the Forestry Commission, the TIDD has developed Timber Trade Procedures and Guidelines which cover processing. Among other requirements, companies wishing to set up timber processing operations are required to register with the TIDD through an application process. The TIDD's evaluation of application completeness includes an inspection of required documents such as the business plan and feasibility report, which includes the sources of raw material used by the company. Also, per the procedures, timber processing companies are required to keep records of materials along their timber supply chain, from raw material source through processing, to point of sale or export. Companies are required to maintain a register for material inputs and product outputs for different mill transformation points. Companies are also required to maintain a simple register indicating work instructions at the different transformation points.

Description of Risk

The requirement for registration with the TIDD as a timber processing entity is enforced and effective for exporting companies who need export permit from the TIDD. There has been a risk related to the domestic market, with instances of illegal processing mills (mainly) supplying timber to it. Ghana's implementation of the VPA, and the verification audits by the TVD, have helped to improved compliance among small-scale processing entities. Requirements for the development of procedures, work instruction, and the keeping of records for materials along the timber supply chain from raw material source through processing, to point of sale or export are generally followed. This is particularly the case for larger processing entities, many of which are involved in voluntary certification and also export their products for which the TIDD ask for the input output records of their production to support their export permit application. The challenge is therefore with the small-scale processing entities who process timber for the domestic market where there is little experience or capacity to comply with these processing requirements (Osei, January 2022).

Risk Conclusion

This indicator has been evaluated as specified risk.

1.24.6. Risk designation and specification

Specified risk for small-scale processing entities who process timber for the domestic market:

- Timber processing entities are not registered with the TIDD

1.24.7. Control measures and verifiers

Review documents and verify:

- Verify that timber processing entity, especially small-scale, has a Valid TIDD Registration Certificate

1.25. Health and Safety in the timber processing sector

Legally required personnel protection equipment for persons involved in the timber processing sector. The health and safety requirements that shall be considered relating to the processing/factory (not office work, or other activities less related to the actual processing). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of workers at significant risk at any step of the primary and secondary processing.

1.25.1. 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) 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. [online]. Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- Labour Act, 2003 (Act 651) (Part XV: Occupational Health, Safety and Environment, 118-124 outlines requirements for the duty of the employer to provide the needed safe and healthy working environment for its employees. [online]. Available at: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- Labour Regulation 2007: LI 1833- Section 18-20 (Health and employment) specifies safe guard measures to be employed by employees to ensure the health of its workers, accident and fatality reporting requirements, medical examination of employees, and provision of essential services such as drinking water at work place among others. [online]. Available at: <http://www.ilo.org/dyn/travail/docs/1198/Labour%20Regulations%202007.pdf>
- 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)). [online]. 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). [online]. 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). [online]. Available at: <http://laws.ghanalegal.com/acts/id/569/workmens-compensation-act>

1.25.2. Legal authority

- TIDD of the Forestry Commission.
- Labour Department of the Ministry of Employment and Labour Relations.
- Department of Factories Inspectorate of the Ministry of Employment and Labour Relations.

1.25.3. Legally required documents or records

- Certificate of registration and renewal from the Department of Factory Inspectorate
- TIDD inspection reports;
- Accident reporting records;
- Workmen compensation payment records/insurance payment and claims records;
- Health and safety procedures and training records;
- Personal protective equipment supply records;

- Medical examination records for applicable worker.

1.25.4. Sources of information

Government sources

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRM) 2018. *Third summary monitoring report (2017)*. [online]. Available at: <http://fcghana.org/fctvd/index.php/documents-reports/category/2-independent-monitor-summary-report?download=15:independent-monitor-summary-report-3>

Non-Government sources

- 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>

1.25.5. 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. Section 75 of Act 328 provides powers for 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 for ensuring that employees work in 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 personal protective equipment (PPE) and training of workers on safe felling practice, and observation of safety requirements in the timber industry.

The Ghana's legal timber definition, in the absence of any specific health and safety requirements in the forest sector, has 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) sets out the procedure for compensation.

Description of Risk

Despite all legal provisions in place and the progress made in compliance, health and safety issues in the workplace remains a challenge in some wood processing companies. Some of the large timber processing companies exercise a high level of compliance, however the situation is not the same across the timber sector especially in terms of provision of PPE and training on health and safety. There is room for improvement especially for entities not currently enrolled in voluntary certification or not yet covered by TVD legality verification audits (Osei, January 2022).

There are adequate legal requirements on health and safety applicable to the wood processing sector, however enforcement and compliance among the small and medium operations so far is inadequate.

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.

1.25.6. Risk designation and specification

Specified risk:

- Personal safety and protective equipment are not provided to or used by workers, especially among the small and medium operations

1.25.7. Control measures and verifiers

Mitigating the risk that personal safety and protective equipment are not provided to or used by workers :

Review documents and verify (during onsite audit):

- Employers are required to ensure that all their employees are registered on the National Health Insurance Scheme (NHIA). Registration can be verified through;
 - Records from the timber operator to demonstrate that all employees are registered under the NHIS, or;
 - Identity cards for registered persons under the NHIS shall be in place for all staff (issued by NHIA).
- Records on compensations should be available to demonstrate that the worker compensation law is consistently implemented in events of accident, death or injury of an employee arising from work.
- Training records must be available and demonstrate that adequate health and safety training, consistent with the risk associated with their responsibilities, have been given to employees and contractors consistent with the risk associated with their responsibilities.

Onsite verification:

- Verify the following in the field:
 - employees are provided a safe working environment and personal protective equipment (PPE).
 - PPEs are not paid by workers
 - PPEs are being used in the field

appropriate health facilities are available to employees and contractors.

1.26. Legal employment in the timber processing sector

Legal requirements for employment of personnel involved in the timber processing sector 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 non-compliance 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.

1.26.1. Applicable laws and regulations

- Labour Act 2003 (Act 651). An Act which consolidates the laws relating to labour, employers, trade unions and industrial relations; establishing a National Labour Commission and to provide for matters related to these. [online]. Available at: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- Labour regulations (LI 1833). Regulates the Labour Act 2003 (Act 651). [online]. Available at: <http://www.ilo.org/dyn/travail/docs/1198/Labour%20Regulations%202007.pdf>
- National Pension Act 2008 (Act 766) Section, 1, 3, 58-63. Establishes the three-tier pension scheme and defines the requirements for Social Security registration for companies and employees. [online]. Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>

- Factories, offices and shops act (Act 328). [online]. Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/5120/101273/F1855108748/GHA5120.pdf>
- 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). [online]. 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. [online]. Available at: <http://laws.ghanalegal.com/acts/id/192/pesticides-control-and-management-act>

1.26.2. Legal authority

- Labour Department of the Ministry of Employment and Labour Relations. Website: <http://melr.gov.gh/>
- National Pension Regulatory Authority (NPRA) mandated to regulate and monitor the operation of the three tier Ghana pension Scheme and to ensure the effective administration of pensions in the country.
- Social Security and National Insurance Trust (SSNIT) operators of the basic national social security scheme referred to as the social security scheme and other schemes as determined by law on recommendations of the National Pensions Regulatory Authority. Website: <http://www.ssnit.org.gh/>
- Department of Factories Inspectorate of the Ministry of Employment and Labour Relations. Website: <http://melr.gov.gh/departments-of-factories-inspectorate/>
- National Health Insurance Authority (NHIA). Website available at: <http://www.nhis.gov.gh/nhia.aspx>

1.26.3. Legally required documents or records

- SSNIT clearance certificates;
- SSNIT contribution payment receipts;
- Tier 2 Payment/deposit receipts to an NPRA approved trustee;
- Workers employment contract;
- Signed Collective Bargaining Agreement (CBA).

1.26.4. Sources of information

See sub-category 1.12 on Legal Employment at forest level.

1.26.5. Risk determination

See sub-category 1.12 on Legal Employment at forest level.

1.26.6. Risk designation and specification

Specified risk.

1.26.7. Control measures and verifiers

See sub-category 1.12 on Legal Employment at forest level.

Annex I. Timber source types

The table "Timber Source Types in Ghana" identifies the different types of timber sources possible 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. For example, a small country with uniform legislation and a uniform level of risk in all areas of the country, a 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, farmland, 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 issued to different entities with a range of underlying requirements for the licensee. A license might be issued in 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 timber – not a felling permit) Concession or lease (Issuance of permit has ceased) 	Off reserve timber

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

About

LIFE Legal Wood

[LIFE Legal Wood](#) is an initiative that aims at 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 initiative is funded by the LIFE Programme of the European Union.



LIFE - Support EUTR II - LIFE18 GIE/DK/000763



Preferred by Nature (formerly known as NEPCon) is an international non-profit organisation working to support better land management and business practices that benefit people, nature and the climate. We do this through a unique combination of sustainability certification services, projects supporting awareness raising, and capacity building.

Preferred by Nature | www.preferredbynature.org |

info@preferredbynature.org