

Timber Legality Risk Assessment Ghana

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Context:

The Government of Vietnam has signed a Voluntary Partnership Agreement (VPA) with the European Union on Forest Law Enforcement Governance and Trade (FLEGT) in 2018. In this context the Government of Vietnam is supporting legal timber supply chains (import and export). Ghana is an important timber supplying country for Vietnam. To support legal timber supply chains between these two countries, stakeholders in Vietnam importing from Ghana need access to information on legality requirements for timber and wood products from Ghana.

The government, private sector and civil society partners in Vietnam are supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) through the Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH during implementation of their FLEGT VPA. BMZ's support in Vietnam is provided through the GIZ programme on conservation and sustainable use of forest biodiversity and ecosystem services (Forest-Biodiversity Project).

In the specific context of Vietnam, the development of a timber legality assurance system (VNTLAS) needs to pay special attention to the high south-south timber trade and supply chains. This aspect is supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) in cooperation with the **UK Department for International Development (DFID)**. Through its Forest Governance Markets and Climate Programme (FGMC) DFID has co-commissioned the **project "Support to VPA processes in Vietnam, Laos and Cameroon – towards legal timber supply chains between VPA countries"** to the **GIZ Sector Project International Forest Policy (SV IWP)**.

In the context of this project GIZ has commissioned NEPCon to provide a background analyses of timber trade with Vietnam including timber risk assessments and document guides for the ten main supplier countries to Vietnam. One of these countries is Ghana, which has been committed to implement its Voluntary Partnership Agreement since 2009 and has been strongly supported by the **UK Department for International Development (DFID)** in its VPA implementation.

This risk assessment has been developed as input to the above project commissioned to NEPCon by GIZ.

DISCLAIMER:

The analysis, results and recommendations in this paper represent the opinion of the author(s) and are not necessarily representative of the position of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

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A. Introduction

This timber legality risk assessment for Ghana provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport.

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCo and approved by GIZ.

Please see the NEPCo Sourcing Hub for information on the risk assessment methodology:

<https://www.nepcon.org/sourcinghub/info/about-nepcon-sourcing-hub>.

B. Overview of Legality Risks

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

We found:

- Specified risk for 10 sub-categories.
- Low risk for 14 sub-categories.
- No legal requirements for 2 sub-categories.

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:

- Not all extant concession leases are converted to TUCs as required by the law (1.2).
- All forest reserves are not managed based on approved management plans as required by law (Sub-category 1.3).
- Salvage permit conditions are violated by the award of salvage permits for rosewood (*Pterocarpus erinaceus*) (1.4).

For Timber Harvesting Activities, there is a risk that:

- Protected species and areas are illegally harvested (1.9).
- Personal safety and protective equipment are not provided to or used by workers (1.11).
- The terms of the collective bargaining agreements are not met by companies (1.12).
- Workers do not have contracts and obligatory insurance. Some workers do not have their social security registered with the companies they work with and those registered to do get their Tier 1 and Tier 2 pensions deductions paid to the appropriate pension management entities (1.12).

For Trade and Transport, there is a risk that

- Rosewood, an Annex II CITES species and a banned species from harvesting and export, is illegally harvested and exported (1.20).

Separately, for Processing, there is a risk that:

- Processing entities do not have a valid operating environmental permit obtained from the EPA (1.23).
- Personal safety and protective equipment are not provided to or used by workers (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 the risks differ between them.

Natural forest in forest reserves	Natural forest within Ghana’s forest reserves (permanent forest estates). These forests are on stool/skin lands and owned by stools and skins of which chiefs are the custodians but vested in Ghana’s president and managed by the Forestry Commission. The Small-Scale TUC, Large-scale TUC, and Salvage permits are the applicable permits to this source of timber.
Natural forest off forest reserve	Natural forest outside of Ghana’s forest reserves, on land owned by stools and skins, families, individuals, and public institutions. The Small-Scale TUC, 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.
Plantation off forest reserve	Plantations outside forest reserves, on lands which may be owned by stool (community), family, individuals or public institutions. The plantations are privately managed, and the Forestry Commission conducts monitoring and issues the Plantation Production Certificate. This type of plantation does not need any permit to operator or harvest but certificate to convey harvested products
Submerged forest	Underwater forests, off reserve, on stool and family lands. Timber harvesting rights are granted by the Forestry Commission through underwater use rights and salvage permits.

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

Legal Category	Sub-Category	Natural forest source types	Plantation		Submerged forest
			Reserve	Off reserve	
Legal rights to harvest	1.1 Land tenure and management rights	Low	Low	Low	
	1.2 Concession licenses	Specified	Low	Low	
	1.3 Management and harvesting planning	Specified	Specified	Specified	
	1.4 Harvesting permits	Specified	Low	Low	
Taxes and fees	1.5 Payment of royalties and harvesting fees	Low	Low	Low	
	1.6 Value added taxes and other sales taxes	Low	Low	Low	
	1.7 Income and profit taxes	Low	Low	Low	
Timber harvesting activities	1.8 Timber harvesting regulations	Low	Low	Low	
	1.9 Protected sites and species	Specified	Specified	Specified	
	1.10 Environmental requirements	Low	Low	Low	
	1.11 Health and safety	Specified	Specified	Specified	
	1.12 Legal employment	Specified	Specified	Specified	
Third parties' rights	1.13 Customary rights	Low	Low	Low	
	1.14 Free prior and informed consent	Low	Low	Low	
	1.15 Indigenous/traditional peoples rights	Low	Low	Low	
Trade and transport	1.16 Classification of species, quantities, qualities	Low	Low	Low	
	1.17 Trade and transport	Low	Low	Low	
	1.18 Offshore trading and transfer pricing	Low	Low	Low	
	1.19 Custom regulations	Low	Low	Low	
	1.20 CITES	Specified	Specified	Specified	
	1.21 Legislation requiring due diligence/due care procedures	Low	Low	Low	
Processing	1.22 Legal Registration of business	Low	Low	Low	
	1.23 Environmental Requirements for processing	Specified	Specified	Specified	

	1.24 Processing requirements in the timber industry	Low	Low	Low	
	1.25 Health and safety	Specified	Specified	Specified	
	1.26 Legal employment	Specified	Specified	Specified	

C. Overview of the forest sector in Ghana

Ghana's forests are classified into (i) forest reserve (FR)¹, 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)², (ii) off-forest reserve (OFR) (farmlands and patches of forests on non-gazetted lands), (iii)³ plantations (on and off forest, estimated at 260,000ha), and (iv) submerged forest (SF). The forests are mainly found in the high forest zone; and savannah woodlands zone.

Forest reserves, 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 on lands owned by chiefs; families, individuals, and public institutions. Private plantations in FRs are under special benefit sharing arrangements with investors whereas plantations in OFRs are leased.

The FSD monitors harvesting operations on-site, including stumpage collection and fee payments, through harvest and post-harvest inspections by FSD technical officers. The Resource Management Support Centre and FC also conduct quarterly monitoring of field inspections⁴.

Prior to harvesting in any FR compartment or OFR area, the FSD conducts inventory of all trees. A tree information form (TIF) which captures details of each tree felled is prepared by the FSD technical officer. The company completes a log information form (LIF) to cover logs produced from each tree. A log measurement and conveyance certificate is prepared by the FSD before logs are trucked from the forest to the processing site or point of sale. Transported logs are certified by the Timber Industry Development Division. For forest plantations, TIF and LIF are replaced by the Plantation production certificate.

The Ghana FLEGT VPA

It is important to highlight that 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 and seeks to prevent illegal logging and to improve forest governance by ensuring that timber exported to Europe from the partner country complies with all legal requirements of the forest laws of the country. 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 (GLAS) comprising Legality standard, verification protocols, wood tracking system (WTS) and licensing system. All information required to demonstrate the legality of any volume of timber traded is required to be held in the WTS. A number of legal reforms has also been carried out resulting in the passage of Legislative Instrument (LI) Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254)

¹ FAO 2010 Global Forest Resource Assessment, Main Report. <http://www.fao.org/3/i1757e/i1757e.pdf>

² Environmental Protection Agency, Ghana 2016. Critical analysis of building a national capital accounts for Ghana

³ FAO 2010 Global Forest Resource Assessment, Main Report. <http://www.fao.org/3/i1757e/i1757e.pdf>

⁴ Forestry Commission of Ghana. Manual of Procedures <http://www.fcghana.org/assets/file/Publications/Manuals/MOP.pdf>

Ghana had challenges in the forestry sector and, among other initiatives, designed the Validation of Legal Timber Programme (VLTP) in 2007 to tackle some of the identified gaps within the Ghana forest control system, including;

- Lack of definition of legal timber
- Absence of secure chain of custody system
- Absence of independent verification
- Absence of independent forest monitoring
- Issuance of license

In 2008, a study conducted by International Institute for Environment and Development (IIED) supported the Voluntary Partnership Agreement (VPA) as the best option to deal with illegalities in Ghana's forestry sector whilst securing Ghana's share of the European Union (EU) export market.

In 2009, Ghana and the EU ratified the VPA, a legally binding trade agreement, under the EU Forest Law Enforcement, Governance and Trade (FLEGT) Programme. The FLEGT VPA seeks to prevent illegal logging and to improve forest governance by ensuring that timber sold on Ghana's local market and exported to the EU market complies with all legal requirements of Ghana's forest laws.

Ghana has developed the Ghana Timber Legality Assurance System (GhLAS) which is a complete system of institutional arrangement aimed at achieving improved FLEGT within the regulatory and administration framework in the forest sector of Ghana.

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 which are a performance standard used for auditing. The standard makes clear the evidence required to demonstrate compliance with all the requirements of Timber Legality Licence/FLEGT licence. These requirements are provided in the Legislative Instrument, L.I. 2254.

The GhLAS has a subcomponent called Ghana Wood Tracking System (GWTS). The GWTS ensures that timber entering the supply chain originates from legal sources and that timber flows are controlled throughout the whole supply chain. The GWTS is predominantly electronic and used to monitor and track compliance of operators 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 found to be effective and efficient, and provides real-time data reconciliation along the chain of custody.

The 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 per 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 and which may constitute flash points for prompt investigation and verification through field audits by the TVD of FC. If there is no outstanding Corrective Action Requests, a FLEGT and/or Export Permit is issued to the operator.

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

Since January 2018, the FSD of FC has been implementing the GWTS alongside the existing manual system, and helping to identify challenges with the GWTS that needs to be addressed before a total

switch to the GWTS. The GhLAS is helping to improve legal trade in Ghana. When the system becomes fully operational and issuance of 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:

- FAO (2015). *Global Forest Resources Assessment 2015 –Country Report – Ghana*. FAO. Rome. Available at: <http://www.fao.org/3/a-az221e.pdf>
- ITTO (2014). Market Information Service 1-15 August 2014. ITTO. Available at: http://www.itto.int/mis_detail/id=4045
- ITTO (2015). Biennial review and assessment of the world timber situation. ITTO. Available at: http://www.itto.int/annual_review/
- 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>
- FLEGT Independent Market Monitor. Report on Ghana’s FLEGT shipment test. <https://www.flegtimm.eu/index.php/newsletter/flegt-policy-news/46-ghana-demonstrated-an-impressive-technical-capacity-says-shipment-test-report>

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

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

1.1.1. Applicable laws and regulations

- 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) provides that ownership and possession of land carry a social obligation to serve the larger community. Available at: <https://www.documents.clientearth.org/wp-content/uploads/library/1992-01-01-constitution-of-the-republic-of-ghana-1992-ext-en.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: <https://www.documents.clientearth.org/wp-content/uploads/library/1927-01-01-act-1927-forests-act---cap-157-ext-en.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.documents.clientearth.org/wp-content/uploads/library/1962-06-14-act-1962-concessions-act-act-124-ext-en.pdf>
- The Constitution of the Republic of Ghana, 1992. 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.documents.clientearth.org/wp-content/uploads/library/1992-01-01-constitution-of-the-republic-of-ghana-1992-ext-en.pdf>
- Timber Resources Management Amendment Act 2002, (Act 617) (Replaces section 2b to exclude private timber plantations from the award of timber rights. Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)
- Forestry Commission Act 1999 (Act 571) (defines legal authority for forest management). Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1999-forestry-commission-act-act-571.pdf>
- Companies Code 1963 (Act 179) (contains business registration requirements). Available at: <http://glorylawfirm.com/wp-content/uploads/2015/08/COMPANIES-ACT-1963-Act-179.pdf>

- Incorporated Private Partnerships Act, 1962 (Act 152) 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: http://laws.ghanalegal.com/acts/id/32/section/4/Registration_of_Partnership_Firms
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: http://gra.gov.gh/docs/info/tin_act.pdf

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/1Isn8DsUclq8F5xyVlqA-8tBfvkPxluSnCeyWwor0I_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].
- Reform Of Ghana's Land Tenure System. *Opinions 2003-05-11*. Available at: <https://www.ghanaweb.com/GhanaHomePage/features/Reform-Of-Ghana-s-Land-Tenure-System-36246> [Accessed 8 July 2019]

1.1.5. Risk determination

Overview of Legal Requirements

All stool lands in Ghana is vested in the appropriate stool on behalf, and in trust for the subjects of, the stool in accordance with 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, with the exception of 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 award of timber rights. The stool chiefs, clan heads and skins hold trusteeship title to land on behalf of the people. Outright ownership of land is not a common form of land tenure in Ghana. Leases and rentals are possible, but the land reverts to the allodial titleholders at the expiry of 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 give clarity on land and tree ownership. Stools and alienations⁵ 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 are implied to belong to the landowner. There are on-going 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. Though there might be divergent views regarding current land ownership and tenure arrangements, no known land and tree ownership issues, dispute or violations arising from these current arrangements.

The Forestry Commission has the legal authority for the management of Ghana's forest reserves and protected areas. This include granting permits for timber rights and wildlife licenses (Forestry Commission Act 1999 (Act 571), Section 2b). The responsibilities of the Forestry Commission include harvest planning and monitoring of the forest condition. After granting of harvesting rights the management of forest 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 Num forest reserves which the state has been taken ownership, all forest reserves in Ghana are owned by their respective stools and none are being managed by the stool under the direction of the Forestry Commission; The Forestry Commission is in effect managing all forest.

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

Description of risk

The legislations are clear about land and tree ownership as well as management responsibilities of forests. These are followed as provided in the laws of Ghana. Though there might be divergent views regarding current land ownership and tenure arrangements, no known land and tree ownership issues, dispute or violations has arisen from these current arrangements. Viewed from this level, there are no violation of these legal forest management responsibilities.

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.

⁵ Type of land ownership right

1.1.6. Risk designation and specification

Low risk for natural forest in and outside forest reserves, and plantations in forest reserves and private plantations.

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 organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index/CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 1, 7, 8, 9 (defines requirements and procedures for the award of timber rights in Ghana). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Amendment Act 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 categorizes timber rights into small, medium and large and specify their maximum sizes. Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)
- Timber Resources Management 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>
- Companies Code 1963 (Act 179). It contains business registration requirements. Available at: <http://glorylawfirm.com/wp-content/uploads/2015/08/COMPANIES-ACT-1963-Act-179.pdf>
- Incorporated Private Partnerships Act, 1962 (Act 152) Section 4 Registration of Partnership Firms. It provides the registration of partnerships and set the maximum number of persons which can form a partnership. Available at: http://laws.ghanalegal.com/acts/id/32/section/4/Registration_Of_Partnership_Firms
- Taxpayers Identification Numbering System, 2002 (Act 632). It outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority. Available at: http://gra.gov.gh/docs/info/tin_act.pdf

- National Pension Act 2008 (Act 766) Section 58-63. It 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/>
- Trees and Timber Act 1974 (NCRD 273) sections 2 and 4. It 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://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1974-trees-and-timber-decree--nrcd-273.pdf>
- Trees and Timber Amendment Act 1994 (Act 493) section 2. It regulates the issuance of Property Marks. Available at: [http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)

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. Available at: <http://fcghana.org/>
- Ministry of Lands and Natural Resources (the Minister signs the (TUC) agreement and grants other permits).
- Parliament of Ghana (it 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 recognized 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 issued:

- Small- or large-scale timber utilization 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.). *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 National Pensions Act, Act 766 dated 2008. By The Social Security and National Insurance Trust. Available at: <http://www.ssnit.org.gh/resource/pension-act-766/attachment/law-pension-act-766/>

Non-Government sources

N/A.

1.2.5. Risk determination

Overview of Legal Requirements

The small- and large-scale timber utilization contracts are the main legal timber concession rights in Ghana. There are also the lease agreements (for on and off reserve plantation operations). Large scale TUCs are required to be awarded through competitive bidding processes involving 1) pre-qualification evaluation and 2) main bidding process. Prequalification requirements include possession of:

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

For the main bidding process, for each area proposed for granting of timber rights, the chief executive of the commission specifies:

- 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.

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 which is for large and medium scale timber rights.

In summary, the legal right to harvest timber in Ghana in the form of concession is granted primarily through the award of small and large scale timber utilization 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).

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 was opened

between March and September 1998, but the Forestry Commission did not process the applications. Later, these companies were requested to re-apply and to pay timber rights fees (TRFs) following the enactment of the (currently revoked) LI 1721 which introduced TRFs. The timber companies contested whether LI 1721 can have a retrospective effect and have therefore 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 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) 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 and helped to do away with their controversial issues such as "special permits" which some stakeholders felt was being abused by the Forestry Commission to administratively allocate timber rights instead of competitive bidding. The LI 2254 has replaced this with the small-scale TUC through competitive allocation based on the applicants technical and financial capabilities, regulatory compliance, proposed one-off TRF and proposed SRA. In addition, 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.

The foregoing 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, 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 extent leases to TUCs in May 2019 with 7 June 2019 as the deadline. The law has now addressed the challenges and the process is back on track.

As at the time of the validation of this report, about 50% of leases and permits conversion applications had gone through administrative processing. Though it is believed that this process will be resolved soon, there is a legality risk until the time that these leases are converted to TUCs.

Risk conclusion

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

1.2.6. Risk designation and specification

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

1.2.7. Control measures and verifiers

- The Forestry Commission should complete the processes of converting extant concession leases to TUCs as required by the law.

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or

are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 10 and 12 (defines main regulations covering management of harvesting operations). Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>
- Manual of Procedures (MoPs) and 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: <http://www.fcghana.org/assets/file/Publications/Manuals/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, institutionalization, 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 or yield markings;
- Approved harvesting plan (compartment logging map).

1.3.4. 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 Procedures (MOPs) and 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:

<http://www.fcghana.org/assets/file/Publications/Manuals/MOP.pdf>

Non-Government sources

Summary of FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.3.5. Risk determination

Overview of Legal Requirements

There are different levels of forest management planning in Ghana. These are the strategic management plan, the TUC area plan and the logging plan (compartment level plan). The Forestry Commission is responsible for planning of harvesting as well as monitoring of forest condition (Section 2b of the Forestry Commission Act 1999 (Act 571)). The Forestry Commission (FC) has developed 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).

For any forest management unit (FMU), the strategic planning sets objectives to guide forest resource management in the long term and basically 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 is required to be prepared by the Forest Services Division. The whole DFA is required to be divided into felling coupes or blocks. For on-reserve, the felling coupes or blocks are sub-divided into smaller harvesting units (e.g. compartments).

The TUC Area plan involves a 40-year plan in 5-year coupes (harvesting schedule). The harvesting schedule, listing the order in which the coupes/blocks and the sub-divisions that are to be logged is prepared by the TUC holder and is vetted and endorsed by the Resource Management Support Centre (RMSC) of the FC. For TUCs on-reserve, this harvesting schedule or plan divides each TUC into 8 blocks of 5 years to ensure that each compartment is logged every 40 years.

The logging (compartment level) plan involves pre-harvest inspection and enumeration of commercial species and yield selection. The stock survey or pre-survey inspections are required to be conducted and the results of this survey fed into the yield allocation process. The pre-inspection survey 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) is submitted to the RMSC for vetting.

The documents are vetted against the requirements of MoP Section D. In particular, the compartment level plan or the logging plan is guided to provide compartment level protection (fine-grained protection) for individual species, habitats etc. The plan identifies site of log dumps, forest road network and planned skidding trails. It is only after this elaborate process before the yield summary (yield marking), harvesting plan/ schedule for forest reserves (Act 547 3 (3a), LI 2257 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.

Planning for entry permit for on-reserve plantations managed by the FC and 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 clearly laid out in the MoPs (Section A-F) produced by the FC. The roles of the various divisions of the FC (FSD and RMSC) and the TUC holders in this process are clearly defined. The planning process also involves several cross-checking by different divisions of the FC which ensures that the planning regulations are implemented. A review of the public summaries of FSC Controlled Wood audit reports for the period 2013-2018 found no instance of non-compliance with the management and harvesting planning requirements. However, not all the forest reserves have the strategic management plans required. Timber is produced from some 55 production forest reserves in Ghana. So far, 40 production forest reserves have approved management plans (expert consultation conducted by NEPCon, 2016). The Forestry Commission is seeking to develop plans for the remaining 15 production forest reserves. Even so, all the production forest reserves in Ghana are micro-managed by the Forestry Commission through the use of harvesting schedules. These harvesting schedules provide a list of the compartments that can be considered for harvesting for each year of the period of the 40-year felling cycle. The harvesting schedules are prepared based on flora and fauna surveys in the forest reserves and ensures that harvesting is sustainable. Harvesting in areas without strategic management plans are guided by the harvesting schedule and the compartment level logging plans. Though the compartment level pre-stock survey inspection provides adequate protection against violation of species level and habitat destruction, it is inadequate to protect for example to whole species as in provenance blocks which are set aside during strategic management planning. Besides, proper planning for protection, harvesting and development is a legal requirement under Forestry Commission Act 1999 (Act 571) Section 2 object and functions of the commission. Though it is acknowledged that the Forestry Commission is currently working at getting valid strategic management plans for all timber production forest reserves, there will be legality risk until such a target is reached.

Risk Conclusion

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

1.3.6. Risk designation and specification

Specified risk.

1.3.7. Control measures and verifiers

- All forest must have their strategic management plans to ensure the coarse grain protection of habitat and species.

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

1.4. Harvesting permits

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

1.4.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) section 10 and 12. It defines main regulations covering management of harvesting operations. Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>
- Manual of Operations (MOPs) and 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>

1.4.2. Legal authority

- Timber Right Evaluation Committee (TREC) (main body that assesses bids for timber utilization contracts (TUCs)).
- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana; makes recommendations to the minister for grant of TUC or other permits). 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 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 JMRR 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>
- News items on illegal harvesting and export of rosewood in Ghana since June 2019. Available at: <https://www.ghanaweb.com/GhanaHomePage/search.php> [Accessed on 8 August 2019].
- 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: <https://www.dailytrust.com.ng/17bn-annual-loss-african-countries-move-to-halt-illegal-rosewood-trade.html>. [Accessed on 8 August 2019].

1.4.5. Risk determination

Overview of Legal Requirements

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

- 1) Small Scale and Large-Scale Timber utilization 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 are ratified by the Parliament of Ghana (ACT 547). Apart from TUCs, the Chief Executive, upon recommendations from the FC, and in accordance with provisions made in LI 2254 may also grant administrative harvest permits, such as:
 - 1) **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). Certificate of Purchase (proves legal ownership of seized/abandoned timber) [Act 547 Section 17(3) and Third Schedule of LI 2254].
 - 2) **Entry permit:** for plantations in forest reserves managed by the Forestry Commission. The grant of entry permit follows a bidding process and evaluation of bids by the Timber Right Evaluation Committee of the Forestry Commission.

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

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

For non-TUC areas (i.e. salvage, entry permits) are obtained through an application to the Chief Executive. Harvesting requirements are set out in the permit conditions.

Description of risk

The LI 2254 have resolved the contentious "special permit" allocation of timber rights by the competitive allocation of small-scale TUCs. However, illegal harvesting and trade of rosewood (*Pterocarpus erinaceus*) are still happening, despite a ban placed on the harvest and trade of 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 cited under information

sources of this report, the ruling party members and complicity at all levels of government, they have established an institutionalized scheme, fuelled by bribes, to mask the illegal harvest, transport, export, and CITES-licensing of the timber. Among 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. The Forestry Commission have challenged the EIA report (EIA, 2019), but there other several public reports of illegal harvesting of Rosewood some of which are in the courts. One can however 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 misrepresentation of the species, it is possible to apply same methods to harvest other banned species. News items on published scientific analysis by researchers at the Ghana Forest Research Institute (FoRIG) also indicate lower reported rosewood exports figures to China while figures of rosewood imports from Ghana by China indicate high figures. Beside Rosewood, comments received some CSOs during the validation of this assessment is that, even after the LI 2254 was passed, the Forestry Commission continues to issue special permits instead of competitive allocation.

Risk conclusion

This indicator has been evaluated as 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 harvesting permit. Identified laws are not upheld consistently by all entities and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

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

1.4.7. Control measures and verifiers

- Salvage permit be applied for only species not banned from harvesting.
- Species specified in the terms of permits should not be misrepresented or changed.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

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

1.5.1. Applicable laws and regulations

- Timber Resources Management 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. [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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

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;
- FC stumpage/services bills;
- FC receipts of stumpage/bill payment;
- Operator FC statement account;
- SRA payment records;
- Contract area rent;
- Social responsibility agreement;
- Timber right payment;

1.5.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Stumpage disbursement procedure published by the Forestry Commission*. [online]. 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>

Non-Government sources

Summary of FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfJAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.5.5. Risk determination

Overview of Legal Requirements

Royalties and harvesting fees in Ghana include:

- 1) Timber right fee (For 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. Contract area rent is paid annually on per hectare basis over the area of timber rights. Stumpage fees are paid on tree by tree basis for each tree a company harvest.

Social Responsibility Agreement (SRA) is a social tax that a timber company pays to support development of local communities around its TUC area. The monetary value of the support is 5% of the stumpage paid in respect of trees harvested within a defined forest area. 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

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

A report produced by the Forest Governance Learning Group and Civic Response in 2013 concluded that within the period of 2003-2012, a total loss in real revenue of \$16 million was recorded due to the Forestry Commission not adjusting stumpage to the applicable dollar value as contained in the Fifth schedule of LI 2254. However, the Forestry Commission has made lots of progress in reviewing the stumpage rates and estimating the potential stumpage rates and corresponding SRAs before logging commence. Copies of these estimates are available at the various Forest Services Division offices (expert consultation conducted by NEPCon, 2016).

A wood-balance analysis carried out by Hoare (2014) on Ghana's timber which compared the legal supply of timber (from official records of harvest and imports) with consumption (based on domestic consumption and exports) shows a gap between supply and consumption. This gap could be due to under reporting of harvested tree volumes and lack of adequate data on wood production from farms and private plantations in OFR areas and local wood consumption.

The key issue of payment of timber rights fees (TRF) which has been the key issue related to payment of royalties and harvesting fees has been resolved. The TRF is in relation to the conversion of leases to TUCs. Timber rights holders and the Forestry Commission have resolved

their difference which has paved way for conversion application process of which 50% of leases has gone through the application administrative processing. Unlike the lease conversion process which ends at parliamentary ratification, the TRF payment is completed within the administrative process and therefore low risk given the level of progress achieved so far.

SRA agreements are sometimes violated by some timber contractors (expert consultation conducted by NEPCon, 2016), though most contractors pay more than the legally required 5% of stumpage fee (expert consultation conducted by NEPCon, 2016). Communities could ensure that they get what is due them if they have information on stumpage value. The information on the 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. Land owners can obtain this information to independently verify the appropriate revenue due them. 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 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 have improved with the involvement of civil society organisations in awareness creation and establishment of SRA committees in some of the forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission prepares estimates of potential stumpage and corresponding SRAs 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 NEPCon, 2016). A new template has been developed for monthly reporting on SRA implementation in the district offices of the Forestry Commission. The Resource Management Support Centre (RMSC) of the Forestry Commission has (in collaboration with some Civil Society Organisations) developed a compliance checklist to assist the Forestry Commission in monitoring compliance with the due process in the SRA negotiation and implementation (Joint Monitoring and Review Mechanism, 8th Session, March 2016).

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: http://gra.gov.gh/docs/info/vat_act_870.pdf
- Trees and Timber Amendment Act 1994 (Act 493) Part IIA (specifies regulations related to levies imposed on wood products). Available at: [http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20\(Amendment\)%20Act,%201994&id=15](http://fcghana.org/library_info.php?doc=49&publication:The%20Trees%20&%20Timber%20(Amendment)%20Act,%201994&id=15)
- 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

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 FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>

- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.6.5. Risk determination

Overview of Legal Requirements

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

Description of risk

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

Risk conclusion

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

1.6.6. Risk designation and specification

Low risk.

1.6.7. Control measures and verifiers

N/A.

1.7. Income and profit taxes

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

1.7.1. Applicable laws and regulations

- Income Tax Act 2015 (Act 896) and Amendment Act 902 (defines income and profit tax regimes in Ghana). Available at:
[http://gra.gov.gh/docs/info/dtrd/INCOME%20TAX%20ACT%202015%20\(ACT%20896\).pdf](http://gra.gov.gh/docs/info/dtrd/INCOME%20TAX%20ACT%202015%20(ACT%20896).pdf)
 and
http://www.japarliament.gov.jm/attachments/339_The%20Income%20Tax%20%28%20Amendment%29%20act,%202015.pdf

- Free zone Act 1995 (Act 504) Part V section 21 and Part VI section 28 (exempts Free Zone Companies from payment of some taxes). Available at: <http://laws.ghanalegal.com/acts/id/134/free-zone-act>
- 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

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.pdfhttp://www.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 (2015). *Navigating Taxation – A quick guide to taxation in Ghana*. Ghana: pwc Ghana, pp. 1-35. [online]. Available at: <https://www.pwc.com/gh/en/assets/pdf/ghana-tax-facts-and-figures-2015.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 FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQE44;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.7.5. Risk determination

Overview of Legal Requirements

Domestic taxes are administered by the Domestic Tax Revenue Division (DTRD) of the Ghana Revenue Authority. The relevant income taxes (Income Tax Act, Act 896 section 1) administered by the DTRD are Corporate Tax. This is the tax paid by companies on their profits in the year. The tax rate is 25%.

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

Description of risk

Companies are required to make statutory payments to GRA and obtain clearance. The approved clearance is required in the renewal of the timber companies property mark. The property mark is required to be renewed every six months and companies cannot work with an expired property mark. The tax laws are well enforced by the Ghana Revenue Authority (GRA). The GRA monitors the tax payment of companies using the TIN numbers. The GRA also conducts documentary and field (office to office) audits; resulting in increased revenue collection and reduced tax default by limited liability companies in Ghana (expert consultation conducted by NEPCo, 2016). A review of a sample of FSC Controlled Wood audit summaries of various companies in Ghana from 2008 to 2018 shows that this requirement is met.

Risk conclusion

This indicator has been evaluated as low risk.

1.7.6. Risk designation and specification

Low risk.

1.7.7. Control measures and verifiers

N/A.

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

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

1.8.1. Applicable laws and regulations

- Timber Resources Management Act 1997 (Act 547) (section 10 and 12 defines main regulations covering management of harvesting operations). [online]. Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>
- Manual of Operations (MOPs) and 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>
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQE44;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM.>
 - <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.8.5. Risk determination

Overview of Legal Requirements

The Forest Services Division of the Forestry Commission have prepared logging manual and key standards for logging in the High Forest Zone (HFZ) of Ghana to guide the harvesting operations of

timber contractors as required under Section 10 of the Timber Resources Management Act (Act 547) [as amended by the Forestry Commission Act, 1999 (Act 571), sch. to s.35(2)].

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

Description of risk

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

Illegal operators do not observe the harvesting regulations, such as no logging in buffer zones; protection of some species; and quantity of trees removed per hectare, that are set out in the Logging Manual and Key Standards for Logging in the High Forest Zone at all times. These operators operate illegally and do not have the requisite documents to trade legally. The FC and its divisions such as FSD and RMSC have the task force to check illegal activities. Arrested illegal operators are fined by the FSD and the lumber are 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.

District forest offices are required to monitor harvesting and carry out 100% post-felling checks and to check for compliance with logging requirements before a compartment closure certificate can be issued. Enforcement of this provision is however difficult to verify. The implementation of the Ghana Legality Assurance System and the continuous monitoring by the TVD and the Independent Monitor (IM)⁶ 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.

Risk conclusion

This indicator has been evaluated as low risk especially for export timber which requires different official legal compliance documentations. Identified laws are upheld consistently by the Forestry Commission and other authorities.

1.8.6. Risk designation and specification

Low risk natural forest timber (for export timber).

1.8.7. Control measures and verifiers

N/A.

⁶ 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.

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: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002%20THE%20FOREST%20PROTECTION%20AMENDMENT%20ACT.pdf>
- Forest Protection Decree, 1974 (N.R.C.D. 234) [Section 12]. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1974-trees-and-timber-decree--nr-cd-273.pdf>
- Timber Resources Management Act 1997 (Act 547) [Act 547, Sections 18G]. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1998-timber-resource-management-act.pdf>
- 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. Section 60 is on stumpage fee payment. [online]. 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>
- 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: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2000-forest-plantation-development-fund-act-act-%20583.pdf> and its Amendment Act 2002 (Act 623) <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002-forest-plantation-development-amendment-act.pdf>
- Ghana Forest and Wildlife Policy (2012). [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)
- MoP Section A: Strategic Planning (section 2.3 Provisional zonation map). [online]. Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf>
- MoP section D: Stock survey and Yield Allocation (Section 7.3 provides list of black star species-wholly protected, section 7.4 provides a list of scarlet star species for which the reduced yield formula is used in allocation yield, Table D2.1 specifies felling limit for FIP Class 1 species, and Instruction Sheet No D5 provides information on Yield allocation. [online]. Available at: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-A.pdf>
- Logging Manual (Section 3.2: Environmental standards).

- CITES Convention (schedule/appendix I - II are not given out in yield to other companies).
- Convention on Biological Diversity.

1.9.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <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>
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1.9.5. Risk determination

Overview of Legal Requirements

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. Over exploitation and illegal logging, especially in the off-reserve areas, resulted in high biodiversity loss (plant and animal species) (Ghana Forest and Wildlife Policy, 2012). Consequently, some plant and animal species are legally protected. For instance, several tree species are put under Ghana's conservation star ratings for conservation purposes and Ghana's Cabinet directed that harvesting and export of Rosewood is banned from 1 January 2014 until further notice.

Description of risk

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

Illegal logging of protected species: following the ban on the harvesting, transportation, processing, export or sale of rosewood (*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 that time (NEPCon expert consultation, 2016). There has also been recent repeated reports of illegal harvesting and trade in rosewood (*Pterocarpus erinaceus*) despite a ban placed on the harvest and trade of 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 which are protected from timber concessions. Rosewood harvesting thus mostly comes from off-forest reserves (see report under permits).

A study conducted by Nature and Development Foundation revealed that there are trades of *Pericopsis elata* (also known as Afromosia) on the local market without accompanied documentation (FLEGT Newsletter, 2016). The study could not determine the source of the wood. *Pericopsis elata* is a scarlet star species. These species are threatened by over-exploitation, at least in Ghana, and are therefore protected when they occur in protected areas or forest reserves.

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

Risk conclusion

This indicator has been evaluated as specified risk for on and off forest reserves. Identified laws are not upheld consistently by all entities and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk for on and off forest reserves.

1.9.7. Control measures and verifiers

- Approved harvesting schedule/blocking that excludes large protected areas (referred to as "coarse grain" protection (e.g. provenance areas, globally significant biodiversity areas, etc.) must be available to the logger and FSD. The forest logger must possess forest progress maps or TUC area map showing locations of large protected areas within a forest management unit or defined forest area.
- Yield maps indicating locations of fine grain protection areas (all trees in fine-grained areas are required to be exempted) must be available to logger onsite.
- For restricted timber species, loggers must hold a special permit issued by the FC for the defined harvesting unit.
- Need for good identification of protected species such as Rosewood as they can be labelled as a different species.
- Need to strengthen protection against illegal chain saw operations in protected areas.

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: [http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20\(Amendment\)%20&id=15](http://fcghana.org/library_info.php?doc=48&publication:L.I.%201721%20Timber%20Resources%20Management%20(Amendment)%20&id=15)
- Logging manual (Section 3.2 Environmental Considerations). [online]. Available at: <http://fcghana.org/>
- Riparian Buffer zone Policy for Managing Freshwater Bodies in Ghana (WRC, 2011). [online]. 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) (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: <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>
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- 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>
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1.10.5. Risk determination

Overview of Legal Requirements

The Logging Manual (Section 3.2, subsections 1 – 7) prescribes environmental standards as guidance (on logging activities in riparian areas, fire precautions, restricted/protected species, and protected areas such as sacred groves, hill sanctuaries, provenance protection areas, convalescent areas, special biological protection areas, and swamps) to the timber contractors on the planning and operational aspects of timber harvesting and provides the basic information for a code of good working practice. Protected areas must be clearly marked on the TUC Operational Plan and on the Annual Logging Plan at the appropriate scales.

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

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

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

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

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

Description of risk

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

According to most officials at the Forestry Commission, there is an unwritten understanding between FC and EPA that, the different level of forest management planning and operational restrictions provided in the forest laws are adequate to safeguard any possible breach of any other environmental requirement and for that matter EPA's environmental requirements can be waived once the forest operator meets the FC's management planning requirements. For example, logging in watershed areas for which the EIA mentions are removed from production area under coarse grain protection. The same however cannot be said with forest plantation inside and outside the forest reserves. The Ministry of Environment, Science and Innovation in its 2016 biodiversity strategy however lamented that the involvement of EPA in EIA in the forest sector has been non-existent. Though the Biodiversity strategy did acknowledge that the forestry has strict environmental regulations concerning forest management, it however proposed to be allowed to conduct external environmental auditing to strengthen the process.

Review of a sample of FSC audit summaries in the last five years shows that some companies pursuing FSC controlled wood certification are making efforts to get environmental permit from the Environmental Protection Agency (FSC audit reports 2008-2018). Companies usually have EPA permit for their factory or processing operations but not for forest operations.

Note: While the EPA requirements are clear, it has so far 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 some unwritten gentleman 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

This indicator has been evaluated as low risk. Activities on the ground might not violate environmental requirements, even though substitution of FCs forest management requirements for EPA requirements related to forest management has not been formally documented.

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: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- National Health Insurance Authority Act, 2012 (Act 852) (Part II sections 12-13 defines employer responsibility for worker's registration on the National Health Insurance Scheme (NHIS)). [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>
- 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/department-of-factories-inspectorate/>
- National Health Insurance Authority (NHIA) (provides financial risk protection against the cost of quality basic health care for all residents in Ghana). Website: <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

- Certificate of registration and renewal from the Department of Factory Inspectorate;
- Industrial hygiene survey report (from Department of factory inspectorate or their sub-contracted agencies);
- Workers registration on the National Health Insurance Scheme (NHIS);
- 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>
- Forestry laws and regulations provided by the Forestry Commission. [online]. Available at: <http://fcghana.org/library.php?id=15>

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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 requirements (Section 118 to 121 of the Labour Act), the employer is responsible to ensure that workers work under satisfactory, safe and healthy conditions. Workers are obliged to use safety appliances, fire-fighting equipment and PPEs provided by the employer; and report imminent hazards to employer. Employers are required to report occupational accidents and diseases to the appropriate government authority. Supply of personnel protection equipment (PPE) and training of workers on safe felling practice, and observation of safety requirements in the timber industry. The Ghana's legal timber definition in the absence of any specific health and safety requirements in the forest sector have set Table 1 (page 37) of the ILO Code of Practice on Safety and Health in Forestry Work as the minimum requirement for Health and Safety. Employers are required by the National Health Insurance Authority Act, 2012 (Act 852: Part II sections 12-13) to register their employees on the National Health Insurance Scheme (NHIS).

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

Description of risk

Companies in Ghana have improved in terms of health and safety; especially following the pursuit of forest certification and the implementation of VPA licensing. However, for some companies, safety requirements are not fully observed. In some cases, PPEs are not supplied to workers whereas in other instances employers provide workers with PPEs but the use of these PPEs are not enforced. Workers in most companies belong to trade unions and have collective bargaining agreement (CBA) with their employers with which the provision of PPEs are essential part of the agreement but in some cases all the terms in the CBA especially PPE provision are not met (Expert consultation conducted by NEPCon, 2016). Review of a sample of FSC audit summaries in the last ten years did not show any risks with this category (FSC audit reports 2008-2018).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld by some companies. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities (i.e. for certified companies or those pursuing certification).

Factory inspectors help other companies to meet safety requirements in the factories but not forest operations. The FLEGT VPA implementation is helping to improve health and safety, but timber right operators are not adequately compliant.

1.11.6. Risk designation and specification

Specified risk.

1.11.7. Control measures and verifiers

- Employers are required to ensure that all their employees are registered on the National Health Insurance Scheme. The NHIA issues Identity cards for registered persons on the NHIS. Records must be available from the timber operator to demonstrate that all employees are registered under the NHIS.
- Training records must be available and demonstrate that adequate health and safety training have been given to employees and contractors consistent with the risk associated with their responsibilities.
- Evidence should be available and demonstrate that employees are provided safe working environment and personal protective equipment.
- Appropriate health facilities must be available to employees and contractors.
- Records on compensations should be available to demonstrate the workmen compensation law is consistently implemented in events of accident, death or injury of an employee arising from work.

1.12. Legal employment

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

1.12.1. Applicable laws and regulations

- Labour Act 2003 (Act 651). [online]. Available at: <http://laws.ghanalegal.com/acts/id/162/labour-act>
- 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>
- 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

Government sources

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

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- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

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 employment contract whereas section 20 provides for leave entitlement, among others.

Section 12 to 17 of the Labour Act prescribes the conditions for legal employment. It provides that a written contract is required for workers engaged for 6 months or more or a number of working days equivalent to 6 months or more within a year. The employer is required to provide the newly employed worker with written 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. Part XII provides conditions for collective bargain. The National Pension Act 2008 (Act 766) establishes the three-tier pension scheme and the National Pensions Regulatory Authority as the regulator. Employers are required under Section 3 (Contributions to the Scheme) are to make deductions of pension contributions and make payment to mandatory First and Second Tier schemes within 14 days of the preceding month. Section 33 establishes 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 collective bargaining agreement may not implement some of the agreements such as leave entitlement etc. Some workers may be working without a contract and requirements for the obligatory insurances. This violates the legal rights of workers (expert consultation conducted by NEPCon, 2016). Review of FSC audit summary reports indicate that, in most cases employees are able to secure the SSNIT clearance certificate even when they owe in large amounts of Tier 1 contributions and penalties payments. Likewise, most companies are owing their employees in Tier 2 payment over several years for which they have made deductions thus denying workers the benefit of investment returns. Though companies involved in voluntary certifications are being checked for payment of their Tier 2 contributions, there is the risk that large number of timber rights holders not up-to-date with their payments as the NPRA is yet to be effective at enforcing this legal requirement. Review of FSC audit summaries for 2017 and 2018 confirms the existence of legal employment violations by timber rights holders to include 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 are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk.

1.12.7. Control measures and verifiers

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

- 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: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>
- 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]. Available at:

[http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)

1.13.2. Legal authority

- Forestry Commission (FC) (the principal authority overseeing forest management in Ghana). Website: <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;

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.). *Service Charter – Introduction & Function*. [online]. Available at: <http://www.fcghana.org/page.php?page=199§ion=22&typ=1&subs=258>
- 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>
- 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
- 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 FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEA>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIOEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.13.5. Risk determination

Overview of Legal Requirements

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

Social responsibility agreement: direct benefit sharing arrangements between communities and logging companies are in the form of Social Responsibility Agreements (SRAs). According to law, the monetary value of timber rights operator's contribution to the 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 their priorities for local development and particular conditions for a 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 and environmental restrictions of critical importance to the affected communities, such as observation of taboo days, etc.

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

Description of risk

The first joint assessment of Ghana's Legality Assurance System found that implementation of SRAs is not consistent with the law. SRA agreements are sometimes violated by some timber contractors (expert consultation conducted by NEPCon, 2016); though most contractors pay more than the legally required 5% of stumpage fee (expert consultation conducted by NEPCon, 2016). Communities could ensure that they get what is due them if they have information on stumpage value. The information on the 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 to them. 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 in the communities. The Service Charter of the Forestry Commission use reports and publication of materials as the main tool for communicating with the public. However, the official redistribution figures are usually published a year in arrears. SRA and stumpage information delivery to local communities have improved with the involvement of civil society organisations in awareness creation and establishment of SRA committees in some of the forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission in response to the first Joint Assessment Report of the VPA now 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 independent monitor of the Legality Assurance System (LAS) implementation is improving the system. Royalty disbursement has improved (Expert consultation conducted by NEPCon, 2016). A new template has been developed for monthly reporting on SRA implementation in the district offices of the Forestry Commission. The Resource Management Support Centre (RMSC) of the Forestry Commission has (in collaboration with some Civil Society Organisations) developed a compliance checklist to assist the Forestry Commission in monitoring compliance with the due process in the SRA negotiation and implementation (Joint Monitoring and Review Mechanism, 8th Session, March 2016). 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). One key finding from the Joint Assessment of the Ghana VPA in 2019 was the inconsistent implementation of the SRA. This finding however is not a 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 efficiency implementation of compensation for 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). [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/1927%20FORESTS%20ACT.pdf>
- Timber Resources Management Act 1997 (Act 547) (Section 4 contains requirements for seeking landowners' consent in grant of timber rights). [online]. Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management Amendment Act 2002 (Act 617) (Section 1A contains requirements for seeking landowners' consent in grant of timber rights). [online]. Available at: [http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20\(Amendment\)%20Act,%202002&id=15](http://fcghana.org/library_info.php?doc=52&publication:Timber%20Resources%20Management%20Act%20617%20(Amendment)%20Act,%202002&id=15)
- Timber Resources Management 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

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-8tBfvkPxluSnCeyWwor0I_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 FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.14.5. Risk determination

Overview of Legal Requirements

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

Regulations 4, 5 and 6 of LI 2254 require that 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 given out. 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 some farmers is not usually sought (expert consultation conducted by NEPCon, 2016). Farmers' consent is usually sought and farmers or their representatives are also involved in the pre-felling survey to identify the trees in off forest reserve areas (expert consultation conducted by NEPCon, 2016). The farmer must agree before a tree can be marked and given out to a timber contractor. The farmers reach an agreement with the timber contractors on the necessary compensation for crops that may be damaged. Farmers report to the Forestry Commission if the timber contractor fails to honour the agreement. These harvesting operations involve single trees and reported cases are very low.

Risk conclusion

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

1.14.6. Risk designation and specification

Low risk.

1.14.7. Control measures and verifiers

N/A.

1.15. Indigenous/traditional peoples' rights

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

1.15.1. Applicable laws and regulations

- The Constitution of the Republic of Ghana, 1992, Article 267 Stool and skin lands and properties (provides for a formula on benefit sharing in relation to stool and skin lands). [online]. Available at: <https://www.documents.clientearth.org/wp-content/uploads/library/1992-01-01-constitution-of-the-republic-of-ghana-1992-ext-en.pdf>.
- The Forest Protection (Amendment) Act 2002 (Act 624) [Section 1]. [online]. Available at: <http://www.clientearth.org/external-resources/ghana/forests-and-wildlife/2002%20THE%20FOREST%20PROTECTION%20AMENDMENT%20ACT.pdf>
- Timber Resources Management Act 1997 (Act 547) (Section 4 provides general framework for third party right in forest management in Ghana (Lands Subject to Timber right)). [online]. Available at: http://fcghana.org/library_info.php?doc=45&publication:Timber%20Resource%20Management%20Act,%201997%20-%20Act%20%20547&id=15
- Timber Resources Management 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 26 on Social Responsibility Agreement, Regulation 60 and 65 on stumpage. Section 27 (1) Timber Utilisation Permit grants permission for use of specific number of timber for social or community use purposes. [online]. 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>
- Logging manual (section 3.3 makes customary right provision in relations to 1. SRA, 2. Use and Access Rights of forest resources by local communities, 3. dispute and conflict resolution in respect of forest or timber harvesting activities, and 4. consent of landowners regarding grant of timber harvesting rights). Available at Forestry Commission offices.

1.15.2. Legal authority

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

1.15.3. Legally required documents or records

- Social Responsibility Agreement (SRA) with local communities;
- Proof of payment of SRA proceeds and adherence to signed SRA agreement;

- Proof of payment of compensations for damaged farms and crops;
- Approved yield/markings;
- Tree information form (TIF);
- FC stumpage/services bills;
- FC receipts of stumpage/bill payment;
- Operator FC statement account;
- SRA payment records.

1.15.4. Sources of information

Government sources

- The Forestry Commission of Ghana (n.d.). *Service Charter – Introduction & Function*. [online]. fcghana.org. Available at: <http://www.fcghana.org/page.php?page=199§ion=22&typ=1&subs=258>
- 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.). *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*. [online]. Available at: <http://fcghana.org/library.php?id=15>
- 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>

Non-Government sources

Summary of FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>

- <https://info.fsc.org/details.php?id=a0240000005sRfJAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.15.5. Risk determination

Overview of Legal Requirements

In Ghana, there are no indigenous people recognised in the laws. The laws recognise traditional people who are accorded some rights. Forest Reserves (FRs), plantations on FRs, and PAs are on traditional or community lands and under the trusteeship of chiefs (The Constitution 1992, article 267 (1)) but vested in Ghana's president with the state acting as 'trustee' on behalf of the stool; and managed by the Forestry Commission (FC). Forest reservation in Ghana (which gave management rights to the State) required prior informed consent of the FC before developing portions of the reserves and harvesting of forest resources for commercial purposes [Act 624]. Reservation of stool /community lands did not change communities' ownership status of their lands as clarified in section 17. Ownership of land within forest reserve of the Forest Act, 1927 (CAP 157). Benefit sharing in forest resources with local communities is linked to their ownership of forest even if they do not have user rights. Article 267 of the Ghana's 1992 Constitution also provides for a formula on benefit sharing in relation to stool and skin lands.

Off-forest reserves, submerged forests, and private plantations on OFRs are on lands owned mainly by chiefs; families, individuals, and public institutions. Timber production/extraction right for natural forests in FRs and OFRs is granted through the award of timber utilization contracts (TUC) by the sector Minister [Acts 547 and 617] and ratified by Ghana's Parliament [ACT 547; LI 2254]. Private plantations in FRs are under special benefit sharing arrangements with investors whereas plantations in OFRs are leased.

Regulations 4 and 5 of LI 2254 require that the Forestry Commission must seek the written consent and agreement of landowners before lands (public lands and forest reserves) identified as suitable for timber rights can be given out. Regulation 6 provides the procedure for resolving conflicts and objections by landowners on the grant of timber rights. Section 4(2) of TRM Act 547 (and Section 1(A) of amendment Act 617) provides that timber right shall not be granted for logging on lands subject to alienation holding or farmlands without the written authorisation of the individual, group or owners concerned.

The traditional authority is entitled to royalties; forest fringe communities are entitled to Social Responsibility Agreements (SRAs); traditional people are entitled to subsistence use right; and farmers are entitled to compensation for damage to crops by forest operators.

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

Social Responsibility Agreement: direct benefit sharing arrangements between communities and logging companies are in the form of Social Responsibility Agreements (SRAs). According to law, the monetary value of the SRA should be equal to 5% of the stumpage paid in respect of trees harvested within a defined forest area. This agreement is arrived at through a consultation process. The district manager of the FSD defines the boundaries of a TUC area, in consultation with land-owning communities. During the consultation, the purpose of SRA as part of TUC is explained and the community proposes their priorities for local development and particular conditions for a future logging company's 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 TUC holder is required to respect and honour the SRA, customs, and local taboos.

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

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

Description of risk

SRA agreements are sometimes violated by some timber contractors (expert consultation conducted by NEPCo, 2016); though most contractors pay more than the legally required 5% of stumpage fee (expert consultation conducted by NEPCo, 2016). Communities could ensure that they get what is due them if they have information on stumpage value. The information on the 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. Landowners can obtain this information to independently verify the appropriate revenue due them. 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 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 have improved with the involvement of civil society organisations in awareness creation and establishment of SRA committees in some of the forest fringe communities. Activities and programmes on the implementation of the VPA have also contributed to increase the awareness of communities and improved access to information. The Resource Management Support Centre of the Forestry Commission prepares estimates of potential stumpage and corresponding SRAs before logging begins. These estimates are available at the Forest Services Division offices and are accessible to communities and other stakeholders. Continuous audits carried out by the Timber Validation Division and the independent monitor of the LAS implementation will be 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). Currently, several civil society organisations, NGOs and the FC have implemented projects as part of VPA implementation which has improved SRA implementation (JMRRM May, 2019). One key finding from the Joint Assessment of the Ghana VPA in 2019 was the inconsistent implementation of the SRA. This is finding however is not a compliance issue but an efficiency issue resulting from the different community structures and traditions.

Compensation paid to farmers or landowners in off reserve areas is usually inadequate. The Ministry of Food and Agriculture determines the rates payable per type of crop, but the rates are usually not followed (Expert consultation conducted by NEPCo, 2016). Usually, there is a bargain between the property owner and timber contractor; either party could lose (expert consultation conducted by NEPCo, 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 efficiency implementation of compensation for 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. Local people ownership of forest lands has not been diminished with the reservation or exploitation of forest. Local peoples' rights to forest benefit sharing and respect of the traditions and customs are provided in the laws and are enforced. Local peoples' rights to subsistence and community development use of the forests are also provided in law and not restricted.

1.15.6. Risk designation and specification

low risk

1.15.7. Control measures and verifiers

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. [online]. 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>
- 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.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)
- 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: <http://www.clientearth.org/reports/130819-climate-and-forests-MOP-D.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>
- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMIRM) (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

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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2>
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- <https://info.fsc.org/details.php?id=a0240000005sRfJAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.16.5. Risk determination

Overview of Legal Requirements

Regulation 60(1) and 61(3) and Schedule 1 of the Timber Resource Management and Legality Licensing Regulations, 2017 (LI 2254), provide requirements for stumpage rate calculation and payment. Regulations 74(1) and 78 of Schedule 8 of the Timber Resource Management and Legality Licensing Regulations, 2017 (LI 2254), restricts the felling of some timber species. These species can only be felled with restricted species permit issued by the FC with the approval of the minister.

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

Within a month after the stock survey, the FSD conducts a 10% check survey of each compartment to confirm the accuracy of field work and hence the validity of subsequent yield allocation. The Resource Management Support Centre of the FC also carries out random check surveys from time to time. Once stock survey has been completed and checked, the FSD prepares a stock map showing the location of all trees assessed (i.e. summary of stock survey). A yield which details individual species in various diameter classes is prepared and approved. The TUC holder or contractor uses the approved yield for harvesting.

FSD range supervisor captures the details of each tree felled on a tree information form (TIF). This translate into 100% post-felling check by the range supervisor. The TIF contains information such as the stock survey number, harvested species, and quantity (volume).

The Contractor completes a log information form (LIF) to cover logs produced from each tree based on the TIF. The LIF contains the stock number, species and volumes of logs recovered from the tree. A Log measurement and conveyance certificate (LMCC) is prepared by another FSD Range Supervisor using the information on TIF and LIF to ascertain 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 contains the stock number, species and volumes of logs, among others.

For forest plantations, TIF and LIF are replaced by the Plantation production certificate. Transported logs are checked at the various check points along highways or mills through species identification, re-measurement of each log volume and quality grading by the Timber Industry Development Division (TIDD). The TIDD also issues various timber products inspection certificates for all processed logs based on species classification, qualities and volumes (TIDD Timber Trade Procedures and Guidelines).

Description of risk

There can be misclassification or identification of species during enumeration. High value species may be misclassified as low value species and vice versa. Some merchantable trees may not be captured

during enumeration and therefore without stock numbers. Timber contractors could swap lower value species with closely related high value species. Under-measurement of log volumes is also possible during TIF and LIF preparation stage (expert consultation conducted by NEPCon, 2016) but not frequent.

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

However, enforcement of enumeration check surveys, TIDD volume measurements, regular audits by the TVD and the Independent Monitor of the LAS ensure that the risk is eliminated or minimal JMRM May, 2019. The introduction of the WTS which has allowed volume reconciliation at all levels and the input out-put 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 by check points and post felling checks and 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.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 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

- Logging manual (1998) (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, but also available from Client Earth website: <http://www.clientearth.org/resources/clientearth-resources/resources-ghana-2521>)
- TIDD Timber Trade Procedures and Guidelines (available in hard copies from the TIDD).
- 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>

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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000005cYQCEA2>
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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1>
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- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

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 that timber is transferred or moved from the forest only under conveyance certificate issued only 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 require the registration of timber and timber product vendors and exporters; and vetting of export contracts, inspection of timber products and issuance of timber products (lumber, veneer etc.) conveyance certificates and timber export permits. Companies are also required to obtain weekend permits issued by the Forestry Commission for transporting wood on weekends. Other issues relating to timber operation and transport on taboo days in the forest fringe communities are usually captured in the Timber Operation Specification (TOS) and SRAs during the consultation process.

Description of risk

Log Measurement Conveyance Certificates (LMCCs) are mostly not issued in the forest as required by law as the Forest Services Division (FSD) is unable to provide personnel at all the operational sites of timber right holders. The FSD has mounted LMCC issuing points at the converging points of the forest roads to ensure that all transported logs are covered with LMCCs (expert consultation conducted by NEPCo, 2016). The TIDD checkpoints along the major highways and in some cases inside the timber rights' holders' premises ensure that the risk of under-measurement of logs, species misclassifications etc are minimised and lumber (at least those for export) or forest products gaining access to the port without the necessary documentations is also minimised. Also, there is a double check because exporters need an input output statement to justify the volume being exported for the issue of an inspection and lumber conveyance certificates and export permits. Therefore, the risk of violation of trade and transport requirements for forest products for export is low. The same cannot be said of lumber for sale on the domestic market which mostly do not meet trade and transport requirements. 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 Controlled Wood audit summaries of various companies in Ghana from 2008 to 2018 did not show any risks with transport of wood.

Risk conclusion

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

1.17.6. Risk designation and specification

Low risk.

1.17.7. Control measures and verifiers

N/A.

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).
- 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>

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/>
- 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>
- Transfer Pricing Regulations 2012 (L.I 2188). Available at Bank of Ghana.

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

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

1.18.5. Risk determination

Overview of Legal Requirements

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

Description of risk

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

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

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

Risk conclusion

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

1.18.6. Risk designation and specification

Low risk.

1.18.7. Control measures and verifiers

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, 20 and 21 repealed by GRA Act 2009, Act 791. [online]. Available at: <http://laws.ghanalegal.com/acts/id/509/customs,-excise-and-preventive-service-management-act>

1.19.2. Legal authority

- Timber Industry Development Division (TIDD) (responsible for issuing permit and approvals for all wood export and sales). Website: <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-8tBfvkPxluSnCeyWwor0I_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>

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- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>
- <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

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 TIDD which ensures that all exported/imported wood are covered with the relevant legal documents. The Ghana Revenue Authority Act 2009, Act 791 Section 2 (objectives of the Authority) includes provision for a holistic approach to tax and customs administration. Section 17(b) creates the Customs Division of the Authority.

Description of risk

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

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

A review of a sample of FSC Controlled Wood audit summaries of various companies in Ghana from 2008 to 2018 did not show any risks with this category.

Risk conclusion

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

1.19.6. Risk designation and specification

Low risk.

1.19.7. Control measures and verifiers

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

- 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.documents.clientearth.org/wp-content/uploads/library/2017-11-03-timber-resource-management-and-legality-licensing-regulations-2017-l.i-ext-en.pdf>

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://fnr.knust.edu.gh/>

1.20.3. Legally required documents or records

- CITES export permit;
- TIDD export Permit.

1.20.4. Sources of information

Government sources

- The Forestry Commission (2013). *Draft Ghana Forest Plantation Strategy: 2015-2040*. [online]. Available at: <http://www.fcghana.org/userfiles/files/Plantation%20Annual%20Report/Ghana%20Forest%20Plantation%20Strategy%202015-%202040.pdf>
- 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

- Joint Monitoring and Review Mechanism of the Ghana EU-FLEGT Voluntary Partnership Agreement. *Aide Memoire Meeting of the JMRR 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>
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- Media Reports.
- Dailyguideafrica. 2017. *Kayoro and Nakong residents wild over illegal Rosewood cutting*. [online]. Available at: <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Kayoro-and-Nakong-residents-wild-over-illegal-Rosewood-cutting-499697#>, <http://citifmonline.com/2017/08/09/police-hunt-for-illegal-rosewood-loggers-in-tumu/>
- Mordey, E.K. (2017). Four fined for illegal transportation of rosewood. [online]. Available at: <https://www.graphic.com.gh/news/general-news/four-fined-for-illegal-transportation-of-rosewood.html>

- 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>
- Summary of FSC audit reports:
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
 - <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000bxAL5EAM>
 - <https://info.fsc.org/details.php?id=a0240000005ttAfAAI&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
 - <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.20.5. Risk determination

Overview of Legal Requirements

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

Pericopsis elata is classified as Scarlet star species (threatened in Ghana by over-exploitation) under Ghana's species conservation star ratings and therefore protected. Regulation 74(1) and 78 of Schedule 8 of the Timber Resource Management and Licensing Regulations (2017), LI 2254, restricts the felling of some timber species and provides penalties for offences. These species can only be felled with a restricted species permit issued by the FC with the approval of the Minister. Monitoring requirement specified in Section 3 (6) of MOP F prescribes that the FSD should ensure that no black star species or restricted species are felled. *Pericopsis elata* is endemic specific areas in Ghana including the concession of Ayum Forest Products Limited. Consequently, Ayum Forest Products Limited has been given permit to fell limited quantities of *Pericopsis elata* in their concession.

Ghana's Cabinet directed that harvesting and export of *Pterocarpus erinaceus* (rosewood) is banned effective 1st January 2014 until further notice.

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

Description of risk

CITES regulations are integrated in 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). However, Salvage permits that have been granted to 13 companies to salvage already felled rosewood were abused to harvest more (Expert consultation conducted by NEPCon, 2016). The local and international media and other publications are inundated with stories of illegal harvesting, trade and reporting of Rosewood (*Pterocarpus erinaceus*) from Ghana though harvesting

and trade in the species have been banned since 2012 to include a ban and release of ban for the fifth time in March 2019.

A study conducted by Nature and Development Foundation revealed that there is trade of *Pericopsis elata* (also known as afromosia) on the local market without accompanied documentation (FLEGT Newsletter, 2016). This study could not determine the source of the wood. Currently, civil society organisations, NGOs, the FC and fringe communities are working together with the Ghana Police Service to monitor and arrest illegal operators. Arrested illegal operators are fined to deter others.

According to an undercover investigation by the EIA, 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. Among the key 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 has challenged the EIA report but there other several public reports of illegal harvesting of Rosewood, some of which are in the courts.

News items on published scientific analysis by researchers at the Ghana Forest Research Institute (FORIG) also indicate lower reported rosewood exports figures to China than what China reported as imported from Ghana. Given that falsification of CITES permits are included in the illegal export of rosewood from Ghana, this poses high risk for CITES certificates.

It could be argued that this is a case of a single species and incidents are isolated, but on the other hand, given that the alleged modus operandi of the "illegal" scheme includes misrepresentation of the species, it is possible that other banned species could be affected.

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 CITES species (*Cedrela odorata*).

1.20.6. Risk designation and specification

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

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

1.20.7. Control measures and verifiers

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

1.21. Legislation requiring due diligence/due care procedures

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

1.21.1. Applicable laws and regulations

- Timber Resources Management 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 such information and provides for the procedures for requesting for information and 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>

1.21.2. Legal authority

- Forestry Commission of Ghana

1.21.3. Legally required documents or records

- Valid Business Registration certificate
- Valid Property Mark Registration Certificate
- Valid Concession and harvesting permit
- Valid TIF and LMCCs covering traded timber
- Valid Certificate of Registration with the FC
- Approved Export Contract
- Approved Export Permit

1.21.4. Sources of information

Government sources

N/A.

Non-Government sources

- Euflegt.efi.int (n.d.). *VPA Countries: Ghana*. EU FLEGT Facility. Available at: <http://www.euflegt.efi.int/ghana>
- Forestry Commission (2017). *Timber Resources Management and Legality Licensing Regulations, 2017 (LI 2254)*. 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>

1.21.5. Risk determination

Overview of Legal Requirements

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. This regulation controls the local and international trade of illegally harvested timber products and illegal logging.

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 that the Commission responsible for verification and validation of applications for licenses performs its functions independently; establish measures to ensure process verification and validation under these Regulations are not interfered with, among others. Regulations 38-51 outline the requirements for obtaining licenses; 40(2) and 41(4)(a) and the Third Schedule defines what constitutes legal timber in Ghana.

Description of risk

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 the management of forest resources available on its website and on request, and list which information must be on its website and provide them on request.

Already, the FC has created a Timber Legality Transparency Portal for the public out of the Ghana WTS do access due diligence at <https://www.ghanatimbertransparency.info/#!/home>

Risk conclusion

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

1.21.6. Risk designation and specification

Low risk.

1.21.7. Control measures and verifiers

N/A.

PROCESSING

1.22. Legal Registration of business

Legislation regulating the registration of business and approval of scope of business and processing. The risk is that companies are operating without being in conformance with 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: <http://glorylawfirm.com/wp-content/uploads/2015/08/COMPANIES-ACT-1963-Act-179.pdf>
- 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: http://laws.ghanalegal.com/acts/id/32/section/4/Registration_Of_Partnership_Firms
- Taxpayers Identification Numbering System, 2002 (Act 632) (outlines the requirements for registration of Tax Codes and Certificates from the Ghana Revenue Authority). Available at: http://gra.gov.gh/docs/info/tin_act.pdf
- The Forestry Commission Act (Act 571) (section 2(I) and (II) defines the FC's responsibility in registering and regulating timber traders) and TIDD Timber Trade Procedures and Guidelines which makes specific provisions for registration of exporters of timber and timber products the conveyance and haulage of timber and timber products. Available at: http://fcghana.org/library_info.php?doc=46&publication:L.I.%201649%20-%20Timber%20Resources%20Management%20Regulations,%201998&id=15
- 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 (JMIRM) 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 FSC audit reports:

- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000003zKMDEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000007OnUkEAK;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000008EJIQEA4;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P40000005cYQCEA2;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000byIMmEAM;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P4000000UZgJBEA1;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000cVDAgEAO;>
- <http://fsc.force.com/servlet/servlet.FileDownload?file=00P3300000Zu06vEAB;>
- <https://info.fsc.org/details.php?id=a0240000005ttAFAAI&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005sRfUAAU&type=certificate>
- <https://info.fsc.org/details.php?id=a0240000005v84pAAA&type=certificate>

1.22.5. Risk determination

Overview of Legal Requirements

The company's code of 1963 requires business entities to register their activities with the Register 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. Also, "section 6(1) of the Incorporated Private Partnership Act, 1962, makes it mandatory for Partners once in every year, to deliver to the Registrar for registration a statement in the prescribed form renewing the registration. Section 122 (6), clarifies that, where a company defaults in complying with these requirements, the company and every officer of the company who is in default is liable to a fine not exceeding 25 penalty units for every day that 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) define 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, and 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. TIN registration for the business entity itself is also done as part of the business registration process. 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

Having a valid registration with the TIDD of the FC as a processor and trader is part of the requirement for setting up a processing facility, secure Lumber Inspection and Conveyance certificate (LIC) and export permit for each export made. Exporters therefore do not risk defaulting in 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 completely eliminated as both TIDD and the processors in default 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 undertakings requiring Undertaking requiring registration and issue of 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 need 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 compliance 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://qfzb.gov.gh/index.php/downloads/>

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 (JMIRM) 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.

1.23.5. 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 products 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, Free-Zone timber processing companies are required by the Free Zone Board Act to have an environmental permit as part of their application process.

Description of Risk

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

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.

1.23.7. Control measures and verifiers

- Timber processing entities need to go through the process of exemption or full EIA to acquire environmental permit from the EPA.

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 (JMRRM) 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 the completeness of the application includes inspection of required documents such as business plan and feasibility report, including source of raw material for 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 therefore required to maintain a register for material input and product output 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 these small-scale processing entities. Requirements for the development of procedures or work instruction and the keeping of records of materials along their 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 of records of their production to support their export permit application.

The challenge therefore is with the small-scale processing entities who process for the domestic market for which there is little experience or capacity to comply with these processing requirements. Though TVD audit samples cover such small-scale processing entities, their large numbers and their relatively small production volumes make it inefficient for TVD audits to cover representative samples of this group.

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.

1.24.6. Risk designation and specification

Low risk for exported timber.

(Specified Risk for domestic market timber).

1.24.7. Control measures and verifiers

- TVD audits to cover representative sample of small-scale processing entities.

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

- 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 the powers of inspectors to enter and inspect a factory at any time. As part of requirements (Section 118 to 121 of the Labour Act), the employer is responsible for ensuring that workers work under satisfactory, safe and healthy conditions. Workers are obliged to use safety appliances, fire-fighting equipment and PPEs provided by the employer; and report imminent hazards to employer. Employers are required to report occupational accidents and diseases to the appropriate government

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

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

Description of Risk

From the author's experience, despite all legal provisions in place and the progress made in compliance, health and safety issues at the workplace remain a legality compliance challenge in some wood processing companies. Some of the large timber processing companies exercise a high level of compliance, the situation is however not the same across the sector especially in terms of provision of PPE, training in health and safety, among others. There is more room for improvement especially for entities not current enrolled in voluntary certification or not yet to be covered by TVD legality verification audits.

There are adequate legal requirements on health and safety applicable to the wood processing sector. Enforcement and compliance have not been adequate.

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.

1.25.7. Control measures and verifiers

- Enforcement of health and safety requirements at the work place by employers;
- Employers to show proof of providing the required PPEs;
- TVD audits to cover representative sample of small-scale timber processing entities.

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/department-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

Government sources

- Ministry of Lands and Natural Resources and Joint Monitoring Review Mechanism (JMRRM) 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

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

1.26.5. Risk determination

Overview of Legal Requirements

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

Section 12 to 17 of the Labour Act prescribes the conditions for legal employment. It provides that a written contract is required for workers engaged for 6 months or more or a number of working days equivalent to 6 months or more within a year. The employer is required to provide the newly employed worker with written particulars of the contract of employment between the employer and worker; subject to the terms of the contract and within two months following the commencement of the employment. Employers are prohibited from using restrictive employment conditions to discriminate against persons and prevent or require workers to form or take part in activities of trade union. Section 15 provides the grounds for the termination of employment; Section 16 prescribes the types of employment contract; and Section 17 describes the conditions for terminating employment contract. Part XII provides conditions for collective bargain. The National Pension Act 2008 (Act 766) establishes the three-tier pension scheme and the National Pensions Regulatory Authority as the regulator. Employers are required under Section 3 "Contributions to the Scheme to make deductions pension contributions and make payment to mandatory First and Second Tier schemes within 14 of the preceding months. Section 33 establishes 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 the VPA. Even so, some companies may not have collective bargaining agreement and some companies who have collective bargaining agreement may not implement some of the agreements such as leave entitlement etc. Some workers may be working without a contract and requirements for the obligatory insurances. This violates the legal rights of workers (Expert consultation conducted by NEPCon, 2016). Review of FSC audit summary reports for 2017 and 2018 indicate that, in most cases employees are able to secure the SSNIT clearance certificate even when they owe in large amounts of Tier 1 contributions and penalties payments. Likewise, most companies are owing their employees in Tier 2 payment over several years for which they have made deductions thus denying workers the benefit of investment returns. Though companies involved in voluntary certifications are being checked for payment of their Tier 2 contributions, there is the high-risk large number of timber rights holders not up-to-date with their payments as the NPRA is yet to be effective at enforcing this legal requirement.

Risk Conclusion

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

1.26.6. Risk designation and specification

Specified risk.

1.26.7. Control measures and verifiers

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

Annex I. Timber source types

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

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

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

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

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

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

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