

Making the Forest Sector Transparent Annual Transparency Report 2011



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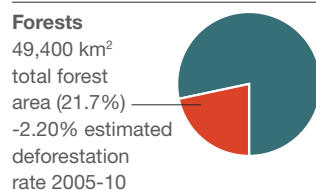
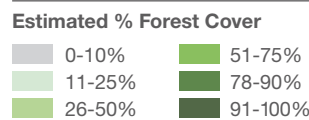
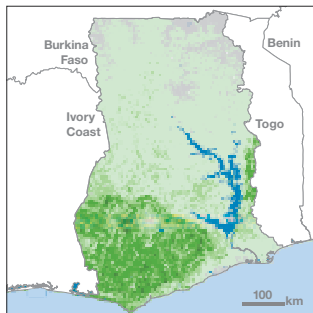
Country Specific Report: Ghana

Prepared by the Centre for Indigenous Knowledge and Organisational Development (CIKOD) and Global Witness, October 2012

Introduction

Ghana is one of seven forest-rich countries where the *Making the Forest Sector Transparency* programme is working. The Annual Transparency Report is published each year to assess whether the right information is being made available to citizens to ensure that they have a say in how their forests are managed. This summary presents the main findings from the third assessment of the forest sector in Ghana carried out by CIKOD in 2011. It applies a set of 20 'yes' (green circle), 'partial' (yellow circle) or 'no' (red circle) indicators to test whether the necessary provisions in the legal framework exist in the public domain and whether important documents and data are made publicly available. Changes in the last year are also highlighted. The assessment was largely carried out using desk research to December 2011. The complete analyses from all the report cards and more recent updates are available at www.foresttransparency.info.

Ghana Vital Statistics



Community Meeting in Saamang, Ghana.
Photo: New Generation Concern



Map of estimated % forest cover adapted from FAO Global Forest Resources Assessment 2010 and derived from Global Land Cover Facility data of vegetation continuous fields. Land area, forest area and estimated deforestation rate drawn from FAO Global Forest Resources Assessment 2010, accessed at <http://www.fao.org/forestry/fra/fra2010/en/>. Data on total population and GDP per capita in 2010 based on purchasing power parity (PPP) converted to international dollars are drawn from the World Bank data accessed at <http://data.worldbank.org>

The *Making the Forest Sector Transparency* programme is coordinated by Global Witness and works with a coalition of leading local NGOs in Cameroon, the Democratic Republic of Congo, Ecuador, Ghana, Liberia and Peru to engage policymakers and advocate for capable, responsive and accountable forest sector governance. Each partner has administered a mini-grants fund to support grassroots advocacy in their country.

Key Conclusions from 2011

The Forestry Commission (FC) and other public bodies continued to provide limited information on activities in the forest sector. A legal framework is necessary to oblige authorities to routinely publish more information, but the freedom of information (FOI) bill has made little progress as some members of the government attempted to introduce restrictive clauses.

Implementation of the Voluntary Partnership Agreement (VPA) with the European Union has been very slow. The forest and wildlife policy was reviewed through a consultative process, but further work is necessary to consolidate forest laws and introduce rigorous procedures. A welcome step forward was that the FC issued an invitation to tender for Independent Monitoring services in support of VPA legality licensing.

Further exposés by civil society organisations (CSOs) revealed how the FC excessively allocated timber salvage permits for logging activities. This administrative approach to granting rights without any transparent procedures was revealed to be undermining the VPA.

Civil society participation in national discussions on environmental issues has improved due to increasing representation and better relationships with state agencies. Local forums facilitated by the FC and CSOs, including CIKOD, need to be better integrated into decision-making.

Traditional and customary tenure arrangements are respected but usually not covered by title documentation. There has been little impetus to deal with fundamental issues, in particular tree tenure.

The FC improved the production of information on the disbursement of forestry royalties, but it could work better with NGOs to disseminate it. CIKOD has initiated a Traditional Authority Transparency Charter to provide a mechanism and guidelines on the management of natural resources.

Ghana Indicators 2011

Indicator: Yes Partial No Not applicable






Change since 2010: Significantly Improved Improved No Change Worsened Significantly Worsened

Freedom of Information Legislation			The Right to Information Bill was tabled in Parliament in February 2010, but has not been signed into law despite pressure from a civil society coalition. A series of review meetings were held in 2011 and government members attempted to introduce restrictive clauses, which civil society organisations also criticised as attempts to limit information disclosure.
National Forest Policy			The 1994 Forest and Wildlife Policy is publicly available. It shaped operational forests laws but important principles have not been translated into law (notably on tree tenure). The policy was reviewed in 2011 but a draft was not made publicly available at the time of this report card.
Codified Forest Law and Supporting Norms			There is no single forest law but a range of legislation governs forestry, in particular timber production, whereas there are no laws on community forest management. The laws and norms have been summarised for wider dissemination. The VPA has triggered a two-stage revision, first to make the law FLEGT compliant, to be followed by a more substantive review.
Signed International Agreements Related to Forest Products			Ghana ratified a VPA with the EU in March 2010. Civil society was actively engaged in the negotiations and continues to be involved in the implementation of the agreement. The implementation process in general has been slow, and Ghana failed to meet its original December 2010 deadline.
Provisions for Transparency in Forest Laws and Norms			The FC New Service Charter in 2008 provides for customers' right to information, and requests for information have been met. However, in practice the FC is not adhering to its commitments in the charter. When it is passed into law, the Right to Information Bill will potentially compel the authorities to improve access to information.
Legal Recognition of Customary Rights in Forest Laws and Norms			The Constitution of Ghana recognises customary law as subordinate to codified laws. Some customary rules and traditions on land tenure and use, even where they are not documented, are respected by the authorities and timber operators and there are terms governing them in the regulations. Others, such as tree tenure, are not recognised.
Legally Recognised Procedure for Consultation on New Forest Norms			There is no legally enshrined procedure for consultation on new norms, and what constitutes consultation is often disputed. The authorities often only pass on information, whereas civil society and communities complain about the lack of opportunities to participate in decision-making.
Legal Recognition of the Right to Free Prior and Informed Consent			The Timber Resource Management Regulations set out procedures requiring written consent of the owners before an area is allocated. This generally applies in off-reserve areas but not within forest reserves. More broadly, there is no law that recognises the right to free prior informed consent.
National Land Tenure Policy			The ownership of forest reserves is clarified in the reservation gazette, but this status is usually not covered by a title (or documentation) but under customary and traditional norms. The lack of a clear policy on tenure contributes to land disputes across the country.
Forest Ownership and Resource Use Maps			There are no publicly available maps of ownership and forest resource uses, but there are maps for most of the reserves and stock surveys of the off-reserve areas allocated for logging. Localised disputes exist between different claimants with varying maps and unclear tenure arrangements.

Ghana Indicators 2011

Indicator:  Yes  Partial  No  Not applicable

Change since 2010:  Significantly Improved  Improved  No Change  Worsened  Significantly Worsened

Regulated System of Permits for Commercial Logging Operations			All timber contracts are supposed to be ratified by the Parliament and placed in the public domain, but it is difficult to assess their accessibility. FC officials exercise considerable discretion, and in 2011 salvage permits were granted without any transparent process despite prior condemnation of this practice by civil society.
Legal Requirement for Consultation before Commercial Logging Allocation			The regulations set out consultation processes prior to permit allocation. The stakeholders consulted are mainly limited to traditional authorities, District Assemblies and farmers. It is assumed that chiefs will have consulted their people. There is no wider public consultation on the allocation of forest land to resource use.
Verification Process (Due Diligence) on Eligibility of Commercial Operators			The Timber Rights Evaluation Committee has responsibility for validating bids for permits and the companies involved, but in practice the due processes have not been followed and only documents on the winners of bids are made publicly available.
Forest Management Plans			Operational forest management plans on logging activities are not produced in consultation with civil society or local communities and they are not in the public domain. Management plans are not required for other forest products and services.
Regulation of Environmental Services			The Environmental Protection Agency is working on plans for regulating environmental services, but no formal system has been proposed yet and there is little coordination between institutions responsible for different services. There is currently no clear basis for determining the ownership of carbon in forests.
Strategic Environmental Assessment			There is no transparent strategic process to assess priorities between development options and their environmental impacts. The same parent ministry is responsible for both forestry and mining, but permits for mining prospecting in forest reserves are sometimes granted against the better judgment of the FC.
Independent Forest Monitoring			There is currently no independent monitor, but this role is set out as part of the implementation of the VPA with the EU. FC advertised for the position in 2011, even though key elements of the VPA that would provide the basis for monitoring are not yet operational. The results of the tendering process had not yet been released at the time of research.
Fiscal Systems to Distribute Forestry Royalties or Incentives			The collection and distribution of forestry royalties and revenue is defined in law, and the FC has improved its publication of information on its disbursement. District assemblies have not been able to show how they use the royalties they receive. Traditional authorities have been developing a charter to improve transparency in the use of their share.
Information on Forest Law Infractions			There is no official information on forest offenders apart from details that appear in newspapers of those that are arrested and/or prosecuted. Although information is provided on forestry revenues owed by contractors, they are not named and the FC seems reluctant to publish further details.
Annual Forest Authority Report			The FC is required to present an annual report to parliament. The last annual report was produced in 2006, but more recent reports from sub-divisions have been published.

Analysis

Half of the indicators were rated as 'green'; the majority of which related to the existing legal and regulatory framework, but in many cases this was found to be out of date or inconsistently applied. Gaps in this framework were also revealed by the three 'yellows', notably that FOI legislation and formal procedures for consultation on forest norms have not been fully passed. The remaining seven 'reds' pointed to particular shortfalls in relation to land tenure and resource use (there was no national land policy or maps); information on forest management and enforcement (details of plans and infractions were not public); and strategic processes for development priorities (there was no procedures for strategic environmental assessment and regulation of environmental services).

Overall, the report card adds further evidence to demonstrate that a legal framework is essential for ensuring that public bodies such as the FC are obliged to publish information and respond to requests, thereby avoiding arbitrary or discretionary decisions on what to provide to whom. Unfortunately, passage of the FOI bill took two steps forward and one step back in 2011 and even when/if it is passed, there is reason for concern that adequate resources will not be dedicated to ensure that its commitments are met. For example, the FC has a service charter to guide its activities but has shown little urgency to meet these standards.

The VPA presents an opportunity for Ghana to improve its forest governance, but implementation has made slow progress. There have also been CSO concerns over FC renegeing on commitments by allocating timber salvage permits. More positively, over 2011 there was progress in consultation on a new forest policy and an invitation for tender for Independent Monitoring services was issued. Plans were also developed to address fundamental issues such as land tenure, in particular tree tenure currently held by the state, but impetus must be maintained.

Although there are no legally recognised procedures for consultation, public participation in forest forums and platforms for reviewing natural resources and environmental governance has improved in recent years. Community forest forums, including some supported by CIKOD, have also strengthened local interaction with key stakeholders including the FC and timber companies, however these initiatives need to be systematised more widely.

An important issue for local communities is the disbursement of forestry royalties. The FC improved information in 2011 by making its six-monthly reports more easily downloaded and printed. Nonetheless, it passively obstructed CIKOD and Forest Watch efforts to disseminate the information further. Work was also necessary to ensure that that district assemblies and traditional authorities account for how they use these royalties to the benefit of communities. CIKOD initiated a Traditional Authority Transparency Charter to provide a mechanism and guidelines.

Key Recommendations

Full recommendations are available at www.foresttransparency.info/ghana. In summary,

The Forestry Commission should:

- Construct a public access web interface with forest sector information; content should be decided in consultation with civil society.
- Produce an annual performance assessment of its activities.
- Expedite action to ensure that implementation of the VPA follows the agreed road map.
- Cancel all administrative timber salvage permits issued in 2010 and 2011, and cease issuing more.
- Promote greater awareness in local media of information on disbursement of forestry royalties.

Civil society should:

- Continue to press the government to pass the Right to Information Bill into law.
- Support information dissemination to local communities and engage them in advocacy work.
- Develop proposals and lobby for sustainable support for forest forums.

Traditional authorities should:

- Develop and promote the transparency charter and strengthen representation in management of resources and revenues.

District assemblies should:

- Disclose the forestry royalties that they receive and identify what projects they fund.

Contacts

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This material has been funded by UK aid from the Department for International Development; however the views expressed do not necessarily reflect the department's official policies. The programme is funded for four and a half years until March 2013 as part of its Governance and Transparency Fund.

