LEGISLATIVE PROPOSALS FOR THE IMPLEMENTATION OF 2012 FOREST AND WILDLIFE POLICY

FINAL REPORT

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CHAPTER ONE
INTRODUCTION

1.1 Introduction and Structure of the Report
This document is the final report containing the legislative proposals for the implementation of the 2012 Forest and Wildlife Policy. This assignment was undertaken pursuant to the contract signed on the 16th of December 2015 between the Ministry of Land and Natural Resources and Clement Kojo Akapame.

This report is divided into 8 sections. Following the introductory section, chapter two looks at the historical evolution of forest policies and laws in Ghana, In Chapter three the report focuses on the 1994 and 2012 Forest and Wildlife Policies highlighting the key objectives of these policies.

The legislative intendments contained in the 1994 and 2012 Forest and Wildlife are isolated and analyzed in Chapter four, while Chapter five deals with the legislative proposals in the 1994 and 2012 Forest and Wildlife Policies. Then Chapter six chronicles stakeholder inputs from consultations and finally Chapters seven and eight look at the draft proposals for legislative changes and recommendation and conclusion respectively.

1.2 Background
The debilitating effects of deforestation on the forest landscape of Ghana has over the years been a concern to policy makers and government. The high rate of deforestation and forest degradation has led to a depletion of the raw material base for many an industry. Invariably, this has had adverse effects on forest sector related activities such as low value-added processing of timber, low morale of forestry staff (performances below expectation), unexplored potential in ecotourism and under-tapped potential of civil society contribution to management decision-making.

Since 1948, there have been a number of policy and legislative interventions to ensure better management and regulation of the forest resources of the country. Thus, the regulatory regime
for forest and wildlife has over the years been shaped by deliberate policy and legislative interventions with the aim to stem illegal logging, reduce deforestation, protect endangered species and ultimately conform to emerging international developments in the regulation of Forest and Wildlife resources.

1.3 Objectives
This assignment has the main objective to critically assess the 2012 Forest and Wildlife Policy and indicate the legislative interventions needed to effectively implement the 2012 policy.

1.4 Task/Scope
The consultant was expected to carry out the following tasks:

i. Conduct a detailed desk review of the 1994 Forest and Wildlife Policy, the legislative interventions made in the past, and the gaps during its implementation;

ii. Critically analyse the 2012 Forest and Wildlife Policy and produce proposals for legislative interventions that need to be made to ensure effective implementation of the policy;

iii. Facilitate Stakeholder Workshops, regional consultations, focused stakeholder groups and inter-sectoral consultations to discuss the legislative proposals;

iv. Incorporate comments, recommendations and conclusions reached at the workshops in the Draft Report;

v. Facilitate a National Validation workshop with key stakeholders; and

vi. Finalize the Report for further drafting by the Attorney General’s Department.

1.5 Deliverables
The expected deliverables of this assignment included the following:

i. Inception Report (The inception report will highlight the scope and re-scoping of the plan)

ii. Proposals for Legislative Interventions (Draft Report)

iii. Consultations Reports

iv. Validation Report

v. Final Proposal for Legislative reforms
This is the third deliverable under the assignment. This document will be subjected to consultation and validation after which the consultant will produce a final report detailing the final proposals for legislative reforms.

1.6 Technical Approach and Methodology

1.6.1 Consultant’s Understanding
This assignment is both a theoretical and empirical study of the existing policy regime for the regulation and management of forest and wildlife resources. The current policy scope affecting the forest sector is the 2012 Forest and Wildlife Policy. However, the consultant has for the purposes of a holistic analysis, and attainment of the objectives of this consultancy included the 1994 Forest and Wildlife Policy. The consultant has also looked at these policies in light of the existing legal framework and the implications for the legislative proposals on the existing framework. The analysis of the existing legal framework have included the:

i. The Constitution, 1992
ii. Forest Act, 1927, (CAP 157)
iii. Concessions Act, 1939 (CAP 136)
vi. Forest Protection Act, 1974 (NCRD 243)

vii. Timber Resources Management Act, 1998 (Act 547)
ix. Forest Plantation Development Fund, 2000 (Act 583)
x. Forest Protection Amendment Act, 2002 (Act 624),
i. Timber Resources Management (Amendment) Act 2002 (Act 617)
xi. Timber Resources Management Regulation 1998 (LI 1649) and
xii. Resources Management (Legality Licensing) Regulation 2012 (LI 2184).

The results and reform proposals obtained and submitted from this consultancy process is expected to form the basis for amendments, and a possible consolidation of the Forest laws in Ghana.

1.6.2 Methodology
The Consultant has adopted a two-prong complementary approach in the discharge of this assignment. The first stage was the policy and legislative audit of the existing policies and laws
in the forest sector. This analysis led to the synthesizing of the intendment for legislative changes and also the highlighting of the gaps in the existing legislation that needs to be remedied. The information generated has been categorized into explicit and implicit intention for legislative intervention.

The consultative strategy, after this draft report, will target stakeholders in the forest and wildlife sectors including but not limited to industry, policy makers and civil society organizations. The information gathered from the stakeholder consultations will form the basis for making final proposals for legislative reforms.

Due to the nature of the assignment and its possible effects on the legal framework for the regulation and management of forest and wildlife resources, the consultant has involved to a large extent the stakeholders in all phases of the assignment.

The stages undertaken at this and still contemplated to complete off the assignment are depicted in the diagram below:
Figure 1: The Methodology

1994 Forest and Wildlife Policy

Explicit legislative Intentions

Implicit legislative Intentions

2012 Forest and Wildlife Policy

Explicit legislative Intentions

Implicit legislative Intentions

Stakeholder Consultations

Draft Legislative Proposals
1.6.3 Reporting
The consultant has thus far submitted 2 reports. The first was an Inception Report. The second, being this draft report synthesizing the explicit and implicit legislative intendments and the final report highlighting comments from the consultative process. The development of these two reports have been guided by acceptability and quality assurance and is in line with the deliverables as set forth by the Consultant above. Additionally, the Report from the Consultations and validation workshops and meetings will be appended to the final report of the Consultant.

In formulating the draft legislative proposals in the final report, the consultant will categorize the proposal into those implementable in the relatively short term and those aimed at long-term implementation. The recommendations will in some circumstances be configured in a way that will not upset but complement the existing legislative regime.
CHAPTER TWO
POLICY AND LEGISLATIVE FRAMEWORK FOR THE MANAGEMENT OF FOREST AND WILDLIFE RESOURCES IN GHANA
A HISTORICAL PERSPECTIVE

2.1 The Forest and Wildlife Policy
The policy space in the forest and wildlife sector in Ghana has seen numerous shifts and reviews over the years. These reforms have been triggered largely by the need to stem illegal logging and trading in forest resources and conform to emerging international obligations. From colonial rule to post independence, Ghana has had three formal forest and wildlife policies – 1948, 1994 and 2012.

The first forest policy of Ghana was drafted in 1946. This Policy was then approved and came into force in 1948. The Forest Policy of 1948 was framed with an eye on the growing timber industry and thus, recognized the role of the timber processing and wood utilization sectors of the forestry sector. According to K.A Oduro et al, the policy emphasized a management approach that privileged sustained yield. The policy of lack of replacement of felled trees outside reserves contained in the 1948 Policy, and the increase in timber harvesting and the timber industry contributed to large scale deforestation (Oduro et al, 2011). After more than forty years of implementing the 1948 Forest Policy, reforms were initiated that culminated into the 1994 Forest and Wildlife Policy.

The Forest and Wildlife Policy 1994 and the Forestry Development Masterplan of 1996-2000 envisaged several legislative changes in the forestry sector and made a number of promises in this respect. However, only a few of these legislative intentions have eventually crystallized into law in the Timber Resources Management Act, 1998 (Act 547). This can be partly attributed to the policy priorities of the sector ministry and a lack of consensus on the roadmap for the consolidation and reform of forest and wildlife legislation – a key objective of the 1994 policy.

2.2 Legislative Framework
The current legal framework for the regulation of the forest sector is a perilous quagmire of constitutional obligations fleshed out through substantive and procedural provisions in various
Acts of Parliament such as the Forest Act dating back to 1927 and more recently the Timber Resources Management (Legality) Regulation of 2012 (L.I. 2184).

The scattered nature of the numerous amendments of these Acts over the years has left a maze of fragmented and sometimes inconsistent provisions as its heritage. The already complex domestic legal framework is further layered with obligations under international conventions, treaties and agreements such as the Voluntary Partnership Agreement between the European Union and the Government of Ghana. Down the legislative ladder are a host of administrative procedures and policies contained usually in unpublicized logging and harvesting manuals of procedure of the Forestry Commission.

The earliest forest legislation can be traced back to the Gold Coast Native Jurisdiction Ordinance of 1883. Although not an enactment primarily for forest management, the Ordinance is seen as the first legislative intervention with some bearing on forests. The Native Jurisdiction Ordinance empowered the traditional councils to make byelaws to protect watercourses and conserve forests.

The oldest legislation on Forest still in force in Ghana is the Forest Act of 1927. The 1927 Forest Act provides the conditions and procedures to establishing forest reserves by the government. This piece of legislation has seen some amendments and consolidations with the aim of harmonizing its provisions. For instance, the 1927 Forest Act underwent a consolidation with the enactment of the Forest Act in 1954. The Forest Act of 1954 consolidated preceding forest Acts and ordinances from 1927 to 1949. This consolidated Act was subsequently slightly amended. For example, the provision in the consolidated Forest Act relating to a Forest Improvement Fund was repealed by the Forest Improvement Fund Act, which in turn was repealed in 2000 by the Forest Plantation Development Fund Act (Act 583). Also, provisions on forest offences were repealed by the Forest Protection Act in 1974 (NRCD 243) and its subsequent amendment acts in 1986 (PNDCL142) and 2002 (Act 624). The provisions of the Forest Act still in force have to be read with the necessary modifications to give effect to the Timber Resources Management Act 1998 (Act 547).
Similarly, two sections of the 1939 Concessions Act still remain in force (The obligation to give notice to the court registrar of terminations of rights granted under a concession which had been covered by a certificate of validity and the prohibition of government officers to acquire rights in concessions). All other provisions in the Concessions Act of 1939 have been repealed, mainly by the Concessions Act,1962 (Act 124). Section 16 of the Concessions Act of 1962 vests all forest reserves and all trees outside forest reserves in the President for the stools concerned. Almost all other provisions have been repealed by the more recent Act 547. In addition, the remaining sections only apply with the modifications necessary to give effect to Act 547.

Other relevant forest laws worth analyzing in this audit include; the Forests Protection Act, 1974 (N.R.C.D. 243). This Act provides for the duties and powers of Forest Officers and prescribes a number of activities as offences related to Forest reserves. These offences and penalties in the Forest Protection Act of 1974 replaced the offences previously included in the Forests Act (1927, CAP 157). The Forest Protection Act, 1974 (N.R.D.C. 243) was amended by the Forest Protection (Amendment) Act in 2002 (Act 624), which replaced the Forest offences and the offences related to marks.

The Trees and Timber Act, 1974 (N.R.C.D. 273) is still the corpus of legislation that provides for property marks and export levies for trees and timber. It also contains a procedure for establishing protected areas. These protected areas aim to protect standing trees outside of forest reserves by restricting farming and providing for penalties for those who illegally fell or damage timber within these protected areas. The Act has been amended by the Trees and Timber (Amendment) Decree, 1983 (PNDCL 70) as well as the Trees and Timber (Amendment) Act, 1994 (Act 493). The Forestry Commission Act 1999 (Act 571) further amended the Trees and Timber Act 1983 (PNDCL 70), to mandate the Minister-in-charge of Forestry to execute regulations on the advice of the Forestry Commission. Other laws worth mentioning are the Control and Prevention of Bushfires Act, 1990 (PNDCL 229) and the Forest Plantation Development Fund Act 2000, (Act 583). All these Acts have created a framework for the State to set institutions to govern, protect, and allocate timber resources.
Post the 1992 Constitution and the Forest and Wildlife Policy of 1994, the aforementioned tendencies in forest law reform seem to continue by and large. The most significant legislative inroad in the forest sector was the enactment of the Timber Resources Management Act, 1998 (Act 547). Some scholars see the enactment of Act 547 as a botched attempt towards the enactment of a new Consolidated Forest and Wildlife Act, which would have clarified both substantive and procedural questions of community rights and other issues such as tenure and benefit sharing (Opoku, 2006).

Act 547 provides for the granting of timber rights, except in the case of land with private forest plantations or lands with timber grown or owned by an individual or group. It clearly prohibits harvesting of timber unless the person holds timber rights in the form of a Timber Utilization Contract (TUC). These contracts are limited in time, space and number of awards.

A Timber Rights Evaluation Committee is established under Act 547. The Committee evaluates applications for TUCs. Thus, the Minister can subsequently enter into such contracts on recommendation of the Forestry Commission (which is based on the report of the evaluation committee). It is however worth noting that TUCs are subject to Parliamentary ratifications. The Act also outlines the terms of contract and provides for the payment of royalties and various other conditions. It further includes provisions for the suspension, termination and transfer of timber rights.

The Timber Resources Management Act was amended by the Timber Resources Management (Amendment) Act in 2002, Act 617. This Act excluded land with private forest plantation from the prohibition to harvest trees without timber right and TUC. It also provided for the maximum duration and area of timber rights as well as for incentives and benefits applicable to investors in forestry and wildlife. Finally, it changed the definitions section to include what seems to be a legal loophole. The inserted loophole makes it possible for the relabeling of certificates of purchase and the issuance of permits and any other authorizations for timber rights by the
Minister-in-charge of Forest on the recommendation of the Forestry Commission as TUCs without the need for parliamentary ratification. This new subsection states:

"The expression “timber utilization contract” shall apply with the modifications that are necessary, to a certificate of purchase, a permit or any other authorization for timber rights approved by the Minister on the recommendation of the Commission"

This insertion does, however, seem incongruent with the legal logic that underpins the Timber Resources Management Act and its implementing legislative Instruments. Moreover, the 1992 Constitution provides in Article 268 that any transaction involving the grant of a right or concession for the exploitation of any natural resource of Ghana is subject to ratification by Parliament. It is argued that this insertion could be considered unconstitutional, to the extent it may be used to justify the grant of timber rights without ratification by Parliament.

Act 547 was complemented by an implementing Regulation (The Timber Resources Management Regulations, 1998 (L.I.1649)). The Regulation sets out the procedures for the inventory and reservation of specified lands for timber utilization. To do so the District Forest Officer will make up a general report on naturally occurring timber. Landowners and farmers have to be included in the team executing the subsequent field inspection. The report is then updated and transmitted to the regional forest officer, and finally, the Forestry Commission. In 2003, LI 1649 was amended with the promulgation of the Timber Resources Management (Amendment) Regulations 2003 (LI 1721). This amendment was introduced with an insertion into the original LI 1649 with a requirement for competitive bidding for an area which is the subject matter of a grant of a TUC. The competitive bidding procedure as introduced is preceded by a pre-qualifying stage. The bidding procedure itself is only open to pre-qualified companies of whom the one offering to pay the highest timber rights fee is awarded the TUC. The bid-winner is sent a Notice of Grant wherein a number of activities are to be completed before the right is actually granted of the TUC. These activities include; the negotiation and conclusion of a Social Responsibility Agreement with the land owning community, fringing the forest. The timber resources regulations further provide for procedures governing the harvesting stage (logging manuals, harvesting plan, approved periods, inspection officers and markings).
Stumpage fees are calculated by multiplying the tree volume (Smalians formula) with the 35% of the free on board price and with the stumpage rate (this rate is fixed by the FC). It is important to note that no timber can be lifted from its stump unless its measurements have been taken and stumpage fee has been calculated in the presence of the landowner, contractor and District Forest Officer. In addition to the stumpage fee, the contractor has to pay contract area rent to the Administrator of Stool lands in case of stool lands or to the landowner in any other case.

Part VI of the regulations deals with the registration and use of chainsaws and the prohibition of their use in converting timber. Finally, some provisions regulate for Timber Utilization Permits, Certificates of Purchase and Salvage of timber products were included, and provision was made for a number of offences and penalties.

In short the Timber Resources Management Acts and its Regulations as variously amended mainly provided the procedures for the grant timber rights and outlawed conversion of timber into lumber through the use of chainsaws. To a limited extent, some other stakeholder concerns were taken on board in the passage of the Timber Resources Management Act. Examples of some of the pro-community concerns included in the Timber Resources Management Act include the necessity of landowners and farmers to consent to the identification of TUC areas, social responsibility agreements and involvement communities in the calculation of stumpage fees.

In the last 15 years, two more Acts have been passed. The Forestry Commission Act, 1999 (Act 571) and the Forest Plantation Development Fund Act (Act 583) in 2002 (including its subsequent amendment), re-establish the Forestry Commission as a corporate body and the establishment of the Forest Plantation Development Fund and its administering board respectively. None of the Acts include some of the long awaited legal provisions on Community ownership and control, collaborative management, gender, and benefit sharing. However, stakeholder participation has only been marginally included.
In sum, the legal framework of the forest sector did not experience the promised comprehensive reform and consolidation. Currently it is made up of fourteen parent Acts and regulations, many of them complemented by additional amending texts. The scattered, and sometimes uncoordinated amendments to numerous forest laws make the application of the rules and also research into the sector challenging. The uncoordinated amendments have left a legislative framework with some inconsistent acts and regulations. In consequence, the approach to legislative reform in the forest sector in Ghana has been mainly amendments and consolidations of existing laws as well as the enactment of new laws.

Apart from a number of instances where the right to participate in decision making processes has been reinforced, all new and amending laws seem to have catered for the state and industry, focusing on protecting the resources from local exploitation, defining contracts and permits for industry, and reforming forest governing institutions.
CHAPTER THREE
1994 AND 2012 FOREST AND WILDLIFE POLICIES: KEY OBJECTIVES AND FOCUS

3.1 Introduction
The effective implementation of past Forest and Wildlife Policies required a number of legislative interventions. These legislative interventions would have given legal backing to the intentions expressed in the policies. These legislative interventions set the framework within which the intentions in the policies are and will be enforced. For instance, the implementation of the 1994 Forest and Wildlife Policy brought a wave of significant legislative changes in the institutional structure and Management regime for Timber resources.

3.1.1 Key Objectives in the 1994 Forest and Wildlife Policy
Under the 1994 Forest and Wildlife Policy, the forest sector institutions were to be reformed. The policy further promised a number of changes such as the equitable sharing of management responsibilities; increased benefit flows to local stakeholders, especially the rural poor; and increased participation, transparency and accountability in the sector’s activities. However, only a few of the intentions eventually crystallized into law in the 1998 Timber Resources Management Act, and its implementing Legislative Instruments. Unfortunately, not all the legislative intendment of the 1994 Policy have been addressed.

3.1.2 Key Objectives in the 2012 Forest and Wildlife Policy
Thus, in order to address the challenges that still confront the forest sector and to take on board current development trends and global environmental concerns, the Forest and Wildlife Policy, 1994 was comprehensively reviewed and revised and a new policy - Forest and Wildlife Policy-2012 was adopted. The new policy places emphasis on non-consumptive values of the forest and creates a balance between timber production and marketing to satisfy particularly, domestic wood demands. The policy seeks to:

i. consolidate good governance through accountability and transparency,
ii. enhance active participation of communities and land owners in resource management, develop small and medium forest and wildlife enterprises as a means of job creation for the rural and urban poor,

iii. increase biodiversity conservation and ecotourism development,

iv. increase government’s commitment to degraded landscape restoration through the massive plantation development schemes,

v. promote sustainable management of the savannah woodland,

vi. improve research, and application of modern and scientific technology in resource management,

vii. develop climate change adaptation and mitigation measures, and

viii. secure sustainable financing for the forest and wildlife sector. Having revised the policy, it has become very necessary to analyse the policy and make proposals for legislative interventions needed for the effective implementation of the New Forest and Wildlife Policy.

With these policy intendments, there is the need to assess the Forest Policy and identify the legislative interventions that have to be made, taking cognizance of the failures of the past interventions to ensure effective implementation and help address forest and wildlife issues in the country.
CHAPTER FOUR
1994 AND 2012 FOREST AND WILDLIFE POLICIES: POLICY AND LEGISLATIVE AUDIT


In order to adequately assess the variance between policy objectives and the legislative reform, it would seem appropriate to analyse which policy undertakings have found legislative expression, it is useful to make a distinction between those ...

The 1994 Forest and Wildlife Policy explicitly envisioned several law reform processes. From among these, the following two have found expressions in new laws and the amendments to existing laws. The introduction of timber utilization contracts in the Timber Resources Management Act was a key feature of the 1994 Forest and Wildlife Policy. Similarly, the reform and reorganization of the forest and wildlife agencies in the Forestry Commission Act 1999, (Act 571) was also a key policy intention in the 1994 Forest and Wildlife Policy.

Three explicit policy contemplations of law reforms have only been given partial legal effect. Partial reference to Environmental Impact Assessments (EIA) can be found in Section 3 (3) (b) of Act 547. It is pertinent to point out, however, that the scope of the assessment method referred to is considerably narrower than that of the EIA as it would only determine the likely effects of a project. Also, a review of legislative instruments to achieve sustainable development and prevent farming, logging, sand-winning or galamsey activities in the 1994 Forest and Wildlife Policy has only been partially successful through the introduction of chainsaw regulation under the Timber Resource Management Regulations 1998 (LI 1649).

However, the specificities of the proposal, which envisage prevention of such activities particularly along the banks of streams, rivers and lakes, has not found expressions in the Regulations. Finally, the policy aspiration of protecting highly valued and endangered species partially found its way into law in the shape of Regulation 40 of the Timber Resources
Management Regulations 1998 (L.I 1649). The explicit law reform aspirations to enhance tree tenure of farmers and ensure access of local people to traditional uses of natural products have entirely failed to metamorphose into legislative standards.

From a close scrutiny, it is clear that many aspects of the 1994 Policy would have required legal backing, even if not mentioned explicitly as part of the Forest and Wildlife law reform agenda.

There are also a number of these implicit mentions of law reform in the 1994 Policy. Two of them, namely sustainable management and competitive bidding procedures for permits have made their way into legislation in the Timber Resource Management (Amendment) Regulations 2003, (L.I 1721). Additionally, popular and community participation is enshrined, albeit in a very limited manner, in Regulation 23 of LI 1649 in the form of representation of stakeholders during the process of calculating stumpage fees. Further the issue of benefit sharing is addressed partially with provisions in section 14 of Act 547 and Regulation 21 and 25 of LI 1649.

The introduction of forest fees has received legislative actualization in the form of timber rights fees in LI. 1721. However, the Timber Resources Management Act as variously amended in its implementing Legislative Instruments is silent as to what exactly happens with the revenue accruing from the timber rights fees. Legal reform to transform the timber industry as envisioned under paragraph 3.2.10 of the 1994 Forest and Wildlife Policy found legislative expressions in Timber Resources Management (Amendment) Act 2002 (Act 617), which introduced a number of incentives and benefits for investors (especially foreign investors) in the sector. Again, rights of people to have access to natural resources, the role of women, and a revamping of land tenure have not found their way into new legislation.

The Forestry Development Master plan 1996-2000 made a number of policy undertakings requiring explicit and implicit incidences of law reform. The Master plan further reiterates and elaborates some of the policy recommendations contained in the 1994 Forest and Wildlife policy document.

With respect to the 2012 Forest and Wildlife Policy, there appears to be conscious shift from a trade-led review to a more diverse multi-stakeholder interest accommodation. These interests
are international obligations, stakeholders’ expectations, current national development, industry and an ensuing inevitability for reform. The interest of trade and industry seems to be primarily enshrined in the use of offset mechanisms in response to climate change. These have paved the way for a paradigm shift towards the recognition of the non-consumptive value of forests and collaborative management as main pillars of the 2012 Forest and Wildlife Policy.

Thus, it can be concluded that, of the many promises for law reform in the 1994 Forest Policy and subsequent master plan; contracts and logging permits, competitive bidding, institutional reform and incentives for investors make up the bulk of actual subsequent new legal provisions. Endangered species, environment, sustainability, and benefit sharing have only found marginal expression in the new wave of laws. Legal reform to enhance tree tenure of farmers, to ensure access of local people to traditional uses of natural products, to alleviate poverty, to improve the position of women and regulate the production of biomass for renewable energy has never seen the light of day. The 1994 Forest and wildlife policy and subsequent master plan envisaged a comprehensive reform of the forest sector and its legislation, but instead only certain aspects were picked out to become part of its legal foundations.

**The 2012 Forest and Wildlife Policy– Legislative Audit**

The 2012 Forest and Wildlife policy promised a collaborative approach to the management of forest resources reinforced local ownership rights. It also provided an intention to engage with multi-stakeholders.

The framers of the Policy, envisaged a document that would lead to a paradigm shift so as to place a balance between timber production and marketing, and the sustainability of forests, in general.

Since the 2012 Policy came into effect, the country has passed only one legislation. That is the Timber Resources Management (Legality) Regulation of 2012 (L.I. 2184), which is the main regulation, which makes provision for the processes to assure the legality of timber within and outside the country and also to provide for a framework within the Forestry Commission to ensure compliance with the newly introduced legality assurance regime.
This legislation falls within the broad policy objective 3 of the 2012 Policy on promoting the development of viable forest and wildlife based industries and livelihoods particularly in the value added processing of forest and wildlife resources. Under this objective, one of the strategic directions requires efforts to be made to enact the necessary legislation to regulate the production and trade of legal timber whilst promoting the development of the domestic wood market.

Indeed, L.I. 2184 may also be said to have been an attempt to give legislative backing to some aspects of Policy Objective 4 of the 2012 Policy. Policy objective 4 contemplates the promotion and development of mechanisms for transparent governance, equity sharing and people’s participation in forest and wildlife resource management. Strategic direction 4.1.2 requires the enactment of legislation to support the allocation of timber resources through transparent processes and continuous auditing of the forest utilization processes.

Although, there has been only one legislation passed since the 2012 Forest and Wildlife Policy, some provisions in the existing legislation prior to the 2012 Policy in the main, provides some legislative support to some of the policy objective and strategic directions in the 2012 Policy.

However, in general, the 2012 Forest and Wildlife Policy has at yet not been followed through with the requirements in the legislation to back the Policy legislative intentions.
CHAPTER FIVE
IMPLEMENTING THE 2012 FOREST AND WILDLIFE POLICY:
LEGISLATIVE INTENDMENTS /PROPOSALS

Policy documents provide the basis for governments to drive the agenda of a particular sector in a required direction. Indeed, as noted in the foreword, the 2012 Forest and Wildlife Policy was designed to take advantage of these emerging opportunities to maximize the rate of social and economic development of the country from the forestry sector to all Ghanaians.

To ensure this actual promotion and actualization of the 2012 Policy, it is expected that where necessary the policy ideals will be backed with the needed legislation, either through the amendment of the existing law, repeal of laws, passage of new laws or possible consolidation of existing law.

The 2012 policy document is replete with objectives that expressly contemplate legislative action and those that impliedly require legislative action. It is also instrumental to note that the sixth and final objective in the 2012 Policy foresees the consolidation of forest laws and regulations into Forest Law as one of the actions government will pursue to support the implementation of the policy objectives and programmes.

*Table 1* provides a table of areas in the 2012 Forest and Wildlife that expressly indicate the need for legislative action.
Table 1: 2012 Forest and Wildlife Policy – Explicit indications of Legislative Action

<table>
<thead>
<tr>
<th>POLICY OBJECTIVE</th>
<th>STRATEGIC DIRECTION</th>
<th>AREA INDICATING LEGISLATIVE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing and Enhancing the Ecological Integrity of Forest and Savannah Wetlands and other Ecosystems.</td>
<td>Manage forest reserves in line with national policies and legislation as well as international treaties that the Country has ratified</td>
<td>Strengthening the legal framework to give permanency to gazetted forest reserves and Protected Areas in order to conserve representative samples of major ecosystems and species in the country</td>
</tr>
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<td></td>
<td>Sustainably manage and develop commercial woodfuel supplies and other non-timber forest products on both on-and-off reserved forest areas.</td>
<td>Enact the necessary legislation to support and ensure that forests, trees, wildlife and NFTPs on private and communal lands are managed [sustainably](</td>
</tr>
<tr>
<td></td>
<td>Promote the traditional autonomy for the production and management of sacred forests and community dedicated forests for biological and cultural diversity on and off reserves.</td>
<td>Review relevant legislation to recognize the rights of local people and the customs and belief systems that lead to management of their sacred sites</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Implementation of relevant international and national agreements in reference to sacred forests and community dedicated forests</td>
</tr>
<tr>
<td></td>
<td>Promote sustainable management of mangroves to safeguard the wetlands and also protect endangered species like the marine turtles</td>
<td>Enacting legislation to support the implementation of the national wetland conservation strategy</td>
</tr>
<tr>
<td>Promoting the rehabilitation and restoration of degraded landscapes, through forest plantation development, enrichment planting, and community Forestry.</td>
<td>Develop capacities in public institutions and civil societies to engage in future international and domestic mechanisms that will respond to climate change</td>
<td>Enact the necessary legislations to guide allocation of carbon rights and related matters</td>
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</tr>
<tr>
<td>Developing systems and incentive packages to support public, private sector and community investment reforestation and forest plantation development in degraded priority forest and savannah areas</td>
<td>Review the Forest Plantation Development Fund to set up and operate a National Reforestation Fund; index to the exploitation of timber; managed by an independent reforestation board</td>
<td></td>
</tr>
<tr>
<td>Promoting the development of viable forest and wildlife based industries and livelihoods particularly in the value added processing of forest and wildlife resources.</td>
<td>Support the development and modernization of the tertiary wood industries</td>
<td>Enact the necessary legislation to regulate the production and trade of legal lumbers whilst promoting the development of the domestic wood market</td>
</tr>
<tr>
<td>Promoting and developing mechanisms for transparent government, equity sharing, and peoples participation in forest and wildlife resource management.</td>
<td>Institute transparency, equity and legalize public participation in sustainable forest and wildlife resources management</td>
<td>Enacting the necessary legislation and regulations to facilitate and enhance local participation and control through decentralization of forestry operations at the district level</td>
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<tr>
<td></td>
<td></td>
<td>Enact the legislations that will enable communities and individuals to benefit from trees on their farms and fallow lands, provide off-reserve tree tenure security, authority to legally dispose of resources and allocate greater proportion of benefits accruing from resource</td>
</tr>
<tr>
<td>Supporting the implementation of the forest and wildlife policy objectives and programmes</td>
<td>Stimulate political and institutional support for the implementation of the forest and wildlife policies and programmes at all levels of governance</td>
<td>The necessary legislation which would include representatives of various stakeholders in policymaking to support conservation initiatives will be enacted</td>
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<tr>
<td>Develop Strategic National Plan to address illegal logging and chainsaw activities</td>
<td>develop the necessary legislation to support the implementation of the national strategic plan on illegal logging</td>
<td>Enact specific legal provisions governing the establishment and management of Protected Areas</td>
</tr>
<tr>
<td>Clarify and consolidate forest related law and regulations into Forest Law</td>
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</tbody>
</table>
Table 2 provide a schedule of areas in the 2012 Forest and Wildlife that implicitly requires legislative action.

<table>
<thead>
<tr>
<th>IMPLICIT MENTION OF LAW REFORM</th>
<th>AREAS IN POLICY DOCUMENT RELIED UPON</th>
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<td>Items 2.14, 2.16, 4.2, Policy Objective 4, Strategic direction 6.1</td>
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<tr>
<td>Active participation of communities, civil societies and land owners</td>
<td>Foreword,</td>
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<td>Items 2.14, 2.16, 3.2, 4.2, Strategic directions 1.1, 1.2, 1.3, 1.6, 3.2</td>
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<tr>
<td>Tree and land tenure</td>
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<td></td>
<td>Item 2.14</td>
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<tr>
<td>Benefit sharing</td>
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<tr>
<td></td>
<td>Items 1.4, 2.14, 4.1, Policy Objective 4</td>
</tr>
<tr>
<td>Promote small and medium forest and wildlife enterprises</td>
<td>Foreword</td>
</tr>
<tr>
<td>Biodiversity conservation</td>
<td>Foreword,</td>
</tr>
<tr>
<td></td>
<td>Items 2.11, 2.16</td>
</tr>
<tr>
<td>Ecotourism</td>
<td>foreword,</td>
</tr>
<tr>
<td></td>
<td>Items 2.16, Strategic direction 1.3</td>
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</table>
| Sustainable management of savannah woodland | Foreword,  
Policy Objective 1  
Strategic direction 1.6 |
|-------------------------------------------|----------------------------------|
| Degraded landscape restoration            | Foreword,  
Item 3.2, 4.2,  
Policy Objective 2 |
| Climate change adaptation and mitigation  | Foreword, 1.6,  
Strategic direction 1.8 |
| Secure sustainable financing              | Foreword,  
Item 3.2 |
| Environmental integrity                  | Items 1.4, 3.2,  
Policy Objective 1 |
| Support rural livelihoods                 | Items 1.4, 2.4 |
| Enhance the quality of stakeholders’ socio-economic life, which is the overarching guide to all interventions | Items 1.5, 4.2 |
| Promotion of formal and informal forest-based industries (especially value added processing) | Items 1.6, 3.2 |
| Payment for ecosystem services, NOT in 1995 policy | Items 1.6, 2.16, 5.13 |
| Development agenda                       | Item 2.16 |
| Sustainable forest management             | Item 2.16, 4.1,  
Strategic direction 1.7 |
<p>| Local management of off-reserve forests   | Item 2.16 |
| Decentralization                         | Item 3.2,  |</p>
<table>
<thead>
<tr>
<th>Category</th>
<th>Strategic decision</th>
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</thead>
<tbody>
<tr>
<td>Fulfilling commitments under international agreements</td>
<td>Items 3.2, 4.1</td>
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<tr>
<td>Enhancing carbon stocks</td>
<td>Item 4.2,</td>
</tr>
<tr>
<td></td>
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<tr>
<td>Modernization of industry</td>
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<td>Items 4.2, 5.11,</td>
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<tr>
<td>Traditional autonomy of sacred forests</td>
<td>Strategic direction 1.5</td>
</tr>
<tr>
<td>Reforms of fee and taxation system</td>
<td>Strategic direction 4.1</td>
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</tbody>
</table>
CHAPTER SIX

DRAFT LEGISLATIVE PROPOSALS FOR IMPLEMENTING THE 2012 FOREST AND WILDLIFE POLICY

This Chapter examines the Policy Objectives in the 2012 Forest and Wildlife Policy, isolates the legislative dimensions of the objectives and make recommendation for legislative changes.

I. POLICY THEME ONE: MANAGING AND ENHANCING THE ECOCLOGICAL INTERGRITY OF FOREST SAVANNAH, WETLANDS AND OTHER ECOSYSTEMS.

This objective envisages sustainable forest management to maintain the health of the forest to produce economically viable harvests, and provide social and environmental benefits for now and the future. The Strategic direction of this objective is to manage forest reserves in line with national policies and legislations as well as international treaties that the country has ratified.

STRATEGIC DIRECTION ONE: Manage Forest Reserves In Line with National Policies And Legislation As Well As International Treaties That The Country Has Ratified.

A. LEGAL DIMENSIONS OF POLICY THEME ONE:

The legal interventions needed to implement policy theme one as isolated from the 2012 Forest and Wildlife Policy are as follows:

a. Strengthening the legal framework to give permanency to gazetted forest reserves, and Protected Areas (PA) in order to conserve representative samples of major ecosystems and species (biodiversity) in the country;

b. Involving all stakeholders in forest management planning, policy formulation and decision-making; and

c. Developing frameworks (technical and legislative) for natural and artificial regeneration to ensure prompt establishment of a satisfactory growing stock.
B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

In Ghana, the authority to demarcate forest reserves and national parks is an executive authority and is thus, vested with the President of the Country. Article 58(1) of the 1992 Constitution provides that “The executive authority of Ghana shall vest in the President and shall be exercised in accordance with the provisions of this Constitution”. This authority has always resided with the executive branch – the President or a Minister conferred specifically with such powers. The analysis of the laws below will try to locate more particularly the power to demarcate and the procedure for such a demarcation.

The Forests Act 1972 (CAP 157) is an act for the protection of forests and for the constitution and protection of forest reserves to provide for related matters. Section 2 of CAP 157 clothes the President with the power to create forest reserves. The Act creates guidelines for the President acting on the advice of the Forestry Commission to demarcate an area as a forest reserve. The overarching guiding principle for the creation of forest reserves, is the principle that forests ought to be protected from injury or destruction in the public interest, or from further injury, or destruction, or that forest growth should be established on those lands. From the tenor and legislative intent of CAP 157, the creation of forest reserves is meant to specifically:

i. Safeguard the water supply of the district;

ii. Assist the well-being of the forest and agricultural crops grown on those lands or in the vicinity of those lands; or

iii. Secure the supply of forest produce to the inhabitants of villages situated on those lands or in the vicinity of those land.

Similarly, the combined effect of Sections 3 and 4 of CAP 157 requires that the notification of the creation of a forest reserve will be done through gazetting, and a restriction will be placed on the acquisition of rights on any such land, that is being turned into a forest reserve.

The Act further makes provision for the maintenance and improvement of forest reserves through the creation of a fund, known as the Forest Improvement fund under section 22.

Section 16 of Concessions Act, 1962 (Act 124) requires that forest reserves and lands considered to be forest reserves or future lands that shall be proposed to be forest reserves, of which rights
have been granted with respect to timber or trees, under a concession and the rights with respect to timber or trees on a land other than land are vested in the President in trust, for the people. This provision of Act 124, thus creates a trust relationship by the vesting of the land and reserves in the President.

The 1974 Forest Protection Act (NRCD 243) *inter alia*, proscribes certain activities within a forest reserve and protected areas. The Act makes it an offence to fell or uproot trees in a Forest Reserve. It further prohibits the obstruction of the channel of a river, stream, canal or creek. The Act further sets the framework for the protection of areas declared as forest reserves.

The State Land Act, 1962 (Act 125) vests the President with authority to acquire any land the President considers to be in the interest of the public. The Act provides that where it appears to the President in the public interest so to do, the President may, by executive instrument, specify the area as so acquired for the interest of the public. The State Land Act, however, excludes from its ambit land subject to the Administration of Lands Act, 1962 (Act 123), as well as land acquired in the public interest. However, where the President is satisfied that special circumstances makes it expedient that a particular land which is subject to the Administration of Lands Act, 1962 (Act 123) should be declared as land required in the public interest, the President may, by Executive Instrument, declare that land as land required in the public interest, and the Administration of Lands Act, 1962 shall not apply to the land in respect of which an Executive Instrument has been made.

The Executive Instrument that acquires such lands may contain particulars, in respect of the date on which the land so declared as being in the public interest shall be surrendered, and any other matter, incidental or conducive to the attainment of the objects of the acquisition. The instrument will also include an assessment of the compensation that may be paid for the acquisition. The State Land Act also prescribes some procedural rules for the issuance of the executive instrument. This includes the publication of the instrument in the gazette and its subsequent serve personally, on a person having an interest in the land, the traditional authority of the area in which the land is situated. Subsequently, the authority shall request the chief to
notify the people of the area concerned, and a copy of the instrument of acquisition shall be affixed at a convenient place on the land.

The Voluntary Partnership Agreement between the European Union and Ghana, which was signed in 2009, also guides the Forestry sector in Ghana. The VPA provides platforms, which make it possible for multi-stakeholder engagement and input into ensuring that legal wood is placed on the EU market. Under the Timber Management (licensing) Regulation, L.I. 2184 further affirms the position in the VPA by providing for a Timber Validation Committee comprising government, industry, private sector and the Civil Society.

C. RECOMMENDATIONS

Recommendation for Legislative Action

I. It is recommended that the amendment of the Forest Act 1927 Act (CAP 157) should provide a requirement that the creation of Forest reserves and protected areas be subject to Parliamentary approval. This will introduce some permanency in the creation of reserves and protected areas. Similarly the amendment should provide for a requirement that the re-categorization or re-classification of such reserves and parks should also be subject to Parliamentary approval.

II. To also give permanence to these categorizations, the Forest Act should be amended to require the Legislation to be specific on the reason for the categorization.

III. It further recommends that the amendment of the Timber Resources Management Act, to include a provision to mainstream the various multi-stakeholder platforms working in the forestry sector for a coordinated inclusion and decision-making process. The streamlined provision should also address the official recognition of Civil Society organizations and the private sector in the decision-making cycle in the sector.

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1 Article 16 of the VPA requires that Ghana shall endeavor to encourage stakeholder consultations in the implementation of the Agreement.
IV. It recommends the amendment of the Forest Plantation Development Fund Act to provide the needed incentive to support afforestation programmes by both the public and private sectors. These amendments should also address the issues of benefits sharing and intellectual property rights.

STRATEGIC DIRECTION TWO: Develop Off-Reserve Forest Production Areas with Well-Defined and Clearly Established Objectives Compatible with Sustainable Forest Management Principles

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION TWO:
   a. Continuously survey and inventory all off-reserve potential timber production areas, and constitute them into forest management units, covered by forest management plans with active involvement of the local landowners.
   b. Developing the capacities of decentralized local institutions including the District/Municipal/Metropolitan Assemblies, Traditional Authorities, and Civil Society organizations in sustainable “off-reserve” timber resources and non-timber products (NTFP’s) management.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

The Forestry Commission Act\(^2\) mandates the commission to manage the national forest reserves and protected areas. The Act does not extend that power to off-reserves areas.

The Forest Commission has however fashioned a practice where it regulates the allocation of off-reserves resources thorough the grant of permits. This is also in a draft state in the Off-Reserve L.I that has been presented to Parliament more than once, but it yet to be laid on the floor of Parliament and passed.

The Timber Resources Management Act, 1998 (Act 547) in section 18 (g) of Act 547 allows the Minister to make regulations on the procedure for salvage and disposal of abandoned timber or seized timber produce. Regulation 38 of L.I 1649 provides that, the Chief Executive Officer of the Forestry Commission may upon application and subject to the approval of the Forestry

\(^2\) Section 2 B
Commission issue a permit for the salvage of trees from an area of land undergoing development such as road construction, expansion of human settlement, or cultivation of farms. These permits are usually issued to “save” economic trees in the line of development.

C. RECOMMENDATIONS

Recommendation for Legislative Change

I. The Consultant recommends the amendment of the Forestry Commission Act to provide the Commission the power to regulate broadly off-reserve areas.

II. The Consultant also recommends the insertion of a provision, requiring the Forestry Commission to undertake the regulation with the involvement of local landowners and Community members.

III. The Consultant recommends the amendment of the Timber Resources Management Act to provide for the regulation of the permitting regime in off-reserve areas and to subject them to similar process, as that of a Timber Utilization Contract.

STRATEGIC DIRECTION THREE: Sustainably manage and develop commercial woodfuel supplies and other non-timber forest products on both on-and-off-reserved forest areas.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION THREE:

Enact the necessary legislation to support and ensure that forests, trees, wildlife and NTFPs on private and communal lands are managed according to the national forestry development objectives and resource owners.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

The current regulatory framework on forests, trees, wildlife and NTFPs on private and communal lands are based on contract and the land tenure system, that product is on. The current legal framework in relation to fire wood and charcoal which are NTFPs can be better appreciated in light of the institutional responsibility, permit regimes for collecting, harvesting and planting and the regulation of production, transport and trade of fire wood and charcoal.
Institutionally both the Forestry Commission and the Energy Commission are responsible for firewood and charcoal. The Forestry Commission is responsible for the regulation and utilisation of forest resources and for the coordination of policies related to them. However, the timber resources management act and its implementing regulations don’t mention any type of permit for harvesting, collecting, planting wood for fuel or charcoal. The only provisions related to woodfuel, which can be found in the forest legal texts are references in the so-called manuals of procedure. When developing forest reserve management plans, the right of communities with domestic user rights, to have access to a perpetual flow of forest produce needs to be included.

A sustainable level of commercial collection of NTFPs also needs to be included. Collection of dead wood as firewood is understood to be included in these use rights. Apart from the manuals of procedure, the recent forest and wildlife policy promises to develop systems and structures to support sustainable commercial establishment of commercial woodfuel plantations, whilst targeting the implementation of savannah biodiversity conservation strategy. This has however, not yet been translated into legal texts.

The Strategic National Energy Plan also underlines the importance of wood fuel plantations and foresees the establishment of the National Woodfuel Office. However none of both these intentions have received any legal backing.

The Voluntary partnership agreement between Ghana and the EU covers timber but does not include charcoal as one of the timber products it applies to, fire wood however could be included in ‘wood in rough’. So the production, trade, transport and export of charcoal does not fall under the Ghana Legality Assurance System. However, logging of wood for fuel wood or charcoal does theoretically fall under the GLAS, however in practice, the GLAS cannot be applied because there are no legal provisions covering such logging.

The absence of a legal framework regulating the majority of wood fuel and charcoal supply chains seems contradictory to several international agreements ratified by Ghana.

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3 Timber Resources Management Act, 1998, Act 547, Section 2
4 Manuals of procedure, section A, Instruction sheet 2.8
5 Ibid
6 Forest and Wildlife policy, 2012, section 1.6.1b
7 Strategic National Energy Plan, 2006-2020, paragraph 227
8 Ibid paragraph 252 - 259
Convention on Biological Diversity (CBD) obliges its parties to adopt measures for the conservation and sustainable use of components of biological diversity⁹, adopting a regulatory framework to sustainable harvesting of wood for fuel and charcoal could be considered such a measure. Similarly, the United Nations Framework Convention on Climate Change (UNFCCC) obliges its parties to promote the sustainable management of biomass and forests¹⁰. Under the UN Convention to Combat Desertification (UNCCD), African states who are parties to this convention, are obliged to elaborate national action programmes through participatory and consultative processes¹¹. These plans should include measures to conserve natural forests¹². A plan already exists on a regional level and it indeed mentions the need for increased availability of new and renewable sources of energy and the long term substitution of fuelwood and charcoal by other sources of energy¹³.

C. RECOMMENDATIONS

Recommendation for Legislative Change

I. The Consultant recommends that the Timber Resources Management Act should be amended to include specific provisions on harvesting and planting timber for wood fuel and charcoal. As this would enable wood fuel and charcoal producers to access wood from legal sources in order to meet the domestic market demands for charcoal and wood fuel sustainably:

II. The Consultant recommends also the amendment of the Timber Resources Management Act to include a specific logging permit for the harvesting of trees for wood fuel and charcoal.

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⁹ Convention on Biological Diversity, Article 11 (text can be found at http://www.cbd.int/convention/text/)
¹⁰ United Nations Framework Convention on Climate Change, article 4.1.c. (text can be found at http://unfccc.int/resource/docs/convkp/conveng.pdf)
¹² Ibid, Annex I, article 8.3(b)
¹³ Sub regional action programme to combat desertification in West Africa, paragraph 3.1.3. (text available at http://www.unccd.int/ActionProgrammes/SRAP%20CCD%20ECOWAS.pdf)
III. The Consultant again recommends the amendment of the Timber Resources Management Act and the Forest Plantation Development Fund Act to provide the legal framework for wood fuel plantations and to provide incentives for wood fuel plantations.

IV. The Timber Resources Management Act, should be amended to provide for the tenure and benefits sharing regime to address forests, trees, wildlife and NTFPs on private and communal lands.

STRAIGHTIC DIRECTION FOUR: Promote the traditional autonomy for the protection and management of scared forests and community-dedicated forests for biological and cultural diversity on and off reserves.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION FOUR:

Review relevant legislations to recognize the rights of local people and the customs and belief systems that lead to the management of their sacred sites.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

Section 23 of the Forest Act of 1927 provides for admitted rights within forest areas. These admitted rights include the exercise of religions rights within the forests. I will also include the entry of such forests for the purposes of the collection of Non-Timber forest products.

Articles 21 and 22 of the African Charter on Human and Peoples’ Rights14 embrace the idea of safeguarding sacred sites from commercial intrusion. Article 21 provides: All peoples shall freely dispose of their wealth and natural resources. This right shall be exercise in the exclusive interest of the people. In no case shall a people be deprived of it.

Article 22 stipulates: All peoples shall have the right to their [...] social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common

heritage of mankind. The Endorois case further clarified the role of local communities as custodians of ancestral land in pursuance of their social and cultural development. Said case concerned the forced removal of the Endorois people from their lands. The court confirmed that the Kenyan government had violated the Endorois’ right to property and development as well as religious practice. The links between ancestral lands and culture was reinforced as well.

The Convention on Biological Diversity, moreover, lays down in Article 8 that special in-situ conservation shall be carried out in designated sites where special measures and guidelines shall apply. Paragraph (j) of said Article sets out that states shall ‘respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities [...]’. This is especially important where these practices are relevant to sustainable development. The application and the involvement of the holders of this knowledge is spelled out in the same paragraph. It, furthermore, provides for the equitable sharing of benefits arising from the utilization of local innovations.

It can also be put forward that the principle of intergenerational equity may now have crystallized into an established principle of international law in accordance with the Statute of the International Court of Justice, Article 38 (1)(c). Intergenerational equity defines the rights of future generations to a certain resource. It can be argued that future generations have an interest in maintaining sacred groves for cultural and ecological reasons.

Additionally, IUCN and UNESCO in 2008 jointly published a best practice guide on sacred natural sites. These guidelines establish guidance, inter alia, on the recognition of sacred natural sites, their integration into area management, the participation and inclusion of stakeholders and respect for the rights of custodians of said sites. Section 6.5, for instance, envisages the devolution of tenure rights where sacred natural sites are situated within government-protected areas, which affect custodians’ rights.

C. RECOMMENDATIONS

16 Robert Wild and Christopher McLeod (eds.), Sacred Natural Sites – Guidelines for Protected Area Managers, Best Practice Protected Area Guidelines Series No. 16.
Recommendation for Constitutional Change
The Consultant does not recommend any changes to constitution

a. Recommendation for Legislative Change

I. The Consultant recommends the amendment of the Forest Act and Timber Resources Management Act to provide for clear tenure and benefits sharing regime.

II. The Timber Resources Management Act should be amended to give legislative backing and support to the Community Resource Management areas (CREMA) to enhance community and local participation in the off and on reserve areas.

STRATEGIC DIRECTION FIVE: Develop systems and technologies for sustainable management of savannah woodland resources for environmental protection and enhancement of socio-economic development.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION:

Establish savannah eco-restoration fund to be accessed by civil society organizations and communities for tree planting along ecologically sensitive areas.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

The Forestry Commission Act 1999, (Act 571) mandates the Commission to regulate the utilization of forest and timber resources, manage forest reserves and protected areas, assist the private sector to implement the Forest and Wildlife Policy undertake the development of plantations.

The mandate of the Commission as provided for in the Act is silent on the management of areas outside of the forest reserves with equally economic yet non-forest trees. To that extent, there is the need for an amendment to the Forestry Commission Act, 1999 Act 571 and Timber Resources Management Acts (Act 547 from 1998 and 617 from 2002), to enable the Forestry Division to extend its mandate to protect all economic trees that are found not only in specific reserves but also in the wild/bush. Similarly, the Timber Resources Management Act, 1998 (Act
547) in section 18 (g) of Act 547 allows the Minister to make regulations on the procedure for salvage and disposal of abandoned timber or seized timber produce. Regulation 38 of L.I 1649 specifically provides that the Chief Executive Officer of the Forestry Commission may upon application and subject to the approval of the Forestry Commission issue a permit for the salvage of trees from an area of land undergoing development such as road construction, expansion of human settlement or cultivation of farms. These permits are usually issued to “save” economic trees in the line of development.

The few existing customary practices in some communities which hitherto had been the basis for the management and protection of these economic non-forest trees are no longer effective due to the proliferation of different religious beliefs and faiths. Besides, some of them are not in tune with the existing democratic legal framework.

C. RECOMMENDATIONS

Recommendation for Legislative Change

I. The Consultant recommends at amendment to the Forestry Commission Act to provide a direct mandate to the Commission to undertake savannah woodland restoration

II. The Consultant also recommends an insertion in the Timber Resource Management Act to establish a fund to promote savannah eco-restoration with the source of funding for the fund clearly stated in the provision.

III. The Consultant in the alternative recommends the amendment of the Forest Plantation Development Fund Act to include as part of its object the funding of savannah eco-restoration.

STRATEGIC DIRECTION SIX: Promote sustainable management of mangroves to safeguard the wetlands and also protect endangered species like the marine turtles.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION SIX:
Enacting legislation to support the implementation of the national wetland conservation strategy.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

Several national policies and legislation affect wetlands. These pieces of legislation are scattered throughout the statute books, and though outmoded and failing to address adequately the problem of wetlands in their entirety, do provide a starting point for the formulation of appropriate laws.

Such policies and laws include the Fisheries Act (1972), the Land Policy, the Water Resources Act, Ghana Vision 2020 and the Decentralization Policy.

C. RECOMMENDATIONS

Recommendation for Legislative Change

a. The Consultant recommends the passage of a Wetland Conservation Act to address among others

II. Re-Demarcation of wetlands in Ghana

III. Clear processes and procedures for the declaration and demarcation of a wetland

IV. Stiff punishments for encroachments on wetlands

V. Clear protocols on process for protection of endangered species particularly in wetlands.

STRATEGIC DIRECTION SEVEN: Develop capacities in public institutions and civil societies to engage future international and domestic mechanisms that will respond to climate change.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION SEVEN:

Enact the necessary legislation to guide allocation of carbon rights and related matters.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS
On the specific issue of Carbon rights, it can be stated that the Constitution of Ghana, 1992, is forward looking. This is because Article 36(9) provides that “the State shall take appropriate measures needed to protect and safeguard the national environment for posterity; and shall seek co-operation with other states and bodies for purposes of protecting the wider international environment for mankind.”

The constitutional framework also provides for the institutional framework and these includes the establishment of a number of commissions and institutions including a Lands Commission, an Office of the Administrator of Stools Lands, a Minerals Commission, a Forestry Commission, a Fisheries Commission, and such other commissions as the Parliament of Ghana may determine, to be responsible for the regulation and management of the utilisation of the natural resources concerned and the coordination of the policies in relation to them.17 In sum, it can be concluded that Ghana has a progressive constitutional framework for Carbon Rights.

Furthermore, the Supreme Court has held recently that the provision of the Constitution 1992 dealing with the Directive Principles of State Policy (DPSP), which includes Article 36, is legally enforceable.18

The Constitution Review Commission recommended the adoption of a new legislative framework for regulating environmental crimes in the exploitation of natural resources.19 The Government has also accepted this recommendation.20

C. RECOMMENDATIONS

18 See the Ghana Lotto Operators Association v National Lottery Authority [2007-2008] 2 SCGLR 1088
19 See the Report of the Constitution Review Commission, “From a Political to Developmental Constitution” (Presented to the President on 20th December 2011), at p.622.
Recommendation for Legislative Change

The Consultant recommends the passage of a Climate Change Act, which will address among the following:

a. The definition of Property rights of landowners, TUC owners and carbon investors
b. the ownership, registration and transfer of forestry and carbon sequestration rights to facilitate the development of the emerging carbon sequestration industry
c. The Creation of Forest and Carbon Management Agreement (FCMA), which is will be part of TUCs; The creation of perpetual Carbon rights as an interest that “run with the land” which means that carbon rights remain attached to the land even if there is a change in land ownership.
d. A duty on State actors and its decision- makers to take climate change into account when making specified decisions affecting land use and the forests
e. The procedure for the setting and regulation of greenhouse gas emissions

II. POLICY THEME TWO: PROMOTE THE REHABILITATION AND RESTORATION OF DEGRADED LANDSCAPES THROUGH FOREST PLANTATION DEVELOPMENT, ENRICHMENT PLANTING, AND COMMUNITY FORESTRY

STRATEGIC DIRECTION ONE: Develop systems and incentive package to support public, private sector, and community investment in reforestation and forest plantation development in degraded priority forest and savannah areas.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION ONE:
   i. Promote community and private sector investments in Forest Plantations establishment for multiple functionality including; provisions of industrial timber, biodiversity,
agriculture productivity, watershed protection, carbon sequestration, and soil and water conservation.

ii. Review the Forest Plantation Development Fund, to set up and operate a National Reforestation Fund indexed to the exploitation of timber and wildlife resources and managed by an independent reforestation board and operating through a national commercial bank with flexible terms of lending.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

C. RECOMMENDATIONS

Recommendation for Legislative Change

The consultant recommends the passage of a comprehensive Ghana Plantation Act, which will address holistically the plan for undertaking plantation and re-afforestation in Ghana. The Act should also address the following

a. The ownership of Plantations
b. The use of plantation products
c. The use of plantation as a conservation tool
d. The sale of Plantation products

The Consultant also recommends in line with the strategic direction, the amendment of the National Reforestation Fund which will also address climate change, and provide more incentives to the plantation industry in Ghana.

III. POLICY THEME THREE: PROMOTING THE DEVELOPMENT OF Viable Forest and Wildlife Based Industries and Livelihoods, Particularly in the Value Added Processing of Forest and Wildlife Resources
STRATEGIC DIRECTION ONE: Support the development and modernization of the tertiary wood industries.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION:
   i. Set up standards and regulations to govern the operations of the small and medium scale forest enterprises including the development of the informal wood sector.
   ii. Enact the necessary legislation to regulate the production and trade of legal lumber whilst promoting the development of the domestic wood market.

B. CURRENT STATE OF THE LAW, OBSERVATIONS AND FINDINGS

C. RECOMMENDATIONS

Recommendation for Legislative Change

I. The Forestry Commission Act should be amended to provide a direct duty on the Commission to regulate small and medium scale forest industries.

II. The Timber Resources Management Act should be amended to grant a resource right to small medium scale concessions.

III. Consequently a Small Scale Forest Regulation should be adopted which will address largely issues of
   a. Licences of small/medium scale enterprises
   b. Qualification of applicant for license
   c. Conditions and duration of grant of licence
   d. Establishment of community based small/medium scale forest enterprises

POLICY THEME FOUR: PROMOTING AND DEVELOPING MECHANISMS FOR TRANSPARENT GOVERNANCE, EQUITY SHARING AND PEOPLES PARTICIPATION IN FOREST AND WILDLIFE RESOURCE MANAGEMENT

STRATEGIC DIRECTION ONE: Manage forest reserves in line with national policies and legislations as well as international treaties that the country has ratified.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION:
i. Enacting the necessary legislation and regulations to facilitate and enhance local participation and control through decentralization of forestry operations at the district level.

ii. Enact the legislations that will enable communities and individuals to benefit from trees on their farms and fallow lands, provide off-reserve tree tenure security, authority to legally dispose of resources, and allocate greater proportion of benefits accruing from resource management to community members individually or collectively.

iii. Enacting legislation to support the allocation of timber resources (and other natural resources where appropriate), through transparent processes and continuous auditing of the forest utilization operations to ensure compliance with forest management specification and environmental protection standards.

iv. Rationalize forest fees and taxation systems and improvement of the framework for apportioning, recovering, and distributing equitably and effectively forest rent (royalties) among the resource owners, state, and the users of the resources through consultative processes.

v. Build partnerships for the effective collection of stumpage fees, and taxes as defined by law.

vi. Define forest and tree tenure rights in all kinds of forests and ownership systems.

B. CURRENT STATE OF THE LAW

C. RECOMMENDATIONS
   a. Recommendation for Constitutional Change
      i. The 1992 Constitution should be amended to require compulsory district consultation and negotiation on SRAs before the ratification of Timber Contracts.

   b. Recommendation for Legislative Change
I. The Timber Resources Management Act should be amended to provide legislative backing for the formation of community and district forest committees.

II. Draft a new law addressing tenure and benefits sharing arrangements for all engaged in and affected by the forest and wildlife industry.

III. The processes for the forests auditing through the VPA regime should be enhanced to make forest auditing a requirement in all TUCs and other permit arrangements.

IV. The Forestry Commission Act should be amended, to empower the Commission to delegate the collection of some of its fees by both public and private agencies.

c. Recommendation Administration Change

STRATEGIC DIRECTION TWO: Develop Strategic National Plan to address illegal logging and chainsaw activities.

A. LEGAL DIMENSIONS OF STRATEGIC DIRECTION:
   i. Develop the necessary legislation to support the implementation of the national strategic plan on illegal logging and chainsaw activities.

B. CURRENT STATE OF THE LAW

C. RECOMMENDATIONS
   a. Recommendation for Legislative Change
      a. The Consultant recommends the drafting and passage of a law addressing the areas of illegal logging.
         i. The Act should prohibit the importation of illegally logged timber and the processing of illegally logged raw logs.
         ii. The Act should also require exporters of regulated timber products and processors of raw logs to conduct due diligence in order to reduce the risk, that illegally logged timber is exported or processed.
         iii. Exporters of regulated timber products must provide declarations, about the due diligence that they have undertaken.
iv. The Act should address issues of forfeiture and clear offences and penalties for processing of illegal logs

b. Recommendation Administration Change
CHAPTER SEVEN
DEVELOPMENT OF LEGISLATIVE PROPOSALS: STAKEHOLDER INPUTS

As part of the process of providing opportunity for some stakeholder input into this report, the initial draft report was presented at stakeholder meeting in Kumasi and subsequently at a Legal working group meeting of Civil Society organizations and individuals involved in the Forestry sector in Ghana.

The Miklin Hotel, Kumasi hosted the first stakeholder engagement, which was organized by the Ministry of Lands and Natural Resources and The Forestry Commission. The Legal working Group meeting was held at the Erata Hotel, Accra and was organized by Client Earth, UK and TaylorCrabbe Initiative, Accra.

The purpose of these meetings was to receive stakeholder inputs on the draft legislative proposals that had been provided by the consultant. In each meeting, the Consultant presented a summary of the proposals and invited inputs on the recommendations.

The main recommendation of the consultant for a consolidated Forest and Wildlife Bill to be drafted alongside the suggested titles was largely approved. However, it was identified that some key issues and Gaps were discernable from the draft recommendations which have to be incorporated in ant consolidated Law.

A. Gender
It was recognized at the stakeholder meetings that the Forest and Wildlife regime as existing did not address the specific gender roles and effects of decisions taken in the sectors on the various gender.

It was therefore recommended that the new legislative proposals should address the genderization of the forest laws and ensure equality of access to decision-making and benefits accruing from the use of the forest resources. In particular, the stakeholders recommended that the legislation should ensure adequate capacity building support to women and also a
requirement that all decision making bodies engaged in the forest and wildlife sector will have women as part of their composition.

**B. Community participation**
The lack of active and qualitative participation of community members in forest and wildlife management was identified as one of the major causes of many of the problems associated with the forest sector including deforestation and the emerging phenomenon of illegal mining in protected areas in Ghana. Allowing local communities to meaningfully participate in decision-making processes helps clarifying relationships, rights, responsibilities and incentives between forest users and government. It was recommended that legislation should ensure adequate procedures and safeguards to ensure Free Prior informed consent (FPIC) of communities before decisions are taken. It was also recommended that legislation should provide mechanisms to ensure that person purporting to represent communities and civil societies on forest management bodies are duly representative of their constituencies.

**C. Tree Tenure and Benefit Sharing**
While, the meetings were informed of a concurrent consultancy assignment on Tree Tenure and Benefit sharing, the stakeholder considered it appropriate to provide suggestions, which should feed into the Legislative Process. In particular, it was suggested that legislative proposals should address tree tenure and benefit sharing in relation to tree tenure of nurtured trees on farms. It was also suggested that the legislative proposals should address the tree tenure, benefits and management of with crop value. It was also suggested that legislation should mandate the Forest management body to also manage and protect Non-Timber Forest Products.

**D. Stumpage Fees**
On the issue of Stumpage fees it was discussed that Stumpage fees needs to be designed and restructured to ensure sustainability, less waste and greater efficiency. It was recommended that legislation should provide for a formula becomes automatically adjusted and is free of the influences of powerful industry and the unnecessary interferences of politicians’ particularly parliamentary influences. It was also recommended that stumpage fees need to be determined
by an incentive-based formula that promotes greater conservation of timber species particularly the high demand species; and also rewards greater industry efficiency.

Further, it was recommended that Stumpage fees need to attract higher interest as penalties for payment default. Regarding Stumpage fees regime, it was also recommended that legislation should clarify the roles and functions of the Forestry Commission and the Office of the Administrator of Stool Lands regarding the collection, management and disbursement of stumpage fees.
CHAPTER EIGHT
RECOMMENDATIONS AND CONCLUSIONS

CONSOLIDATED FORESTRY BILL, XXXX

AN ACT to re-establish a Forestry Commission, amend and consolidate the laws on forestry to provide for the growth and development of Ghana’s forest estate, the regulation of the utilisation of forest resources, the re-development, conservation and sustainable management of those resources, the co-ordination of national and international policies related to them and provisions for related matters.

PART I—ESTABLISHMENT OF FORESTRY COMMISSION

1. Establishment of the Forestry Commission
2. Object of the Commission
3. Functions of the Commission
4. Tenure of office of members
5. Meetings of the Commission
6. Disclosure of interest
7. Establishment of committees
8. Allowances for members of the Commission and committees of the Commission

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The initial draft bill was titled the Forest and Wildlife Bill. The change in title while reflecting the continuous focus on consolidation, underscores the current reality that this document is related to the forestry sector only.

The long title of the Forestry Commission Act, 1999 (Act 571) was stated thus "AN ACT to re-establish the Forestry Commission in order to bring under the Commission the main public bodies and agencies implementing the functions of protection, development, management and regulation of forests and wildlife resources and to provide for related matters." Similarly, the long title of the Timber Resource Management Act, 1998 (Act 547) states “AN ACT to provide for the grant of timber rights in a manner that secures the sustainable management and utilisation of the timber resources of Ghana and to provide for related purposes.” This rendition is to reflect the purpose of this consolidated Bill.

Section 2 of the Forestry Commission Act, 1999 (Act 571) was titled “Object and Functions of the Commission” This draft splits the two and provides for the object and functions in different clauses.

See note 7 supra
See note 13 supra.
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9. **Ministerial directives**
10. **Chief Executive**
11. **Functions of the Chief Executive**
12. **Delegation by Chief Executive**
13. **Secretary to the Commission**
14. **Executive Directors and other staff of the Commission**
15. **Delegation of power to appoint public officers**
16. **Divisions of the Commission**
17. **Other units in the Commission**
18. **Funds of the Commission**
19. **Bank account of the Commission and payment into Consolidated Fund**
20. **Borrowing powers**
21. **Execution of contracts**
22. **Annual budget and corporate plans of Commission**
23. **Performance contracts**
24. **Accounts and audit**
25. **Internal auditor**
26. **Financial year**
27. **Annual report and other reports**
28. **Access to information**

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31. Section 3 of the Forestry Commission Act, 1999 (Act 571) reads "Ministerial responsibility and directions by the Minister."
32. Section 12 of the Forestry Commission Act, 1999 (Act 571).
33. Section 13 of the Forestry Commission Act, 1999 (Act 571).
34. Section 15 of the Forestry Commission Act, 1999 (Act 571).
35. Section 16 of the Forestry Commission Act, 1999 (Act 571). The Original Text provides "(1) The head of the Legal Unit is the secretary to the Commission. (2) The secretary shall arrange the business of the Commission and shall keep minutes of meetings of the Board. (3) The secretary is, in the performance of functions answerable to the chief executive."
36. The change as proposed in this draft is to open up the space for the Commission to have a professional chartered Secretary to occupy the position and to emphasize the point that current trends are moving away from Legal officer acting as Secretaries.
37. Section 17 of the Forestry Commission Act, 1999 (Act 571).
38. Section 18 of the Forestry Commission Act, 1999 (Act 571).
41. Section 19 of the Forestry Commission Act, 1999 (Act 571).
42. Section 20 of the Forestry Commission Act, 1999 (Act 571).
43. Section 21 of the Forestry Commission Act, 1999 (Act 571).
44. Section 22 of the Forestry Commission Act, 1999 (Act 571).
45. Section 23 of the Forestry Commission Act, 1999 (Act 571).
46. Section 24 of the Forestry Commission Act, 1999 (Act 571).
47. Section 25 of the Forestry Commission Act, 1999 (Act 571).
49. Section 27 of the Forestry Commission Act, 1999 (Act 571).
50. Section 28 of the Forestry Commission Act, 1999 (Act 571).
51. Section 29 of the Forestry Commission Act, 1999 (Act 571).
29. Indemnity for acts done in good faith

PART II - TREE TENURE AND BENEFIT SHARING

30. Ownership and Benefit Sharing of Trees in Reserves
31. Ownership and Benefit Sharing of Tress in Off-Reserve
32. Ownership and Benefit Sharing of Tree on Farms
33. Other forms of ownership and benefit sharing created by contracts

PART III – CREATION OF RESERVES RESOURCES

34. Creation of forest reserves
35. Notification to create a forest reserve
36. Restriction on acquisition of rights
37. Notice of enquiry
38. By-laws for enquiry
39. Enquiry
40. Survey of land in dispute
41. Commissioner as a court
42. Exclusion of land from proposed forest reserve
43. Commutation of rights
44. Restrictions on payment of compensation
45. Extinction of rights
46. Judgment on completion of enquiry
47. Appeals
48. Order constituting forest reserve
49. Transfer of rights in a forest reserve
50. Power to declare forest no longer reserved
51. Stoppage of ways and water-courses in a forest reserve
52. Forest reserves constituted by by-laws
53. Forest reserves and timber concessions

PART IV- MANAGEMENT OF TIMBER AND FOREST RESOURCES

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52 Section 37 of the Forests Act, 1927 CAP 157 and Section 9 of the Forest Protection Act, 1974.
53 The section is a new insertion in our forest legislation based on the consultancy report on benefit sharing and tree tenure.
54 The provisions in this Part are mainly from the Forests Act, 1927 (CAP 157). This Act or ordinance provides for the protection of forests and for the constitution and protection of forest reserves. But the Statute Law Review Commissioner has made some changes to the law to accord with the current law and 1992 Constitution. This Part captures sections 2 to 21 of the Restated CAP 157. The other sections in CAP 157 have been catered for in other parts of this draft Bill.
55 Section 16 of the Concessions Act 1962 (Act 124)
54. Prohibition from harvesting timber without timber utilisation contract\textsuperscript{56}
55. Qualification for timber utilization contract\textsuperscript{57}
56. Application for timber rights\textsuperscript{58}
57. Land subject to timber rights\textsuperscript{59}
58. Establishment of Timber Rights Evaluation Committee\textsuperscript{60}
59. Functions of the Evaluation Committee\textsuperscript{61}
60. Duration and area of timber rights\textsuperscript{62}
61. Disqualification for involvement in illegal timber operations\textsuperscript{63}
62. Grant of timber rights\textsuperscript{64}
63. Payment of royalties, charges and other fees\textsuperscript{65}
64. Payment in respect of stool lands\textsuperscript{66}
65. Terms of contract\textsuperscript{67}
66. Ratification by Parliament\textsuperscript{68}
67. Logging Manual\textsuperscript{69}
68. Survey\textsuperscript{70}
69. Management of timber operation\textsuperscript{71}
70. Benefits and incentives for investors\textsuperscript{72}
71. Exemption of no-zero-rated items\textsuperscript{73}
72. Incentives for special investment\textsuperscript{74}

\textsuperscript{56} Section 1 of the Timber Resource Management Act, 1998 (Act 547)
\textsuperscript{57} Section 2 of the Timber Resource Management Act, 1998 (Act 547)
\textsuperscript{58} Section 3 of the Timber Resource Management Act, 1998 (Act 547)
\textsuperscript{59} Section 4 of the Timber Resource Management Act, 1999 (Act 547).
\textsuperscript{60} Section 5 of the Timber Resource Management Act, 1998 (Act 547)
\textsuperscript{61} Section 6 of the Timber Resources Management Act, 1998 (Act 547)
\textsuperscript{62} Section 6A and 6B of the Timber Resources Management Act, 1998 (Act 547) inserted by Section 2 of the Timber Resources (Management) (Amendment) Act, 2002 (Act 617)
\textsuperscript{63} Section 6B of the Timber Resource Management Act, 1998 (Act 547). This was inserted by Section 2 of the Timber Resources (Management) (Amendment) Act, 2002 (Act 617).
\textsuperscript{64} Section 7 of the Timber Resource Management Act, 1998 (Act 547).
\textsuperscript{65} Section 13 of the Timber Resource Management Act, 1998 (Act 547)/
\textsuperscript{66} Section 14 of the Timber Resource Management Act, 1998 (Act 547).
\textsuperscript{67} Section 8 of the Timber Resource Management Act, 1998 (Act 547).
\textsuperscript{68} Section 9 of the Timber Resource Management Act, 1998 (Act 547).
\textsuperscript{69} Section 10 of the Timber Resources Management Act, 1998 (Act 547) has been inserted
\textsuperscript{70} Section 11 of the Timber Resources Management Act, 1998 (Act 547) has been inserted
\textsuperscript{71} Section 12(1) of the Timer Resources Management Act, 1998 (Act 547) has been inserted
\textsuperscript{72} Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617)
\textsuperscript{73} Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617)
\textsuperscript{74} Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617)
73. Investment guarantees, transfer of capital, profits and dividends
74. Guarantees against expropriation
75. Immigration quota
76. Assistance to an investor
77. Personal remittances
78. Technology transfer agreement
79. Suspension and termination of timber utilization contracts
80. Transfer of timber rights
81. Dispute settlement procedures
82. Notice of termination of rights to be given to registrars
83. Government officers prohibited from acquiring rights in concession

PART V: TIMBER RIGHTS ALLOCATION

84. Purpose of this Part
85. Application of this Part

75 Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617)
76 Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617).
77 Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617)
78 Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617).
80 Section 3 of the Timber Resources (Management)(Amendment) Act. 2002 (Act 617).
84 Section 30 of the Concessions Act, 1939 (CAP 136).
85 Section 40 of the Concessions Act, 1939 (CAP 136).
86 The provisions in this Part are all from Timber Resources (Legality Licensing) Regulations, 2012 (L.I. 2184).
87 The Original version in LI 2184 reads “Purpose of Regulations

The purpose of these Regulations is to provide for a licensing scheme to regulate the import and export of timber products to and from Ghana to control the international trade of illegally harvested timber products and illegal logging.” The changes now are to ensure that the language of the regulation fit into the design of this consolidated Bill.
86. Types of Permits

87. Establishment of Timber Validation Committee
   88. Functions of the Committee
   89. Membership and tenure of office of members of Committee
   90. Meetings of Committee
   91. Disclosure of interest
   92. Allowances
   93. Requirement for licence
   94. Application for licence
   95. Conditions for licence
   96. Process for application
   97. Grant of licence
   98. Non-transferability of licence
   99. Validity and duration of licence
   100. Suspension and cancellation of licence
   101. Review of decision by Committee
   102. Forms of licences
   103. Paper-based licence
   104. Electronic licence
   105. Lost, stolen or destroyed licence
   106. Validation and alteration of licences
   107. Inspection and investigation by Committee
   108. Procedures on completion of inspection or investigation
   109. Mingling of timber

PART VI - COLLABORATIVE RESOURCE MANAGEMENT AND FOREST PLANTATION

110. Purpose of this Section
111. Establishment of the Fund
112. Objects of the Fund
113. Application for benefit
114. Sources of the Fund
115. Bank account of the Fund
116. Establishment of the Board
117. Functions of the Board
118. Appointment of the Fund Management Bank
119. Disbursement of the Fund
120. Forest Plantation Development Scheme
121. Forest plantation inspectors

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89 The provisions in this Part are mainly taken from the Forest Plantation Development Fund, 2000 (Act 583).
90 Reference need to be made to the Wildlife Bill and CREMA
122. Tenure of office of members
123. Meetings of the Board
124. Disclosure of interest
125. Allowances for members
126. Accounts and audit
127. Secretarial services for the Fund
128. Financial year
129. Annual report
130. Transfer of money

PART VII – FOREST IMPROVEMENT FUND
131. Establishment of the Fund
132. Payments into Fund
133. Disbursement from Fund
134. Accounts and audit
135. Schemes of improvement
136. Stool Lands revenue
137. Payment of forest fines

PART VIII- CONTROL AND PREVENTION OF BUSH FIRE
138. Prohibition of bushfires
139. Meaning of starting a bushfire
140. Burning within conservation areas
141. Burning outside conservation areas
142. Bushfire Control Sub-committees
143. Functions of the Sub-committee
144. Fire volunteer squad
145. Control of fire
146. Prevention of fire
147. Training of fire volunteer squads
148. Duty to report bushfire

PART IX – PROTECTION OF FORESTS

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91 This provision is spent. It relates to the Forest Improvement Fund Act, 1960 (No. 12 of 1960) which has been repealed.
92 Provided for in the Forests Act, 1927, CAP 157. However according to the Reinstatement of the laws of Ghana, the Fund has been consolidated with the Forest Plantation Development Fund Act, 2000 (Act 583). This part repeats fully all the provisions relating to the Forest Improvement Fund.
93 The provisions in Part are all taken the Control and Prevention of Bushfires Act, 1990 (PNDCL 229).
94 The provisions in Part are mainly taken from the Forest Protection Act, 1974 (NRCD 243) and the Forests Act, 1927 (CAP 157).
149. Duties of forest officers
150. Arrest and seizure
151. Forfeiture and disposal of articles
152. Burden of proof
153. Persons bound to assist forest officers
154. Indemnity for acts done in good faith

PART X - TREES AND TIMBERS PROTECTION

155. Locality marks
156. Felling of trees for export
157. Export of logs
158. Registration of property marks
159. Refusal and cancellation of marks
160. Marking of stump and logs
161. Production of certificate
162. Logs not duly marked
163. Transfer of property mark
164. Stump to be shown
165. Protected areas
166. Farming in protected areas
167. Control of protected areas
168. Imposition of export levy on unprocessed and processed timber
169. Assessment of levy
170. Arrest of offenders

PART XII - OFFENCES

171. Offences

PART XIII—MISCELLANEOUS

172. Regulations
173. Modification of certain Acts

95 Section 32 Forests Act, 1927 (CAP 157). Also in section 4 of the Forest Protection Act, 1974 (NRCD 243).
96 Section 33 Forests Act, 1927 (CAP 157). Also in section 5 of the Forest Protection Act, 1974 (NRCD 243).
97 Section 34 Forests Act, 1927 (CAP 157). Also in section 6 of the Forest Protection Act, 1974 (NRCD 243).
98 Section 35 Forests Act, 1927 (CAP 157). Also in section 7 of the Forest Protection Act, 1974 (NRCD 243).
99 Section 36 of the Forests Act, 1927 (CAP 157). Also in section 8 of the Forest Protection Act, 1974 (NRCD 243).
100 The provisions in this Part mainly taken from the Trees and Timber Act, 1974 (NRCD 273).
101 This part consolidates all the offences provisions in the various Acts relating to Forestry.
PART XVI - CONSOLIDATED TIMBER RESOURCE MANAGEMENT REGULATIONS

I—Procedure for Grant of Timber Rights

1. Inventory of Timber
2. Field Inspection
3. Publication to Obtain Consent
4. Owners who Consent
5. Objection by Owner of Land and Conflicting Interest
6. Report of District Forest Officer to the Regional Forest Officer
7. Report of Regional Forest Officer to Chief Conservator of Forests
8. Conflict on use of Public Land

II - Procedure for Competitive Bidding for Grant of Timber Rights

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103 The original provision exists in section 32 of the Forestry Commission Act, 1999 (Act 571). However the original provision is spent.


105 Part III of the Bill provides for Timber licensing which is in a subsidiary Legislation. To ensure consistency and provide a ready complete document, Part X proves a consolidation of all rest of the regulations as relation to Timber Resource Management. This help to satisfy the primary aim of this exercise that is to pull together in one document the state of law as in relates to Forestry.


107 Regulation 1 of the Timber Resource Management Regulations, 1998 (LI 1649)
109 Regulation 3 of the Timber Resource Management Regulations, 1998 (LI 1649)
110 Regulation 4 of the Timber Resource Management Regulations, 1998 (LI 1649)
111 Regulation 5 of the Timber Resource Management Regulations, 1998 (LI 1649)
112 Regulation 6 of the Timber Resource Management Regulations, 1998 (LI 1649)
113 Regulation 7 of the Timber Resource Management Regulations, 1998 (LI 1649)
114 Regulation 8 of the Timber Resource Management Regulations, 1998 (LI 1649)
115 This part was initially titled “Advertisement for applicants and qualification for grant of Timber Utilization Contract.” However Regulation 1 of the Timber Resource Management (Amendment) Act, 2003 (LI 1721) deleted
9. Manner of bidding
10. Pre-qualification applications forms
11. Pre-qualification requirements
12. Evaluation
13. Bidding procedures

III—Terms and Conditions of Timber Utilization Contract

14. Terms and Conditions of contracts and monitoring function of District Forest Officer
15. Records Inspection

IV—Procedure Relating To Timber Operations

16. Logging Manual
17. Harvesting Plan
18. Approved Periods for Timber Operations and Transport of Forest Produce
19. Timber Produce Inspection Officers
20. Marking and Numbering of Trees, Logs and Timber Products

V—Timber Stumpage Fees and Contract Area Rent

21. Stumpage fee
22. Formula for Stumpage Fee Calculation
23. Measurement of Timber

this entire part and substituted it with “Procedure for Competitive Bidding for Grant of Timber Rights” which is provided for in this consolidation.

117 Substituted by Regulation 1 of Timber Resource Management (Amendment) Act, 2003 (LI 1721).
118 Substituted by Regulation 1 of Timber Resource Management (Amendment) Act, 2003 (LI 1721).
119 Substituted by Regulation 1 of Timber Resource Management (Amendment) Act, 2003 (LI 1721).
120 Substituted by Regulation 1 of Timber Resource Management (Amendment) Act, 2003 (LI 1721).
121 Amended by the Substitution of Regulation 2 of the Timber Resource Management (Amendment) Regulations, 2003 (LI 1721).
122 Regulation 15 of the Timber Resource Management Regulations, 1998 (LI 1649)
123 Regulation 16 of the Timber Resource Management Regulations, 1998 (LI 1649)
124 Regulation 17 of the Timber Resource Management Regulations, 1998 (LI 1649)
125 Regulation 18 of the Timber Resource Management Regulations, 1998 (LI 1649)
126 Regulation 19 of the Timber Resource Management Regulations, 1998 (LI 1649)
127 Regulation 20 of the Timber Resource Management Regulations, 1998 (LI 1649)
128 This has been substituted by Regulation 3 of the Timber Resource Management (Amendment) Regulations, 2003 (LI 1721)
129 Regulation 22 of the Timber Resource Management Regulations, 1998 (LI 1649) was wholly revoked by Regulation 5 of Timber Resource Management (Amendment) Regulations, 2003 (LI 1721)
130 Regulation 23 of the Timber Resource Management Regulations, 1998 (LI 1649)
24. Conveyance Certificate\textsuperscript{[31]}
25. Payment of Stumpage\textsuperscript{[32]}
26. Payment for Management Services\textsuperscript{[33]}
27. Payment of Rent for Contract Areas\textsuperscript{[34]}

**VI—Registration and Use of Chainsaws**

28. Registration of Chainsaws by District Assemblies\textsuperscript{[35]}
29. Registration of Chainsaw at District Forest Office\textsuperscript{[36]}
30. Regulation 30—Timber Registration Number\textsuperscript{[37]}
31. Use of Chainsaw to Harvest Timber\textsuperscript{[38]}
32. Prohibition of use of Chainsaw to Convert Timber into Lumber for Sale\textsuperscript{[39]}
33. Chainsaw users to Mark Stumps\textsuperscript{[40]}
34. Prohibition of Landowners to Permit use of Unregistered Chainsaw\textsuperscript{[41]}
35. Timber Utilization Permit\textsuperscript{[42]}
36. Supply to Domestic Market\textsuperscript{[43]}
37. Salvage and Disposal of Abandoned Timber Products\textsuperscript{[44]}
38. Salvage of Timber Products\textsuperscript{[45]}
39. Disposal of Residue of Logs\textsuperscript{[46]}
40. Restricted Timber Species\textsuperscript{[47]}
41. Offences and Penalties\textsuperscript{[48]}
42. Revocation\textsuperscript{[49]}
43. Interpretation\textsuperscript{[50]}

\textsuperscript{[31]} Regulation 24 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[32]} Regulation 25 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[33]} Regulation 26 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[34]} Regulation 27 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[35]} Regulation 28 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[36]} Regulation 29 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[37]} Regulation 30 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[38]} Regulation 31 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[39]} Regulation 32 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[40]} Regulation 33 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[41]} Regulation 34 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[42]} Regulation 35 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[43]} Regulation 36 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[44]} Regulation 37 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[45]} Regulation 38 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[46]} Regulation 39 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[47]} Regulation 40 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[48]} Regulation 41 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[49]} Regulation 42 of the Timber Resource Management Regulations, 1998 (LI 1649)
\textsuperscript{[50]} Regulation 43 of the Timber Resource Management Regulations, 1998 (LI 1649)