Government of Ghana
Ministry of Lands & Natural Resources

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A FRAMEWORK FOR TREE TENURE AND BENEFIT SHARING SCHEME IN GHANA

FINAL REPORT

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Executive Summary

Ghana is currently implementing a number of forest sector initiatives (e.g. Voluntary Partnership Agreement -VPA, Reducing Emissions from Deforestation and Degradation -REDD under Forest Carbon Partnership Facility- FCPF and Forest Investment Program) and intends to venture into others; all of which depend on sound, fair and equitable land and tree tenure regimes in order to succeed. The various national afforestation programs invest huge capital in creating forest estates with government, private sector and community partnerships.

However, most analyses of the underlying challenges to achieving legality in the management of off-reserve forest resources in Ghana and sustainable forest management in general conclude that ‘existing tree tenure regimes is largely regarded as a disincentive to sustainable forest management’ and inadequacies in the legislation and/or misinterpretations of the very complex texts relating to tree tenure and benefit sharing are at the root of the problem.

Under the Forestry Component of the Natural Resources and Environmental Governance Technical Assistance (NREG TA), the Ministry of Lands and Natural Resources (MNLR) has engaged the services of a firm to help design options for tree tenure regimes with accompanying benefit sharing mechanisms in Ghana in consultation with a wide range of stakeholders. The result of this consultancy is expected to contribute significantly to Ghana’s drive at halting deforestation, enhancing its forest estate and promoting good forest governance.

The study conducted between September 2015 and May 2016, was carried out in all the 10 administrative regions of Ghana. The exercise was undertaken through stakeholder consultation, focus group discussions and interviews of various stakeholders, including, government agencies, traditional authorities, private plantation developers, civil society, forest fringe community members, farmers, timber contractors and academics. Validation and further consultation meetings were held in three zones across the country; Ho for the southern zone, Kumasi for the middle zone and Tamale for the northern zone. A final national validation workshop was held in Kumasi.

Tree tenure is understood to refer to the bundle of rights over tree and tree products, each of which may be held by different people at different times. These rights include the right to own, inherit, dispose, use and exclude others from using trees and tree products.

The concept of benefit-sharing refers to specific forms of responsibility to direct returns from the exploitation of natural resources, be they monetary or non-monetary, to various actors in the activity and the local communities, in recognition of their rights, roles and responsibilities in the activity. The notion of benefit sharing in natural resources was first formalized in international law in 1992 through the Convention on Biological Diversity.

The basic principles upon which benefit sharing should be based are:
“Effectiveness: - Ensuring that benefits reach those who contribute to a particular resource and create the right incentives for them to continue doing so in the long term;
Efficiency: - Ensuring that the benefit sharing mechanism maximizes benefits on each unit of input and delivering benefits in a reasonable amount of time; and
Equity: - Ensuring that benefits are shared among all legitimate actors in a manner that is widely perceived as fair”

The major tree management regimes considered in this study are based on four main categories of arrangements viz.:

- Naturally occurring trees on-reserve;
- Naturally occurring trees off-reserve;
- Planted trees on-reserve; and
- Planted trees off-reserve.

Tree tenure reform and fair benefit sharing reforms are anticipated in forest and wildlife policy and this study is part of the effort by the MLNR to give currency to the policy intentions. Current tree tenure and benefit sharing are, however inadequate, based on statutory legislation and/or customary laws.

Based on synthesis of the views of various stakeholders and their preferred options for tenure and benefit sharing reform, recommendations have been made on the optimal reform options for the various tree management regimes identified. It is worth noting that in this study, while all stakeholders acknowledged the various benefits that accrue from tree management, the key focus for them in terms of tree tenure and benefit sharing reforms needed were more in respect of revenue accruing from timber harvest.

**Naturally Occurring Trees On-reserve**

For production reserves, the current tenure framework is considered adequate for management of the resources and not much changes are required. There is however the need to clearly spell out the limits of use of funds by district assemblies and stool chiefs in the regulation in order to reduce abuse. In addition, support is needed by communities in the negotiation and quick disbursement of Social Responsibility Agreements (SRA). Also, since the statutory role of the Office of the Administrator of Stool Lands (OASL) is currently played by the Forestry Commission (FC) in the collection of the stool land revenue, it stands to reason that the 10% deduction for OASL as required by the Constitution should be coming from the FC’s deducted cost of 50% rather than from the remaining funds.

For protection reserves such as Globally Significant Biodiversity Areas (GSBA), the recommendation is to link these reserves to the REDD+ programme and treat them according to agreed mechanisms for REDD+ benefit sharing arrangements i.e. treating them either as sequestered carbon or as carbon sinks. In addition, in pursuit of payment for ecosystem services, the MLNR and Forestry Commission could generate funds for the owners of these resources.

For wildlife reserves, there is a basic questioning of the propriety of making a one-time compensation payment for a life-time cross-generational resource like a wildlife reserve. These reserves could also be
linked to the REDD+ programme as well and whatever carbon rights derived from it considered together with ecotourism revenue accruing to some of the reserves as revenue to be shared in agreed proportions to the right holders.

Naturally Occurring Trees Off-reserve

The management regime that has dominated discussions and generated most heat has been the management of trees off-reserve. Three types of naturally occurring tree management schemes off-reserve have been identified. There are trees on farms, trees in secondary forests and CREMAs, Dedicated Forests and other Community Based Natural Resource Management Schemes.

The major reform proposed is with the trees on farms where the key proposal is that since the state does not play any key management role, the state should only be compensated for the regulatory role it plays in the allocation of the resources, for which a fee should be charged. Thus farmers and landowners would have full ownership of the trees on farm and will enter benefit sharing arrangements based on the traditional agricultural sharing systems pertaining in their areas.

For trees in secondary forests, it is the considered opinion that the landowners should be considered to have *bona fide* ownership and management rights. However, in circumstances where pre-existing agreements had been entered into between previous farmers and landowners and these farmers and agreements are identifiable, then such agreements must be respected. For such forests, since it is considered that the communities would have some communal interest in its protection and domestic use, SRA must be paid for the harvest of fallow lands.

Dedicated Forests and CREMAs should have their guiding principles, management functions and benefit sharing arrangements already pre-determined in their constitutions and management plans. Strengthening management institutions in the communities for the management of these types of forests are the key ingredients needed to ensure their proper functioning and benefit flow.

Planted Trees On-reserve

There is a general support for developing plantations on degraded forest reserves across all the regions visited. In general, two types of plantation development schemes on-reserve were observed. These are:

- Commercial lease agreements with a financer (other than the Forestry Commission)
- Forestry Commission partnering with local farmers through the Modified Taungya System (MTS).

Notwithstanding, the popular support for participation in plantation development and the development of the accompanying benefit sharing framework, many respondents expressed their concern about some associated risks. The potential risks to plantation development are in relation to land acquisition, policy changes, loss of production, market access and price changes. It is therefore important that legislation should be introduced to provide a guarantee against political risk for investors. For commercial plantation development, it is proposed that the investor should carry most of the risks, including fire, encroachment etc. since they are better placed to maximise returns while minimising risk.
Planted Trees Off-reserve

No additional recommendations are made for planted trees off-reserve as the various stakeholders are satisfied with the current arrangements.

Policy and Legislative Reforms

The key policy and legislative reforms required for the implementation of the suggested tenure and benefit sharing arrangements are the subject of an additional on-going study. However, some minimum features for reform suggested by respondents include the following:

- The farmer should have the right to adequately negotiate benefit sharing arrangements from trees that he/she plant/nurture with land owner;
- The farmer has the right to dispose (also for economic benefit) trees that he/she plants/nurtures; and
- A decentralized land title registration allows farmers to demarcate and register their lands and trees in the community/district.

Conclusion

The report has reviewed the current tree tenure and benefit sharing arrangements in Ghana’s forest sector and has discussed issues relating to their effects on the management of trees on and off-reserves. Results of field consultations on the preferred options for tree tenure in the different parts of the country have been discussed.

Recommendations for addressing issues of land/tree tenure and benefit sharing mechanism for ensuring sustainable tree management have been made based on stakeholder preferences and the associated reform required. It is noted that changing the current tree tenure regime requires revisions at many levels, including the Constitution, and has fundamental knock-on effects on many other components of the forest legislative framework. This will be virtually impossible to treat alone. To be pragmatic, the analyses and drafting processes for tree tenure reform and broader forest regulatory framework reform will need to run in parallel, with very close coordination and communication between the two.
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<th>Description</th>
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<tbody>
<tr>
<td>AAC</td>
<td>Annual Allowable Cut</td>
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<tr>
<td>CBAG</td>
<td>Community Biodiversity Advisory Group</td>
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<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<td>CFC</td>
<td>Community Forest Committees</td>
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<td>CFMP</td>
<td>Community Forest Management Project</td>
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<td>CREMA</td>
<td>Community Resource Management Area</td>
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<td>CRMC</td>
<td>Community Resource Management Committees</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
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<td>DA</td>
<td>District Assembly</td>
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<tr>
<td>DFID</td>
<td>Department for International Development</td>
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<tr>
<td>DOLTA</td>
<td>Domestic Lumber Traders Association</td>
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<td>DP</td>
<td>Development Partners</td>
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<td>EPP</td>
<td>Expanded Plantation Programme</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FAO</td>
<td>Food and Agriculture Organization (of the United Nations)</td>
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<td>FC</td>
<td>Forestry Commission</td>
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<td>FCPF</td>
<td>Forest Carbon Partnership Facility</td>
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<td>FGD</td>
<td>Focus Group Discussion</td>
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<td>FGMC</td>
<td>Forest Governance, Markets and Climate Program (DFID funded)</td>
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<td>FIP</td>
<td>Forest Investment Program</td>
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<tr>
<td>FLEGT</td>
<td>Forest Law Enforcement, Governance and Trade</td>
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<td>FORIG</td>
<td>Forestry Research Institute of Ghana</td>
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<td>FSD</td>
<td>Forest Services Division</td>
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<td>Forest Watch Ghana</td>
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<td>FWP</td>
<td>Forest and Wildlife Policy</td>
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<td>GoG</td>
<td>Government of Ghana</td>
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<td>GPDP</td>
<td>Government Plantation Development Programme</td>
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<td>GTA</td>
<td>Ghana Timber Association</td>
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<tr>
<td>GTMO</td>
<td>Ghana Timbers Millers Organization</td>
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<tr>
<td>HFZ</td>
<td>High Forest Zone</td>
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IUCN  International Union for Conservation of Nature
JICA  Japanese International Cooperation Agency
JMRM  Joint Monitoring and Review Mechanism (under FLEGT)
LAS   Legality Assurance Scheme
LWG   Legal Working Group
MLNR  Ministry of Lands and Natural Resources
MOU   Memorandum of Understanding
MTS   Modified Taungya System
NFF   National Forest Forum
NFPDP National Forest Plantation Development Programme
NGO   Non-Governmental Organization
NPDP  National Plantation Development Programme
NREG-TA Natural Resources and Environmental Governance Technical Assistance
NTFP  Non Timber Forest Products
OASL  Office of the Administrator of Stool Lands
REDD  Reducing Emissions from Deforestation and Degradation
SFM   Sustainable Forest Management
SRA   Social Responsibility Agreements
TUC   Timber Utilization Contract
TUP   Timber Utilization Permit
CHAPTER ONE
INTRODUCTION

1.1 BACKGROUND
Ghana’s landscapes provide a tremendous wealth of natural resources including oil and gas, gold, forests and fish. These natural endowments have driven sustained economic growth and poverty reduction and are expected to do so in the near future. To sustain the contribution of natural resources to socio-economic development and poverty reduction goals, Ghana’s institutions have to be capable to plan and manage the development of these resources in an efficient, equitable and sustainable manner. It is in this direction that the Natural Resources and Environmental Governance Technical Assistance (NREG-TA) was developed as a sequel to the first phase of NREG Program (2008-2012). The aim of the current TA is to improve the capacity of government agencies to plan, manage and use natural resources in sectors more effectively and sustainably, by supporting analytical work, policy dialogue, consultation and capacity building to address critical sector challenges identified in the NREG Program.

Ghana is currently implementing a number of forest sector initiatives (e.g. Reducing Emissions from Deforestation and Degradation –REDD under Forest Carbon Partnership Facility- FCPF and Forest Investment Program) and intends to venture into others; all of which depend on sound, fair and equitable land and tree tenure regimes in order to succeed. The various national afforestation programs invest huge capital in creating forest estates with government, private sector and community partnerships. The different interventions under this initiative have different tree tenure arrangements and therefore different benefit sharing arrangements. The FCPF and the Forest Investment Program (FIP) of the World Bank has planned to advance funds to Ghana in order to be “REDD-ready”. These preparations include pilot schemes that restore various degraded forest ecosystems.

Tree tenure refers to the bundle of rights over tree and tree products, each of which may be held by different people at different times (Fortmann, 1985, cited in Dumenu et al 2014). These rights include the right to own, inherit, dispose, use and exclude others from using trees and tree products. One of the main factors that affect the level and type of consumptive utilisation of forests in many settings is the security of tenure that local residents possess in relation to forests. Tenure therefore determines, mainly, whether local people are willing to participate in the management and protection of forest and tree resources (Acheampong and Marfo, 2011). Security of tenure is therefore needed to ensure that farmers benefit from planting and tending trees and from investing in improvements that enhance the value and sustainability of trees (Proven Ag Solutions, 2014).

Tree tenure in Ghana is complex and forest policy is weak in addressing the issue. Quite a volume of literature on land and tree tenure in Ghana exists from studies undertaken in different parts of the country but from these studies one major conclusion is evident – ‘existing tree tenure regimes is largely regarded as a disincentive to sustainable forest management.’ (see for example: FC1, 1994;  

1 The reference is to the then Forestry Department currently corresponding to the Forest Services Division of the Forestry Commission.
If sustainable management of private and communal forests is a desired social goal, then incremental changes in tenure features (transferability, comprehensiveness, economic compensation and duration) would facilitate its achievement. Economic compensation is noted to be one of the most significant tenure variables affecting adoption and implementation of sustainable forestry practices. Laxity in the enforcement of compensation to farmers when their crops are destroyed during logging operations is having significant negative effects on sustainable forestry practices. Increased access to land and provision of alternative sources of livelihoods are likely to have positive effects on sustainable practices.

Majority of farmers still perceive forests as places to increase agricultural productivity to support subsistence living. The most likely proffered reason for this is lack of incentives, which is largely the result of forest tenure and policy. Richards, Asare and Ohene-Gyan 2000, noted in their study on incentives for farmers to keep trees on their farms that “the present strong disincentive for cocoa farmers to maintain valuable timber trees on their farms, since they are not compensated properly for damage and yield losses resulting from removal of the tree, represents a major threat to sustainable forest management in Ghana, since continuing erosion of the off-reserve resource is causing excess demand pressures on the reserves.”

1.2 OBJECTIVES OF THE ASSIGNMENT
Under the Forestry Component of the Natural Resources and Environmental Governance Technical Assistance (NREG-TA), the Ministry of Lands and Natural Resources (MLNR) has engaged the services of a firm to help design options for tree tenure regimes with accompanying benefit sharing mechanisms in Ghana, in consultation with a wide range of stakeholders. The result of this consultancy is expected to contribute significantly to Ghana’s drive at halting deforestation, enhancing its forest estate and promoting good forest governance (including gender informed community participation in forest resources management) and equity in forest management, within the framework of the Ministry’s forest sector initiatives.

The objectives of the assignment are:

- To develop options for tree tenure and associated mechanisms for benefit sharing; and
- To design tree tenure pilots.

1.3 SCOPE OF WORK
The assignment is to be carried out in all the ten (10) regions of Ghana and is to cover forest management systems in the country, which includes On- Reserve, Commercial Plantations, Trees on Farm (off-reserve) and Community based Natural Resource Management (i.e. Community Resource Management Area- CREMA, Dedicated Forests, Modified Taungya System- MTS etc).
1.4 EXPECTED OUTPUTS OF THE ASSIGNMENT

The expected outputs for the assignment are:

- A compendium of land and tree tenure arrangements associated with different geographic areas, - the forest, transitional and savanna zones - with clear delineation of commonalities and differences among the various actions - tree on farms, commercial plantations, dedicated forests (CREMAs), modified taungya etc.

- A documentation of the benefit sharing arrangements associated with each activity, clarifying the basis for sharing.

- A matrix of the roles and responsibilities of different parties under different tenurial and benefit sharing regimes.

In the minimum a framework of options for tree tenure and associated benefit sharing arrangements for four (4) different management systems with which the Ministry is engaged, namely; (1) Taungya (improved Modified Taungya and Taungya systems), (2) Commercial plantations, (3) Trees on Farms (off-reserves) and Wildlife management systems (CREMA) and Dedicated Forests, is expected from the assignment. In addition, the Consultant is expected to propose a design for piloting the recommended framework.

The assignment is in two phases:

**Phase 1**

i. Identification of the existing land and tree tenure regimes pertaining to different geographic areas, in the forest, transition and savanna zones, with regard to the management of trees on farms (e.g. on cocoa landscapes), commercial plantations, modified taungya, CREMAs and wildlife parks;

ii. Assessment of the underlying legal and customary regulations pertaining to each tenure regime; and

iii. Assessment of the benefit sharing arrangements and the role of each party in the regime, clarifying the conflict resolution and redress mechanisms associated with each region.

**Phase 2**

- A scored and prioritized list of feasible and acceptable consensually designed innovative tree tenure and benefit sharing options for the different activities;

- Action plan for piloting the proposed arrangements in selected areas in collaboration with relevant stakeholders; and

- Final report of the assignment that includes recommendations for policy reforms.
1.5 METHODOLOGY

The assignment has been carried out through extensive literature review, field data collection on tree tenure and benefit sharing and a series of iterative consultative meetings across the country involving all key stakeholders in the land and tree tenure and benefit sharing regimes.

Desk reviews of policy and legislative framework relating to agriculture and natural resources, review of studies and literature on the tree tenure and benefit sharing in the agriculture and natural resource sector were undertaken. A number of studies that have been carried out on the subject were studied and their recommendations reviewed to inform both the development of the investigative instruments and the conclusions drawn for the study.

In addition, field interviews and discussions were conducted with relevant stakeholders with focus group discussions in communities as a major vehicle. Consultative workshops, at which various stages of findings from the study were validated and additional inputs were solicited from various stakeholders, were held across the different regions of the country.

In the main, the study was carried out in a four (4) staged analysis process as depicted in Figure 1. These are the Definition, Development, Delivery and Direction Analysis.

1.5.1 Definition Analysis

The purpose of this stage of the study was to understand the context of the programme and the role of the MLNR and its agencies in the implementation of the programme. Understanding the context entailed five primary activities:

i. review of NREG- TA project documents to develop sufficient understanding of the project design and contextual framework;

ii. identifying who the key stakeholders are relevant to tree tenure and benefit sharing;

iii. working sessions with relevant MLNR staff involved with the developing, implementing and providing technical support for the implementation of the programme; and

iv. unstructured conversations with randomly selected beneficiaries helped in planning the more systematic assessment.

A large body of literature exists on land and tree tenure in Ghana. To ensure that this work does not become just a repeat of work already done, extensive review of available literature was initiated at this stage and continued throughout the study.

In addition, consultations were held with the Client to validate the objectives and scope of the assignment, sign contract and discuss Clients interests. The Consultant also held meetings with the Civil Society Organisations (CSOs) Legal Working Group (LWG) on Forestry – (a collection of various CSOs with interest in tree tenure and legislative reform in the natural resource sector) - to brief them on the project and also to discuss stakeholders that would have to be consulted.

The output of this stage was an Inception report.
Figure 1: THE STUDY ANALYSIS PROCESS

**Definition Analysis**
- Identify key stakeholders
- Identify and interact with Key personnel
- Identify sources of data and indicators
- Documents review and gap analysis

Main outputs:
- Inception report

**Development Analysis**
- Design and develop survey instruments
- Recruitment and training of field enumerators
- Determination of sample methods and sample size
- Pre-test and review instrument

Main outputs:
- Data collection instrument,
- target survey sites,
- Interview schedule
- First status report

**Delivery Analysis**
- Conduct field visits and interviews
- Field Data collation and entry
- Data analysis
- Draft report writing

Main outputs:
- Field reports
- Raw and analysed data
- Draft report

**Direction Analysis**
- Formulate main recommendations
- Hold validation workshops
- Integrate comments and updates
- Preparation of final report

Main output:
- Workshop reports
- Final study report
1.5.2 Development Analysis

At the second stage, the development of investigative instruments, recruitment and orientation of field enumerators, definition of sampling methodologies and selection of districts and communities were the focus.

Two (2) sets of investigative instruments were developed for field studies which were undertaken between on November 10, 2015 and December 22, 2015. These are:

- Focused Group Discussion Guide-FGD (Appendix 2) - Targeted at stakeholder groups such as traditional authority, landowners, migrant farmers, indigenous farmers and women farmers. These were derived based on stakeholder analysis undertaken; and
- Key Informant Interview Guide (Appendix 3) - Targeted at key informants such as chiefs, timber contractors, forestry CSOs, farmers’ association, plantation developers’ associations, chainsaw association and FC officials in the regions.

1.5.3 Direction Analysis

The third stage involved data collection through a multi-data gathering system, data collation and analysis. These were carried out at the district and community levels and completed in the office. Field data and the conduct of the FGD were carried out with the support of some personnel of the National Forest Forum - Ghana (NFF) and Forest Watch Ghana (FWG) members in the Northern region.

Regional FGDs and Key Informant interviews were held in seven (7) of the ten (10) regions of Ghana involving 500 stakeholders of different categories. A conscious effort was made to seek the views of women during the key informant interviews and focus group discussions. These included having separate FGDs with females and targeting female key informants such as the queenmothers and female representatives of CSOs and associations in the various regions. Figures 2 and 3 shows pictures on some of the FGDs. The list of participants for the different consultation events are provided in the Annex to the report.

Interviews were also held with experts in tree tenure and benefit sharing schemes to seek their views on the challenges and way forward for tree tenure and benefit sharing in Ghana. They included officials from:

- United Nations Development Programme;
- Ministry of Lands and Natural Resources;
- Forestry Commission; and
- CSOs Legal Working Group on Forestry (Sub group with interest in tree tenure).

A Technical Committee set up by the Ministry of Lands and Natural Resources to review the draft final report. These included experts in tree tenure and benefit sharing arrangements from the Ministry and the Forestry Commission. A workshop was then organised to discuss comments of the Technical Committee.

A draft report for discussion was the main output of the delivery analysis stage.
1.5.4 Delivery Analysis
The fourth stage of analysis included the formulation of recommendations, holding of validation workshops, incorporation of stakeholder comments and submission of final report.

Zonal validation workshops were held in the three (3) zones of Ghana i.e. northern, middle and southern, in Tamale, Kumasi and Ho respectively. Participants of the workshops included traditional leaders, community members, CSOs, private plantation developers, farmers, FC staff, district assembly members, researchers, timber trade associations, among others. During the workshops, preferred options of the stakeholders were validated and results used to fine-tune the findings, policy recommendations and legal implications of the recommendations.

A consultative meeting was also held with the parliamentary select committee on lands and forestry to discuss the major findings of the study. The draft report stemming from all these consultations were then subjected to a national validation event in Kumasi at which final observations on the proposed framework were made and incorporated in the final report.

Figure 2 shows a picture of a session with the CSOs Legal Working Group on Forestry whiles Appendix 1 shows a list of stakeholders contacted.

**Figure 2: Session with CSOs Legal Working Group**

**Figure 3: Focus Group Discussion Session in the Ashanti Region**
1.6 STRUCTURE OF THE REPORT

The report is divided into 4 sections. Following the introductory chapter, chapter two, which is on understanding tree tenure and benefit sharing in Ghana, describes the legal underpinnings of land and tree tenure arrangements and benefit sharing systems as proscribed in law and polity pertaining to different tree growing management regimes. In Chapter three, the actual practices and preferred tree management and tenure regimes and associated benefit sharing arrangements from the perspective of different stakeholders in the various regions as gathered through the focus group discussions, key informant interviews and consultations from a recent civil society study on the subject are discussed.

Based on the major findings of the study, recommended tree management and tenure regimes and benefit sharing arrangements and conclusion to the study are presented in chapter four.
CHAPTER TWO

UNDERSTANDING TREE TENURE AND BENEFIT SHARING IN GHANA

2.1 LAND AND TREE TENURE IN GHANA: UNDERSTANDING THE UNDERPINNINGS

The term land tenure implies the various laws, rules and obligations governing the holding, and/or ownership rights and interests in land (Kassanga, 1988). Land ownership in Ghana could be classified into three broad categories: land under customary ownership (78% of the total land area); state or public land (20%); and the remaining land area (2%) under some form of shared ownership (Deininger, 2003). Lands in Ghana are predominantly governed by customary laws (Olennu, 1962: in Boamah, 1986) and by statutory laws. This point to the fact that Ghana recognizes a legally pluralistic governance regime over land tenure. However, for all practical purposes, when the state machinery is used and enforced, the customary system becomes weakened (Kassanga and Kotey, 2001). Land held under customary law is owned by Stools/Skins, families, or clans and is held in trust by the chief (head of the community) for the benefit of the community (Agidee, 2011).

Ghanaian land law – both legislation promoted by government and its ‘ethnic’ variants promoted by chiefs in the Traditional Councils – has been conceptually and legally founded on the idea of a clear, stable set of customary rules grounded in a past unspecified both historically and geographically. Land legislation from the colonial period up to the 1992 Constitution is presented as the continuation of ancestral principles and values (Boni, 2008 in Umbink and Amanor (ed.) 2008). However, as Boni 2008 further notes, “the intended aim of land tenure orthodoxy – that is to establish a clear and inalterable set of prerogatives over land – is far from being achieved in rural areas, especially in southwestern Ghana; land prerogatives are continuously disputed and altered. Studies theorizing an unequivocal set of land rights do not in fact, describe the land tenure system as it is practiced in everyday life but makes an effort to transform it in a direction that neglects derivative rights and ignores the multiplicity of prerogatives”.

It is critical that the discussions of the land and tree tenure takes these dynamics into account and not necessarily consider it as fixated absolutes. As Berry 1993, argues, African land tenure systems are adaptive arrangements which are negotiated, fluid open and ambiguous. Rather than being fixed and conservative, customary relations are seen as being perpetually negotiated by various actors who use their social networks to redefine and renegotiate customary relations (Berry 1993).

Tenure refers to the ownership that vests in the land or tree. Ownership and use rights of land and resources are intimately linked to the right to share the benefits that arise from these resources. Ownership includes but is not limited to the control and management of the said resource.
Generally, ownership rights are considered to be immune from third party termination (apart from state expropriation) and include the right to exclude others from accessing the property. They are perpetual (no expiry date) and include the right to alienate (sell, rent, etc.). An ownership right can be either individual or collective.

In Ghana, the system of land and tree ownership is often within a spectrum; where it is possible to control the resource and yet not manage it or manage the resource and yet not control same. Lands may be owned by subjects of stools, the control may be vested in the stools on behalf of and in trust for their subjects. For instance, naturally occurring timber is vested in the President in trust for the stools concerned, managed by the Forestry Commission, while pre-existing customary rights are also recognized. All trees and forests in Ghana are vested in the President. This implies that all trees are held by the State in trust for the communities concerned. Although communities’ legal ownership is not affected, in practice the State has control over trees and forest resources, even though communities and landowners are involved in forest management tasks.

One of the most important provisions relating to ownership is contained in the guiding principles of state policy in Chapter 6 of Ghana’s 1992 Constitution, where it is stated that ownership and possession of land carry a social obligation to serve the larger community. In addition, managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, the stool, Skin or family concerned and are accountable as fiduciaries in this regard. In a fiduciary relationship, one person vests trust in another whose aid, advice or protection is sought in some matter. In such a relation the fiduciary is required to act at all times for the sole benefit and interest of the one who trusts.

According to Foli and Dumenu (2015), Ghana’s forest landscape in terms of management can be categorized into four main management regimes, namely: Protection forest (e.g. Globally Significant Biodiversity Areas- GSBA, Production forest reserves- plantation or natural e.g. MTS), Off-reserve areas (trees on-farm, community resource management areas) and Community forest. Trees on farms, community resource management areas (CREMA) and community forests are designated as off-reserve areas while protection and production forests are designated as forest reserves. The tenure and governance context of these two broad categories of forest landscape defines ownership, beneficiaries and influence the effectiveness of benefit sharing arrangements.

**Relationship between Land and Tree Tenure Regimes in Ghana**

Land in most societies in the country means the soil itself, as well as the sub-soil and anything under the soil, such as minerals. It does not include things on or attached to the soil, such as trees, houses, or other permanent fixtures. Klutse (1973) observed that interest in the land itself is distinct from interests in things on it or attached to it. Thus, planted or naturally occurring trees for instance are not regarded as part of a piece of land in almost all Ghanaian societies (Agyeman, 1994) particularly upon transfer. Such notions are reinforced by statutory laws governing land and tree tenure. Obviously, Ghana’s tenure regime is complex. It is such that land is owned by one entity but ownership and access to some resources
such as trees are held by another entity. Nonetheless, all forestlands in Ghana (except those under private plantation) are managed by the State in trust for the Stool landowners (Boakye and Baffoe, 2006).

Lands at the very earliest times belonged to small families or household units. In some communities, the families merged to form clans and the individual family or household lands came under the authority of the newly formed clan. The clans later merged to form larger tribal groups or federations under one traditional authority who is responsible for the maintenance of law and order and the perpetuation of the interests of social groups. This marked the advent of "stool lands" in the southern part of the country and “skin lands” in northern Ghana (Acquaye and Murphy 1973).

The traditional chief is generally the primary custodian of the village lands, however, other custodians include the Tindanas (and Tendamba). The Tindanas (Earth Priest) are the landowners in especially, the Upper West and Upper East Regions of Northern Ghana since in these communities land is held to be sacred (Cheshire, 1977).

As outlined above, traditional land ownership is either by an individual or a group of people (Ollenu, 1962). There are basically five (5) ownership types in the country:

- **State Land**: This refers to land that the Government has compulsorily acquired under the State Lands Act 1962 Act 125 in the interest of the public;
- **Vested Land**: This is the vestment of stool lands in the state under the Administration of Lands Act 1962 Act 123. The state acts as a Trustee for the appropriate stool;
- **Stool Land**: This refers to land that is vested in the appropriate stool on behalf of the community represented by the Chief, or any in a fiduciary capacity for his people. Members of the landholding group have usufruct rights, equivalent to a freehold. Practically such land belongs to the member of the landholding group and his interests are secure, inheritable and generally alienable. The alienation of such land by the stool or family requires the consent of the holder of this interest. The problem with stool land as far as investment is concerned is that a prospective investor may have to deal with a multiplicity of interests and rights in the land he wants to acquire;
- **Family Land**: This represents land vested in a family represented by a Head of family; and

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2 Acquaye and Murphy (1973) defined stool lands as land controlled by any person for the benefit of the subject or members of the stool, clan, company or community. The stool which chiefs sit on is the symbol of their authority.

3 The symbol of authority of the chiefs in Northern Ghana is the skin. The Skin of a particular community is said to be the paramount or absolute owner of the land (Acquaye and Murphy, 1973).

4 The spiritual or religious heads of the land are referred to as Tindanas in most parts of Upper West and Upper East Regions of northern Ghana.

5 The owners of the land and forest groves. Usually, they are the first settlers in various communities.
- **Privately Owned Land**: This is land with the freehold interest purchased outright by an individual or a group of persons. Invariably this type of land ultimately becomes family land upon the death intestate of the individual owner.

Since the early part of the 20th century, succeeding governments, including the colonial administration have sought to shift control or supervision over disposition of lands from traditional owners to the state. This is because of perceived notorious traditions of misuse of land by traditional authorities and the general decline of state authority. Legislations were therefore introduced with sweeping state control on natural resources (including timber and precious minerals), land use, enhanced powers of expropriation and the assumption of the managerial and fiduciary powers of stool in respect of unencumbered land. These policies and legislations were not drawn in consultation with local people probably because local people were assumed to have no knowledge in resource management and also have no interest in its conservation or protection (Kotey et al., 1998).

Prior to 1999, land policy development framework in the country was not comprehensively formulated and implemented, probably because of inadequate consultations of landowners and traditional authorities; and the poor capacity and capability of the land sector institutions to initiate and coordinate policy actions among the various land delivery agencies. This led to encroachment of acquired lands (including forest reserves), unapproved and haphazard development schemes, uncertainties about titles to land and land litigation. In fact, families and individuals in most rural communities were scarcely consulted in the decision making process. According to Kasanga (2002), once a layout/planning scheme was approved, farmers either immediately or eventually lose total control of their farmlands. Women being the overwhelming majority in the farming business were usually the first and the worst casualties.

A new National Land Policy was formulated in 1999 to address past policy failures by laying the broad strategy for addressing fundamental problems associated with land management, including general indiscipline in the land market, multiple land sales, use of unapproved development schemes, haphazard development, indeterminate boundaries of customary-owned lands, weak land administration system and conflicting land uses. The 1999 Land Policy recognises land as an economic and productive resource, which is fundamental to all human enterprise and development. The Policy further recognises the prominence of land issues and outlines strategies for the rapid divestiture of all the inhibitive factors influencing the management and control of land to help accelerate the pace of development.

The 1999 land policy further provides a framework for the facilitation of an equitable access to land by ensuring that an individual can have access to land in any part of the country, including forest reserves, provided that land is available for disposal in the area where he seeks to have access to the land and that he agrees with the land owner to adhere to the covenants and other customary practices governing the disposal of the land. In dealing with security of tenure and protection of land rights, the policy also recognises all traditional sources of land tenure and rights as well as those derived from common law e.g.
the allodial owner, the customary law freeholder, leasehold interest etc. as legitimate sources of land titles.

According to Ansah et al (2016), land tenure is closely linked to tree tenure in Ghana. In one breadth the duration of the land agreement between a farmer and a landowner determines which crops to plant. Land tenure agreements that have longer terms of arrangement are more likely to stimulate tree planting. For example, the duration of tenure determines whether a farmer plants trees or food crops. Farmers respond differently to tree planting initiatives even in the same village depending on the tenure they hold to their farmlands. When land is leased, the agreement between the land owner and the lessee determines whether the lessee could plant trees on the land or not. In many instances, tenants are not allowed to plant trees since this is a long term investment on the land and a decoy to own the land. The current customary land arrangements are a disincentive to tree planting. When naturally occurring trees have been nurtured to maturity by tenant farmers their permission is not sought in the grant of timber rights neither are they paid compensation in the case of destruction of property (including food crops). Also the constitutional sharing formula and the administrative workings of that provision are prone to elite capture by the state and even chiefs of the higher hierarchy (divisional and paramount chiefs).

During the colonial years, the Forest Department of Ghana was not concerned with reservation of forest. In such circumstance the ownership of the tree remained with the stools or skins and was guided by customary law. However, by 1962 all rights to ancestral forests were taken from the communities. Trees in the reserve and naturally occurring trees on off-reserve areas (on farmlands, sacred grooves, etc.) are vested in the state in trust for the landowners. This resulted in a centralised timber governance regime where the government gives allocation of timber rights to companies, sets fees and taxes, rules that guide the extraction of timber, monitoring, collection and distribution of forest revenues.

Any land and tree tenure reform has to deal with the technical case specific challenges of Ghana’s tenurial system and not only the prescription of policy or legal reforms. A cursory look at conclusions of a number studies conducted on land and tree tenure (as summarised in table 1) point to a need for reform in order to encourage the maintenance of tree cover on Ghana’s forest landscape.
TABLE 1 - SUMMARY OF CONCLUSIONS FROM SOME RELEVANT LITERATURE REVIEWED

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<th>No.</th>
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| 1   | Ansah K. et al (2016) | • All reform approaches regarding land and tree tenure, should be designed in a participatory and inclusive fashion and should not only involve government and chiefs but also involve representatives of family heads and migrant farmers.  
    • Clear ownership and user rights will have to be defined and documented indicating what percentage of revenue from trees goes to each stakeholder and their contribution towards plantation or any other agro-forestry approaches.  
    • Customary land titles (fully recognized by legislative instruments) should be in place and clearly specify the benefit sharing arrangement between tenants and landowners on planted trees to encourage farmers to invest in planting trees on their farms.  
    • Criminalization of economic rights to naturally occurring trees in off-reserves areas should be addressed such that farmers or land owners or both, get a share of revenues from timber extraction. |
| 2   | Poudyal, M., (2011) | • Land and tree tenure reforms should recognize the differences in the specificity of the various customary tenurial systems and make room for landowners, chiefs and tenants to come to an arrangement and consensus within a broad national framework that fosters conservation and sustainable forest management while protecting the rights of marginalized and vulnerable groups/individuals of the society or community. |
| 3   | Richards, M. et al | • Although farmers would like to be paid one-third of the ‘value’ of the tree, our calculations showed that, assuming the ‘pessimistic’ economic model, this is unrealistically high in comparison with concessionaires’ capacity to pay. But even based on the pessimistic calculations, we believe that there is a strong case for concessionaires to pay the farmers 10% of the stumpage value for the high and moderate value timber trees.  
    • A problem picked up in the cocoa farmer survey is that farmers would prefer to receive payments from the FC rather than the concessionaire. A mechanism probably needs to be found whereby the latter pays the FC, which then remunerates the farmers. |
| 4   | TBI Ghana (2014) | • Since security of tenure over trees by those who plant and protect them is essential to build systems for equitable benefit distribution, there is the need to develop legislation to back the policy of right over trees. |
| 5   | Kotey et al (1998) | • In Ghana, key stakeholders in forests, that is, those with rights, powers or direct impacts related to the forests include - traditional authorities, forest fringe communities, farmers, the state and its (forest sector) agencies, and the private sector. |
| 6   | Proven Ag Solutions (2014) | • The legislation on allocation of timber resources does not take into consideration the most important managers of timber trees (the farmers and forest-based communities) on their farms. There is a need to replace the legislation with a more pro-farmers provision. |
The current legal position that vests ownership of timber resources on admitted farms in the President appears untenable, in the light of Section 17 of CAP. 157. In practice, therefore, timber resources located on admitted farms are treated the same way as if they are vested in the President. Consequently, these resources are administered without much regard to the farm owners who exercise greater control over these resources. It is instructive that ownership of timber resources on any admitted farms should be looked at once again.

Most farmers are not aware that they can actually plant and own indigenous forest trees such as Wawa, Odum, Mahogany, Sapele etc. on their farms. Dissemination of information about farmers’ right to planted trees among local communities throughout Ghana is very low. There is, therefore, a need for information dissemination through multi-media technologies to sensitize farmers on their rights and responsibilities.

Although the participatory Community Resource Management Area (CREMA) model has been used mainly to increase community participation in wildlife management in forest areas, its use in forest management has just began. It would be advantageous to promote and scale-up this model beyond its current use by the wildlife sector to support sustainable livelihood of fringe communities.

Based on the experience that local communities and forest-dependent communities are capable of managing tree resources when provided with incentives, the government should enact 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 benefit accruing from resource management to community members individually or collectively.

The right to recover an investment need not be related to the right to retain land, assuming some form of recompense could be provided for improvements made to the land. Policy reform targeting benefit sharing schemes for current and future benefits from Payment for Environmental Services (PES) is required. Government of Ghana should develop an action plan to increase tenure security and transferability of land rights to enhance land investment and productivity.

Land tenure, management and policy is a complex business, since it is both a reflection and determinant of economic, social and political relations in society. Completely overturning the indigenous system is impractical and unworkable, and would create new problems.

The National Land Policy is, perhaps understandably, short on the really important and crucial issues: when, how, what, where, and who. In the final analysis, therefore, the Policy will be judged not by its content, but by the manner and timing of its implementation. The crucial phase will be the development of Action Plans and Implementation Strategies with targets, activities, time frames, outputs, funding, and implementation.

Outside forest reserves, the main priority is tree tenure reform, so that farmers (and especially cocoa farmers) have positive rather than perverse incentives as regards maintaining timber or other trees as shade trees. People should be able to own, and benefit from, naturally regenerated trees on their lands.
In relation to tenure, the legally pluralistic governance system governing land tenure in Ghana and the vesting of naturally occurring timber trees in the State pose some difficulties. Land and tree ownership should be aligned while harmonization or legal integration of the two land tenure regimes (customary and statutory) is pursued. The existing tree tenure should be reformed such that ownership of naturally occurring timber trees are vested in persons or entities with management, exclusion and alienation rights to trees.

To address the challenges that derived right holders (tenant farmers and sharecroppers) face, there should be strive toward legal documentation of tenancy or contract between tenant farmer/sharecropper and the landowner. The agreement should acknowledge the derived rights of the tenant or sharecropper and stipulate the formula for sharing benefits between the landowner and the tenant farmer/sharecropper.

Existing benefit sharing models include CREMA, MTS and Commercial forest plantation development benefit sharing. These benefit sharing models address elements of equity, effectiveness, co-benefits and safeguard measures that can support benefit sharing mechanisms. Under CREMA, actors have contributed to forest management and conservation by refraining from activities that contribute to forest degradation and deforestation such as farming and engagement in illegal logging in forest reserves and protected areas. Under MTS and Commercial forest plantation development models, degraded forest reserves are being restored by stakeholders (particularly farmers). Community revolving fund as a fund-based benefit sharing scheme has the potential to supporting participating stakeholders in planting and maintenance of trees as well as support various economically viable income generating activities they undertake.

Tenure reform should adhere to a rights-based approach, consistent with obligations under international human rights instruments, including the UN Declaration on the Rights of Indigenous Peoples. Donor governments should support community-led initiatives that seek to assert these rights, such as social mapping exercises and the development of community protocols.

Appropriate policies should be adopted among others, that will allow a paradigm shift in forest governance from centralized to decentralized management involving, traditional authorities, local communities and other stakeholders.

There should be benefit arrangements for off-reserves with larger percentage going to traditional authorities and local communities, resources owners and farmers.

Forest policy and legislations, especially as related to SRA and other related community issues should clearly be explained to traditional authorities and local communities to minimize conflicts.

In spite of several efforts to create a collaborative arrangement that improves community tenure rights over forest and their participation in forest management, almost all the schemes suffer some form of legitimacy crisis, because the schemes have been piloted and implemented without appropriate statutory recognition by law.

The issue is: 'Should tenure reforms under collaborative forest management interventions lead to recompensing communities for their role only when tangible benefits are immediately realized; or should it
also address the problem even for situations in which the benefits are not directly realizable now?’ It is argued that the latter must also be so. This naturally calls for innovation in designing collaborative management schemes to move from creating agreements and structures, defining roles and responsibilities to working out transaction and opportunity costs into the scheme.

- Defining and recognizing specific rights are important in any collaborative effort; but these rights are inadequate unless mechanisms are there to secure them for social and economic benefits. Related to this, collaborative efforts can be undermined if tenure reforms fail to secure rights and recompense responsibilities.
- Tenure security of individual rights in collaborative schemes need proper documentation, especially in cases like the MTS in which benefits from investment are expected in about 20 years.
- Conscious efforts must be directed toward making the Agreements on collaborative schemes a collateral tool that farmers can use to negotiate opportunities for business alliances and access credit to engage in other economic activities to support their livelihood.

| 13 | ClientEarth (2013) | Very little is included in the forest legal framework in relation to SRA, and even less for planted timber. This further weakens the position of local communities to be able to share in the benefits of timber exploitation on their lands. If the FC is to shift its management approach to collaborative resource management, thus asking communities to increasingly share in management responsibilities, then the share of the latter in the benefits should also increase. |
| 14 | Marfo, E. & Acheampong, E. (2011) | For most operators, the right of withdrawal (the right to both access forest resources and withdraw resource units, i.e. harvest) is sufficient to encourage them to do away with ‘illegal’ chainsaw activities. Majority of operators would like to see a change in the way timber trees and forests are currently owned and managed in Ghana. Indeed, community resentment of the current system of timber tree tenure is a factor that facilitates the acceptance of chainsaw operators in the communities they operate. |
| 15 | Boakye, K. & Baffoe, K. (2006) | Although the reservation policy has been successful in the reserves themselves, it has had a negative impact on tree and forest protection outside forest reserves. The failure of most community forest interventions can be attributed to the government’s failure to communicate the benefits of reservation, and the communities’ notion that their land has been usurped. Communities are rarely informed of their usufruct rights, leaving the government to assume a policing role in its forest management and protection work.
- Customary tenure and inheritance systems that discourage the planting of trees also contribute to forest decline. By including standing trees in land rights and ownership, many traditional laws discourage farmers – especially tenants and immigrants – from planting trees.
- The current system of landownership needs to be reviewed by the appropriate authorities, in consultation with local people to ensure that their needs and requirements regarding forest ownership are catered for. By granting farmers full ownership rights to the naturally occurring and planted timber trees on their farmlands,
and enabling them to dispose of the trees as value items, the issues of sustainable forest management and poverty reduction can be collectively and continually addressed.

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<th>Umbink and Amanor (ed.) 2008</th>
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<td></td>
<td>• Customary systems are dynamic and evolving towards individual property rights systems. Within Ghana, the main vehicle for attaining land administration reform has been the Land Administration Project (LAP). The stated aim of the LAP is to lay the foundation for an accountable, harmonious and transparent customary land administration system from the bottom-up which will then form the bedrock for an enhanced formal land administration in Ghana. This is done with the intention of enhancing the tenure security of smallholder farmers.</td>
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2.2 BENEFITS SHARING IN GHANA: UNDERSTANDING THE UNDERPINNINGS

The concept of benefit-sharing refers to specific forms of responsibility to direct returns from the exploitation of natural resources, be they monetary or non-monetary, to various actors in the activity, in recognition of their rights, roles and responsibilities in the activity. The notion of benefit sharing in natural resources was first formalized in international law in 1992 through the Convention on Biological Diversity (Nkhata et al. 2012). The move was expected at the time to address problems with the governance of socio-ecological systems in developing countries. The concept was originally used to refer to the distribution of financial benefits (Pham et al. 2013). But it has come to encompass broader forms of social accountability and responsibility. The concept ultimately empowers communities to share in the wealth created by actions directly affecting the resources they rely upon and essentially reaffirms their role in ensuring the sustainability of external economic interventions.

Benefits are in general differentiated between financial and social. Examples of social benefits include goods, training, preferential local hiring practices, construction of local infrastructure projects, access to credit, local out growers’ schemes etc. The way the benefits are allocated is usually subject to conditions: either they are disbursed through the creation of a local community development fund or through government institutions; either with the consultation of particular people or according to fixed decision-making/consultation procedures etc.

At the local level the most common land and tree tenure benefit sharing arrangements are the crop sharing arrangements of ‘Abunu’ and ‘Abusa’ in which the land owner and farmer enter into arrangements of sharing produce from the farm in 1:1 or 1:2 proportions respectively, depending on the levels of investments. Although there are various local variations in these arrangements, there is a common strand that seem to have a universal appeal across the regions.

Literature indicates that in determining benefit sharing arrangements, one needs to consider issues including who should benefit, what is the nature of rights that the actor holds, and what type of benefits are involved (Pham et al. (2013) cited in TBI Ghana (2014).

The general principles in benefit sharing schemes are that they should be effective, efficient and equitable.

“Effectiveness: - Ensuring that benefits reach those who contribute to a particular resource and create the right incentives for them to continue doing so in the long term.

Efficiency: - Ensuring that the benefit sharing mechanism maximizes benefits on each unit of input and delivering benefits in a reasonable amount of time.

Equity: - Ensuring that benefits are shared among all legitimate actors in a manner that is widely perceived as fair” (Davis, 2012; Xiaoting Hou, 2013: 2, cited in TBI Ghana 2014). In consideration of equity, benefits should go to those with legal rights, those incurring costs (including those who shoulder implementation, transaction and opportunity costs) as well as those contributing to the survival of the tree resource.
The benefit sharing arrangements with regard to timber exploitation marginalizes tenant farmers and even local chiefs. Thus any arrangement that does not consider how revenue accruing from timber exploitation (both on and off-reserves) reaches local chiefs, tenant farmers and the community will not achieve the desired impact. Land tenure arrangement between different groups that ensure equity and fairness is therefore important. Indeed, Richards, Asare and Ohene-Gyan (2000) argue that opportunity costs of keeping timber trees do not seem to be significant for cocoa farmers, and therefore do not provide a basis for estimating incentive payments, nonetheless, farmers’ knowledge is an ‘input’ in tree management off-reserve that must be compensated. Reforms is therefore needed not only to clarify and secure economic rights and benefit sharing with respect to naturally occurring trees for communities but also to ensure that arrangements to the share of the benefits are documented and backed by law.

It is worth noting that in this study, while all stakeholders acknowledged the various benefits that accrue from tree management, the key focus for them in terms of tree tenure and benefit sharing reforms needed were more in respect of revenue accruing from timber harvest.

2.3 OWNERSHIP OF LAND AND TREES IN GHANA: A LEGAL PERSPECTIVE

The Supreme Law of Ghana, the 1992 Constitution provides and guarantees as a general principle that every Ghanaian and indeed every person living within the jurisdiction has a right to own property which may include property in land, tree or buildings. In Chapters 5 and 6 of the 1992 Constitution of Ghana, the right is provided for in articles 18 and 36 respectively.

Chapter 21 of the 1992 Constitution also lays down the ground rules in relation to ownership of land and natural resources. It differentiates between ‘lands or resources vested in someone’ and ‘lands or resources vested in someone on behalf of and in trust for someone else’. The former refers to ownership of the said lands or resources, the latter refers to trusteeship. The Constitution installs a type of trusteeship in relation to some lands and resources which entails an almost absolute control over them. However, in such a trust-relationship, the ownership (stripped of any decision power) remains with the beneficiary. The trustee holds responsibility for the management and use of the property that has been entrusted to him, he can manage and use it himself or redistribute these rights to others.

Reading the Constitution the following emerges:

a. Public lands are vested in the President on behalf of and in trust for the People of Ghana. The Lands Commission will manage public lands and other lands vested in the President. In other words; the people own, the state controls and the Land Commission manages, all for the benefit of the People of Ghana.

b. All minerals in their natural state are also vested in the President on behalf of and in trust for the People of Ghana. Similarly; the people own and the state controls for the benefit of the people (the management tasks of the Minerals Commission are however not included in the Constitution).
c. All stool lands are vested in the appropriate stools on behalf of and in trust for the subjects of the stool in accordance with customary law and usage. Any disposition or development of any stool land has to be approved by the regional Lands Commission. So other words; communities own and the stool controls these lands and their resources with some oversight by the regional Lands Commission.

It is instructive to note that the 1992 Constitution does not mention who owns natural resources other than minerals in their natural state, nor does it mention who owns family lands and how these relate to Stool and Skin lands.

It is further important to note that the ownership of land and natural resources in Ghana is subject to compulsory acquisition in certain circumstances. In article 20, the Constitution provides for a number of rules in relation to compulsory acquisition of property by the state. Compulsory acquisition is only done for public interest and to promote the public benefit. The necessity of the acquisition has to be clearly stated and has to provide a reasonable justification. In addition, acquisition can only be done under a law which makes provision for the payment of fair and adequate compensation, and provides for a right of access to the High Court. Where the acquisition results in the displacement of any inhabitants, the state has to resettle them on suitable alternative land with due regard for their economic wellbeing and social and cultural values.

Again the Constitution does not specifically mention use rights of local communities. However, it does recognize customary law to be part of common law and therefore part of the laws of Ghana. Customary law is defined by the Constitution as rules of law which are by custom applicable to particular communities in Ghana. The Constitution continues by obliging the State to integrate appropriate customary values into the fabric of national life through education and conscious introduction in national planning.

2.4 BENEFIT SHARING IN GHANA: A LEGAL PERSPECTIVE
Since placing all forest reserves under Ordinance, a number of key issues regarding the rights and responsibilities of resource owners have not been addressed. Forestry Department (1995) states that the issue of vestiture is not clearly addressed by the current policy and legislative frameworks. For example, vestiture splits the rights of management (legal rights) from rights to benefit from resource ownership (benefit rights). Thus the rights vested to the State include the right to manage the land (CAP 157, 18(3)), to control, use and access of forests (CAP 157, 35(1-5)), to execute deeds and to act as trustee (Act 124, 16(5) and Act 123, 7(1)). Therefore, the Government has all rights that relate to determining what, where and when access is given to resources in forest reserves.

Unfortunately, only rights to consultation and beneficiary rights are vested in resource owners or local communities. Participation in management decision-making and resource allocation was not mentioned and practically ignored in the past. The Forest Ordinance (Cap 157 (18)) and subsequent Acts, including Act 123 (7, 8, 17), Act 12 (5), Act 573 and Act 617 all make reference to revenue which should be shared with owners. However, one problem with these legislations are that they do not indicate what proportion
of the revenue should go to the owners, nor do they describe the mechanisms for resource owners to negotiate for their share of revenue. The legislations are also not clear about what constitute revenue and deductible costs.

The 1992 Constitution mentions a number of resources that are vested in the President. Article 257 says that public lands and minerals are vested in the President in trust for and on behalf of the People of Ghana. The President is however not the owner of these resources. He is a fiduciary charged with the obligation to discharge his functions for the benefit of the People of Ghana, who are the true owners of these resources. In addition, the constitution states that one of the underlying principles of a sound and healthy economy is that the State has to ensure that individuals and the private sector all bear their fair share of social and national responsibilities.

Article 267 provides for a formula on benefit sharing in relation to Stool and Skin lands. 10% of all revenue accruing from these lands has to be paid to the Office of the Administrator of Stool Lands (OASL) to cover administrative expenses. The remaining revenue has to be disbursed between the following constitutional beneficiaries: stool (25%), traditional authority (20%), and district assembly (55%).

2.5 POLICY RELATED TO TREE TENURE AND BENEFIT SHARING

Ghana has witnessed numerous tree tenure policies within its forest sector from the pre-independence period to this current dispensation. It has generally been observed that tree tenure policies in Ghana are shaped in accordance with the status or category of forest and also by the combined effect of the country’s customary and statutory laws. These laws are designed in such a way that ownership of land does not necessarily translate into ownership of the naturally-occurring resources the land holds. Ghanaian customary law and administration support the multiplicity of rights, interests, and entitlements in land and forest resources. Non-public land can be owned by families, communities or groups with multiple-use rights vested in the members that can co-exist at the same time and on the same parcel of land (Tsikata et al, 2008 ...referred to by Yaw B. Osafo, 2010).

The first forest policy in Ghana, which was formulated before the 1st World War consisted of only one clause and aimed at:

"conserving a sufficient area of forest suitably distributed throughout the country in order to protect water supply, prevent erosion and to ensure the maintenance of the present climatic..."
conditions existing in the high forest zone which are essential factors in the cultivation of cocoa, cola and other crops on which the prosperity of the colony largely depends" (Bennuah, 1987).

This policy focused on the promotion of agriculture, which was the main economic sector of the country. Benefit sharing was not a critical issue and was therefore not addressed by this policy. In order to control the exploitation of timber and to protect certain immature trees against felling, a Timber Protection Ordinance (Cap. 96) was passed in 1907 (Douglas, 1955). Cap 96 sought to control the activities of timber contractors and strengthen State control over the timber resources.

In furtherance to the policy objective of direct state control over resources, the Government introduced a Forest Bill proposing reservation in October 1910. This Bill had to be withdrawn in 1911 after strong opposition from the indigenous population on the grounds that it interfered with the rights of the stools and the people over the land. The Government re-introduced the policy by enacting a Forest Ordinance (No. 13, Cap. 157) in 1927, which empowered the government to enforce reservation. Section 4 of the Ordinance vested all land constituted as forest reserves in the President in trust for the stools concerned. The Forest Ordinance guarantees access through the forest for local communities but forbids farming, hunting, fishing, felling of trees or causing damage to trees by the local communities except on permit endorsed by a Forest Officer.

As far as possible forest reserves were constituted by the chiefs and Councils of the Native States concerned and it was only when these chiefs and their councillors were unable or unwilling to constitute essential forest reserves that recourse was had to the Forest Ordinance and the reserves constituted thereunder. The Forest Ordinance was amended subsequently to enable areas, which formed part of the Northern Territories (Northern Savannah areas) and Trans-Volta Togoland (Volta Region) to be constituted as forest reserves. The amendment together with Section 33 of the main Ordinance made it possible for Native Authorities to pass rules constituting forest reserves after giving six months’ notice to the landowners. The amendment also enabled the constitution of a forest reserve under Native Authority Rules after it has been constituted under the Forest Ordinance, provided that any compensation paid in settlement was regarded as an advance made to the Native Authority by Government and its repayment becomes a first charge on revenue accruing from the reserve (FD 1949-50).

Generally, a local authority has no power to constitute a forest reserve on land which it did not own. It could not de-reserve a forest reserve already constituted and it had no power to amend bye-laws or rules constituting a forest reserve unless that forest reserve is on land held by the Local Authority. The method of constituting reserves under bye-laws was made inapplicable in 1954. All reserves constituted thereafter were derived from the Forest Ordinance. Currently, a quarter of the potentially productive reserves are constituted under the Ordinance and three quarters by Native Authority Bye-Laws or Rules.

In order to harmonise the first forest policy objective with the main thrust of the Forest Ordinance, a policy review was done in 1930, which culminated in the drawing up of a new forest policy in 1931. The
policy aimed at the conservation of a sufficient area of forest suitably situated for the purposes of ensuring water supplies, of maintaining climatic conditions favourable to the growth of principal agricultural crops, of controlling erosion, of utilising forest products to the best advantage of the people and of preserving a sufficient supply of these products for the future use of the inhabitants. Even though the 1931 policy was supposed to be local community focused, the actual implementation of policy action by the then Forestry Department rather led to the consolidation of authority and benefits in Governmental agencies instead of local communities.

In order to consolidate the gains made by the earlier policy, a new Forest Policy was drawn up in 1948, which recognised the importance of local community participation in forest reservation and forest management. The 1948 policy tried to outline the new role of the Forestry Department following reservation. The 1948 policy, though generally broader in scope and perspective than the earlier one, had its own shortcomings. The policy consisted of eight clauses, many of which did not achieve their desired objectives.

Clause 1 dealt with forest reservation by Central Government or Local Authority for protective and productive purposes. This, however, met initial problems from the Aborigines' Rights Protection Society (a colonial human rights organisation) who interpreted reservation as an attempt by the colonial power to expropriate indigenous lands. Instead of entering into dialogue with the local communities on how best reservation could be undertaken, the government decided to continue with enforced reservation. The local communities responded to this by rapidly converting forests into farmlands, the moment intent was declared, in order to avoid reservation (Francois, 1987).

Clause 4 called for the development of locally administered forestry and the education of the Local Authorities and communities to a better understanding of the necessity for, and the value of their forests. The initial shift in strategy by the government to reserve forests by Local Authority bye-laws, which implied management by land owners and people, had very little success and was short-lived owning to abuse (Francois, 1987). This may be due to the fact that local people were not trained, or offered any technical help, as was stipulated by the clause before they were entrusted with the responsibility of managing the reserves.

Clause 5 stipulated the progressive utilization, without replacement, of the remainder of the forest resources outside the reserves not dedicated to permanent forestry. This clause was possibly drawn with the view that clause 4 would be successful and that Local Authorities and communities were going to add to the forest reserves created by the Ordinance. Non-replacement of trees coupled with increasing population pressure encouraged large-scale deforestation.

This policy appeared to be a generalised statement of intent with the measures required to implement it not explicitly included. In addition there was no firm commitment by the Government to provide the
resources required for its implementation. In addition the Policy did not address important issues related to benefit sharing.

Because of the deficiencies in the 1948 policy, a review of both the Policy objectives, and strategies for meeting them was carried out in 1989, which culminated in the drawing up of the 1994 Forest and Wildlife Policy. This new policy gave an indication of the general shift of forest managers from the authoritarian control to stakeholder involvement. This new approach is marked by some of the “guiding principles” of the 1994 Forest and Wildlife Policy like:

- the rights of people to have access to natural resources for maintaining a basic standard of living and their concomitant responsibility to ensure the sustainable use of such resources;
- the need to incorporate traditional methods in resource management in national strategies where appropriate;
- the importance of appropriate and efficient land use and security of land tenure for sustainable development; and
- the need to develop a decentralized participatory democracy by involving local people in matters concerned with their welfare.

In August 1996, the then Ministry of Lands and Forestry (MLF) launched the Forestry Development Master Plan 1996-2020 as a sound basis for implementing the aims of the 1994 Forest and Wildlife Policy to maximize the rate of social and economic development of the country and secure optimum welfare and adequate means of livelihood for all Ghanaians. The Master Plan proposed a nationwide forest plantation development target of 200,000 ha at an annual planting rate of 10,000 ha per year over the next 20 years, on unproductive lands. In order to further strengthen the objectives of the Policy and Master Plan, the Government enacted the Timber Resources Management Act, 1997 (Act 547), Timber Resources Management (Amendment) Act, 2002 (Act 617) and Timber Resources Management Regulations, 1997 (LI 1649), which obliges timber utilisation contract (TUC) holders to establish plantations at the rate of ten hectares for every square-kilometre of contract area.

The current Forest and Wildlife Policy of Ghana has thus evolved over the years from the initial policy before the 1st World War, to the 1931 Forest Policy, the 1948 Forest Policy, the 1994 Forest and Wildlife Policy (FWP) and finally to the 2012 Forest and Wildlife Policy. This was as a result of certain challenges faced by the previous policies which were to be addressed by the subsequent policy. Examples of such challenges faced by the 1994 Forest and Wildlife Policy include illegal chainsaw operations, woodfuel and charcoal production, mining among others. It should be noted that both the 1948 and 1994 Forest and Wildlife Policies sought to maintain the forest resources as a source of timber to feed the vibrant timber industry.

The 2012 Forest and Wildlife Policy recognizes and promotes the following key guiding principles:
• The role of employing multi-sector approaches to planning and management of forest and wildlife resources and multi-stakeholder interest in forest and wildlife;
• forging a common vision to protect, manage and use the resources;
• collaborative resource management among communities, government and other stakeholders; and
• Public-private sector partnerships and investment in the forestry sector.

The core objectives of the 2012 Forest and Wildlife Policy are:

• *Institute transparency, equity and legalize public participation in sustainable forest and wildlife resources management by enacting the necessary legislation and regulations to facilitate and enhance local participation through decentralization of forestry operations at the district level;*
• *Development of sustainable institutional frameworks for effective participation of key stakeholders in forest and wildlife resource management and governance and enact legislations that will enable communities and individuals to benefit from trees on their farms and fallow lands;* and
• *Provision of off-reserve tree tenure security, authority to legally dispose of resources and allocate greater proportion of benefit accruing from resource management to community members individually or collectively.*

The policy then proposes various strategies that need to be undertaken to achieve the objectives and overall goal of the policy (Proven Ag Solutions, 2014).

With regard to tree tenure and benefit sharing, the 2012 policy has made adequate provisions to deal with weaknesses identified in the 1994 policy. These provisions are to ensure better collection and greater equity in the distribution of the revenue from the resource and to encourage/incentivize farmers and forest-dependent communities to engage in sustainable forest management and plant and preserve economic trees on their farms (Proven Ag Solutions, 2014). Bold pronouncements have been made in 2012 FWP document to define and allocate tree tenure rights by law. This policy also seeks to streamline the collection of stumpage fees and similar taxes and distribute same equitably by law all in the effort to encourage/incentivize farmers and forest-dependent communities to engage in sustainable forest management and plant and preserve economic trees on their farms.
2.6 COMMON LAND AND TREE TENURE AND BENEFITS SHARING ARRANGEMENTS

2.6.1 Ownership of Lands and Trees in Communities

There are no specific legal provisions separating the ownership, control and management of non-timber forest products (NTFP) from the ownership, control and management of the land and timber resources that make up that forest. Generally speaking this means that land/tree owners also own the NTFP from the trees/land. It seems the granting of a Timber Utilization Contract (TUC) does not change the ownership of NTFPs. TUCs concern only the right to the commercial timber parts of trees. The Forestry Commission has the responsibility to ensure that NTFPs are not harvested by TUC holders and that TUC operations are sympathetic to NFTP production.

Ownership of naturally occurring trees is not separated from the ownership of natural resources by the Constitution or any of its implementing acts and regulations.

2.6.2 On-reserve Ownership, Control, Management and Use Rights of Natural Forests

| Ownership | Public land and timber on it owned by the People of Ghana  
|           | Stool land and timber on it owned by subjects of the Stool (i.e communities)  
|           | Family land and timber on it owned by family  
|           | Private land and timber on it owned by private owner |
| Control   | Stool land and timber on it initially vested in the Stools in trust for and on behalf of their subjects + superimposed trusteeship of State  
|           | All other land and timber on it vested in the State in trust for and on behalf of the stools concerned |
| Management| All timber and other forest resources managed by the FC for benefit of landowners |
| Use rights| All use rights controlled and managed by state for benefit of landowners |

The Concessions Act, (Act 124, 1962) vests timber resources and naturally occurring timber trees in the President of the Republic of Ghana on behalf of the People of Ghana. Through the vesting of timber resources in the state and the management of forest resources on behalf of the resource owners, forest resource owning communities eventually assumed they had lost their ownership rights to the state.
Managing forest resources on behalf of the resource owning communities supposes that the state, represented by the Forestry Commission, would be responsible and accountable to the resource owning communities leading to very weak forest governance in Ghana.

Currently, the majority of the timber which is harvested from Ghana’s forests stems from naturally occurring trees. The rights to naturally occurring trees are vested in the State in trust for and on behalf of the stools concerned regardless of their on- or off- reserve status.

Provisions for benefit sharing exist for Timber Utilization Contracts, which are the only way of attributing timber rights. However, a number of other types of logging permits like salvage permits and timber utilization permits exist. Benefit sharing provisions may be included in the terms of these permits but there is no legal provision which obliges the issuing authority to do so. Consequently, the focus of the benefits sharing in this study is on the various royalties, fees and benefits and their distribution which apply to timber rights holders on the basis of a Timber Utilization Contract (TUC).

| Table 3: Acts and Regulations create Rights; Manuals of Procedure only provide for Guidelines |
| The procedure for obtaining a TUC is regulated by the Timber Resource Management Act, 1998 (Act 547) as amended (Act 617, 2002) and its implementing Regulations (Li 1649, 1998 as amended by Li 1721, 2003). Rights that are created by these texts can be enforced in court. The acts and regulations are complemented by the Manuals of Procedure. These manuals are built up out of information sheets explaining more in detail the various aspects of forest management. They are written to guide forest officers in their work and can be used to clarify some of the provisions found in the acts and regulations. They are however not legally binding. This means a breach of procedures included in the manuals (as far as it is not a breach of the acts or regulations at the same time) cannot be brought in front of a court. |

During the Gold Coast era, forests were owned in common by communities (families, clans and 'stools'). However, the country’s Forest Ordinance of 1927 gave authority to the colonial government to reserve parts of the country’s forests. Although the bill did not alter ownership of the forest reserves, it vested control of them in the Government of Ghana and prescribed that they should be held in trust for the communities. In theory, the ownership of land and forests did not alter at the time of reservation, in practice, the traditional owners have no right of access to the trees or land in the reserve, except on permit from the Forest Services Division (FSD) of the Forestry Commission (Acheampong and Marfo, 2011).

Most management plans for forest reserves use permits to define communal rights to hunt, fish, collect fuelwood, snails and medicinal plants and farm on admitted farms. Prevailing conditions such as difficulty in acquiring permits make the forest reserve highly inaccessible to the marginalized poor, regarding use
of forest resources. The main reasons for fringe communities’ lack of access to forest resources are the highly bureaucratic and centralized processes involved, and the communities’ distance from district forestry offices. Time constraints and competing demands on limited budgets of the FSD are other factors (Acheampong and Affum, 2008).

2.6.3 Benefits and Benefit Sharing Arrangements on Natural Forests

Different forms of benefit flow were envisaged with the creation of forest reserves. Prior to the declaration of forest reserves in the 1930s, complex procedures were followed by the state to ensure that right of owners of the land and others with usufruct interests were duly protected. Following the processes, several benefits were identified as rights to the local communities and landowners. These included:

**Admitted farms:** these are the rights of farmers (cultivators) who had farms in the reserve area before their designation as reserves upheld for them to continue to farm in those areas. To a very large extent these rights have been respected in most of the reserves where they occur;

**Admitted rights:** customary rights held by individuals or communities to the forest reserve land at the time of reservation. These rights, especially when they were considered as not being harmful for the forest, were upheld and documented. Such rights included indigenous cultural or religious rights. In some instances, such rights included access to specified quantity of forest resources, including timber trees, per annum.

Unfortunately, even though these rights were always written into management plans (for ordinance reserves) they are hardly ever respected and most communities and even FC staff have virtually become ignorant of such rights. For ‘Chiefs reserves’ the details of the admitted rights were not documented because they were presumed. When management of these reserves were taken over by the Forestry Department, these rights were also not detailed out. Thus for such reserves there is even a higher level of denial of their admitted rights, as no reference points exist for communities to exercise these rights.

**Domestic use rights:** the right of forest fringe communities to access forest resources in the forest reserve for domestic purposes (for medicinal purposes, home consumption, poles for construction, etc.) was also recognised. These rights are also virtually non-existent now.

**Revenue share:** is by far the most widely talked about benefit. It is the share of revenue that goes to landowners from the incomes accruing from the management of the forest reserves. At present, the most significant revenues are obtained from stumpage fees on timber extraction, but there is also the land rent, which are paid directly to the landowners (basically the stool chiefs and traditional council) without going through a sharing process.

Apart from these admitted rights, the original intent and spirit of reservation was that forest owners would benefit from the income generated through forest management to develop a revenue base for
stools. In pursuance of this objective of ensuring that stools benefited from their resource, the Colonial Administration further granted stools the right to hold allodial title to all economic trees and thus the right to accrue revenue from royalty payments. However, after Independence in 1957, state control over forest resources increased. This was entrenched by the passing of the Administrator of Lands Act, 1962 (Act 124). These conferred to the state the management of stool lands and the grant of timber rights amongst others. All timber trees were vested in the President with the passing of the Concessions Act, 1962. The title however remained with the stool landowners. The Concessions Act, 1962 (Act 124) divided forests and protected areas into concessions for the purpose of timber exploitation. It also dealt with forest fees, timber lease and licences. These Acts and Ordinances were replaced by the provisions of the Trees and Timber decree, 1974 (NRCD 273), which embodied six sections, all aimed at the regulation of commercial exploitation of reserved and unreserved lands. These legislations further consolidated the grip of the State in resource management and revenue control.

In order to ensure that forest management operations were properly budgeted for, it was proposed in 1960 under a “Forest Improvement Fund” legislation that part of the royalty share of owners in resource improvement programmes would be used for financing silvicultural operations. However, because of the expensive nature of the silvicultural interventions (Tropical Shelterwood System, Post Exploitation System, Girth Limit Selection System) that was in place at that time, there was simple no money left for the owners once management costs were deducted. In fact, in most cases the legislation allowed the State institutions to shift their inefficiencies on the landowner.

The Government after a review of the revenue system in the mid-1960’s decided to guarantee landowners a minimum share of 30% of the royalties to enhance rural development (Danso, 1996). This measure did not prove effective because it was taken unilaterally by government without adequate consultations and also because royalty rates and rents were low. One of the major legal constraints to the participation of local communities in decision-making is the fact that there is no legislation to ensure that local communities are adequately consulted on decisions influencing resource utilisation and management. There is also very little guidance from the numerous forestry legislation on how to interpret vestiture in terms of the beneficiary rights of resource owners (FD, 1995). In cases where costs are deducted, there are no clear guidelines as to what costs can be deducted from the revenue accruing to resource owners.

The percentage share of local communities was reviewed upwards to 40% share of the stumpage in the 1980’s. A framework for the disbursement of the revenue share of landowners was outlined in the 1992 Republican Constitution of Ghana. Article 267 Section 6 of the 1992 Constitution requires that royalties be shared in the following proportions, after a 10% administrative charge has been levied by the Administrator of Stool Lands:

- District Assemblies 55%
- Stool Chief (or alienation holder) 25%
- Traditional council 20%
In August 2002, the Government increased the off-reserve benefit share of landowners to 60%, while maintaining the on-reserve benefit sharing of landowners at 40% of revenue due to the higher costs associated with on-reserve management. Subsequently, the proportion to landowners for both on and off-reserve was pegged at 50% and this is what obtains currently. The existing revenue sharing from timber for both forest reserves and areas outside forest reserves is as presented in Table 4.

Table 4: Forest Reserves and off-reserve Revenue allocation among Stakeholders

<table>
<thead>
<tr>
<th>Stakeholders</th>
<th>Percentage of Revenue Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Forest Reserves</td>
</tr>
<tr>
<td>Forestry Commission</td>
<td>50</td>
</tr>
<tr>
<td>Administrator of Stool Lands</td>
<td>5</td>
</tr>
<tr>
<td>District Assemblies</td>
<td>24.75</td>
</tr>
<tr>
<td>Stool Chief (Alienation Holder)</td>
<td>11.25</td>
</tr>
<tr>
<td>Traditional Council</td>
<td>9</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Below we have included a short summary of fees, rents and benefits accruing from forest exploitation. For each of them a short description is included, followed by an indication of who collects and distributes the benefits, who benefits and at which moment.

**Social Responsibility Agreements**

**Description:** The Social Responsibility Agreement (SRA) is an annex to the TUC that has to be signed by local communities and logging companies. Contractors bidding to obtain a timber right must include a proposal SRA in their application. The SRA obliges the contractor to provide for amenities, services or benefits to assist the communities and inhabitants of the traditional paramountcy, at a cost of no less than 5% of the value of the stumpage fee of timber that is harvested. The Minister has to nullify TUCs if the SRA is not signed following the notification of grant.

Instruction Sheet 3.2 in the Manual of Procedures section C provides more detail on SRAs. They consist of two parts. The first part of the SRA is a ‘Code of Conduct’. For both on- and off-reserve TUCs, this code should include the right of landowning communities to access the concession to collect forest produce for domestic use and the right to receive a prompt share of the revenue from harvesting. For off-reserve TUCs the code should in addition include a provision for farmers to receive payment for tree tending and the rights of landowners to receive prompt payment of concession rent and royalty.
The second part of the SRA is called ‘Social Obligations’. This part contains specific agreements over and above legally controlled royalties and fees, like the building of infrastructure, employment of a certain number of local workers etc. This part is more open to negotiations between the contractor and communities, during which the District Forest Officer will act as an arbiter.

**Collected/Distributed by:** All payments above the royalties and rents prescribed by law should be paid directly to the communities or in the case of infrastructure be paid directly by the logging company. The value of payments and social amenities should be equivalent to a minimum of 5% of the stumpage fee.

**Distribution & Beneficiaries:** Rents and royalties (described in the sections below) will be distributed according to the formula included in the Constitution. The part that is specific to the SRA (equivalent to 5% of value of the stumpage fee) is entirely destined for the beneficiary communities.

**Timing:** Key provisions of the SRA will be negotiated by the Forestry Service in advance of the contract being advertised. The SRA subsequently has to be finalized and signed after notification of the grant of a TUC. A timeline for the proposed benefits should be included in the contract.

**Timber Rights Fee**

**Description:** The Timber Rights Fee is an annual lump-sum payment for the entire concession paid by the logging company. Timber rights are awarded to the bidder who offers the highest annual timber rights fee. In the absence of the payment of the first timber rights fee the Minister has to nullify the grant of the timber right. Absence of subsequent payments of timber rights fees can result in termination of the TUC.

**Collected/Distributed by:** In practice the Forestry Commission collects all timber rights fees. The Constitution prescribes however that all rents, royalties and revenues from stool land have to be collected by the Office of Administration of Stool Lands. So even if the FC in practice collects the fees, the OASL remains the responsible institution for this collection.

**Distribution & Beneficiaries:** The Timber Resource Management Acts and Regulations remain silent as to what has to happen with the proceeds of the timber rights fee. Apparently they have been transferred into the Consolidated Fund of the government. There have also been proposals to share the revenues from the timber rights fee between the Consolidated Fund, the industry incentive program, afforestation program and the forest owners. One could however question whether this practice (as well as the proposition) respects the Constitutional formula for benefit sharing.

For forest reserves an old legal provision, the Forest Ordinance, exists allowing the FC to retain no more than one third of the gross revenue from forest reserves for expenditure on the improvement of the forest in the interest of the owners. Again, one could question whether this provision can be considered to be in accordance with the benefit sharing formula included in the Constitution.

**Timing:** The first payment of timber rights fees is due after notification of the grant. Subsequent payments are due on a yearly basis throughout the duration of the TUC.
**Contract Area Rent**

**Description:** Contract Area Rent refers to the annual payment per hectare to the OASL in the case of stool lands and in any other case to the owner of the land. The rent equals GH₵ 1200/year/Ha for forest reserves and GH₵ 1000/year/Ha for off-reserve areas.

**Collected/Distributed by:** The contract area rent has to be paid to the OASL in the case of stool lands, and to the owner in any other case. However, similarly as for the timber rights fee the contract area rent, it is in practice collected by the FC.

**Beneficiaries and distribution between them:** If the rent concerns Stool or Skin lands, the OASL after retaining 10% as administration fee, is obliged to redistribute the rest as stated in the Constitution:

- 25% to the Stool through the Traditional Authority for the maintenance of the Stool.
- 20% to the Traditional Authority.
- 55% to the District Assembly, within the area of authority of which stool lands are situated.

**Timing:** Contract Area rent is due on a yearly basis, throughout the duration of the TUC.

**Stumpage Fee**

**Description:** The stumpage fee is a species-specific, volume-based fee charged on harvested timber. It represents royalties which provide basic return to the landowner and contribute to the cost of forest management and timber regulation. 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.

**Collected/Distributed by:** The stumpage fee is collected by the Forestry Commission. However, similarly as for the timber rights fee and the contract area rent, the Constitution empowers the OASL to collect revenues in relation to stool lands, so irrespective of practice, they hold the final responsibility for the stumpage fee collection.

**Distribution & Beneficiaries:** The distribution of stumpage fees is the same as the distribution of contract area rent. If it concerns Stool or Skin lands the OASL, after retaining 10% as administration fee, has to redistribute the rest as stated in the Constitution:

- 25% to the Stool through the Traditional Authority for the maintenance of the Stool.
- 20% to the Traditional Authority.
- 55% to the District Assembly, within the area of authority of which stool lands are situated.

The Forestry Commission withholds 50% of the collected stumpage fees. The remaining 50% is afterwards considered 100% and distributed according to the constitutional benefit sharing formula. Again, it is
unclear where the legal backing for this retention lies and one could question whether this practice is in accordance with article 267 (2) (b) and 267 (6) of the Constitution.

There are no legal provisions clarifying how stumpage fees from lands, other than Stool or Skin lands, are divided.

**Timing:** A person harvesting timber under a TUC has to pay the stumpage fee in respect of the harvested timber within 30 days of billing.

2.6.4 **Natural Forests Off-Reserve (Trees on Farm)**

Off-Reserve Forests refers to timber trees outside forest reserves, which are mainly trees on farms. Ghana’s law on naturally-occurring trees in off reserve areas indicates that farmers do not own the trees and therefore cannot exploit those resources. Such trees are allocated to concessionaires who are required to pay timber right fees, ground rent and stumpage and other fees. This is in contrast to planted trees in which the revenue from planted trees mostly benefits the planter and/or owner of such plantation.

As indicated earlier, ownership rights to naturally occurring economic timber trees in off-reserve forests rests with the government, but access to other forest and tree resources depends on the prevailing landownership and inheritance system. The greater a tree’s economic value, the greater the restrictions placed on its use by landowners, especially for tenants and immigrants. Rights to naturally-occurring non-timber trees that have some commercial value, such as kola, oil palm, and raffia palm, are restricted and are vested in the landowner. However, all naturally-occurring timber trees - whether on private or on communal land, or even on private farms - 'belong' to the government (Acheampong and Marfo, 2011).

Quaye (2014) also noted that, tenant farmers have very limited incentive to plant or maintain shade trees because of land tenure issues with landowners. Also, landowners have limited rights to naturally occurring trees on their land. The land carrying the trees is leased to farmers by stool landowners, the trees are raised entirely through the effort of farmers and their harvesting is controlled by the FC. Meanwhile, the revenue is shared among the FC, OASL, District Assemblies, Traditional Councils and Stool Landowners as described earlier on for On-reserves, with nothing to the farmers. The overall effect of the off-reserve timber management is that it results in unsustainable use and does not serve any stakeholders interest in the long term (Proven Ag Solutions, 2014).

Figure 4 shows a summary of distribution of benefits for naturally occurring trees as currently practised in Ghana.
Figure 4: The distribution of benefits for naturally occurring trees as currently practiced in Ghana

NATURALLY OCCURRING TREES

ON - RESERVE = OFF-RESERVE

Timber Rights Fee

FC: 100%

Contract Area Rent

Private land: 100% landowner

FC: 50%

(75,000)*

Stool lands: (150,000)*

OASL: 10%

(7,500)*

Others: 50%

(75,000)*

Constitutional Beneficiaries: 90%

(67,500)*

(16,270)*

STOOL (25%)

TA (50%)

DA (55%)

(15,600)*

(37,139)*

(40,500)*

STOOL (25%)

(237,500)*

TA (50%)

(270,000)*

DA (55%)

(241,500)*

Stumpage Fee:

Private land: ?? (no legal provisions exist)

FC: 50%

(1,500,700)*

Stool lands: (3,000,000)*

OASL: 10%

(150,000)*

Others: 90%

(1,350,000)*

Constitutional Beneficiaries: 90%

(1,350,000)*

Social Responsibility Agreement: equivalent to 3% of value of stumpage fee

Local communities: 100%

* In blue: fictitious examples of total amounts collected by the FC over 6 months have been included for contract area rent and stumpage fees. (examples based on stumpage/rent disbursement reports from OASL from 2010 and 2011)

Acronym Key

TA - Traditional Authority
DA - District Assembly
FC - Forestry Commission
2.7 PLANTED TREES

Planted timber (Plantation) is fundamentally different from naturally occurring timber because it is not a naturally occurring resource. Therefore, the ownership of planted trees does not by default coincide with the ownership of the land they are planted on in the same way as a farmer owns his crops even if not planted on his own land, a planter owns the trees he has planted even if it was not on his own land.

Timber can be planted under various schemes. Although these schemes are not included in the Timber Resources Management Acts and Regulations, they are recognized under the Forest Plantation Development Plan. Different schemes have different constellations of ownership, control, management and use rights. Because the state is only a trustee of the lands making up forest reserves, control, management and use of forest reserve resources should always benefit the original landowners.

The National Forest Plantation Development Program (NFPDP) which was launched in September 2001 and re-launched in January 2010 was largely implemented within degraded forest reserves. The NFPDP has been expanded with the introduction of the Expanded Plantation Programme (EPP) to cover private lands located outside forest reserves (NFPDP Annual Report, 2012). The goal of the EPP was to ensure that most of the District/Municipal Assemblies without degraded forest reserves also benefit from the job opportunities being created through the NFPDP. Other components of the NFPDP that have been implemented over the years with diverse tree tenure policies which are equally important in this discussion include: Private Commercial Plantation Agreements, the Modified Taungya System (MTS), Government Plantation Development Project (GPDP), the Community Forest Management Project (CFMP) and Degraded Forests.

Commercial plantations could be established either on-reserve or off-reserve. With the on-reserve, the FC releases degraded forest reserve lands to private entities after vetting and endorsing their business plans. The operations of these private developers are then monitored through periodic field visits by the FSD to ensure compliance with the approved reforestation plans. The private investor earns 90% of the total proceeds from the plantation while the FC, Landowner and Community earn 2%, 6% and 2% respectively. The landowner has a share because he/she releases the land to the developer, the FC has a share because of the support and assistance, and the adjacent communities get a share because they help to protect the planted trees, and because they partly depend on the forest areas for their livelihood. In private-funded forest plantations, the workers are able to collect some products from the plantation area, such as commercial leaves, other non-timber forest products and firewood which provide livelihood opportunities.

The FC gives out 50 years leasehold to the private developer and the parties sign two legal documents namely; Lease and Benefit Sharing Agreements which outline the duration period of the leasehold as well as the benefits sharing arrangement.

The weakness of this scheme is associated with the behaviour of some developers who try to outwit the FC by going for the land legally and subsequently giving it to farmers to do a Taungya System operation (farmers are farming the land and planting trees). By so doing they get free labour and the trees grow and
are protected. Although it is not the common practice of developers to pay such farmers, some developers pay them a small token while they are planting, weeding or maintaining the trees (Proven Ag Solutions, 2014).

2.7.1 On-reserve Ownership, Control, Management and Use Rights of Planted Forests

In on-reserve areas the government can replant trees and timber itself (model plantations) or with the help of hired labour and supervision (GPDP) or with the help of local farmers (MTS). It can also allocate degraded parts of forest reserves to private companies for plantation development (State allocated degraded lands).

<table>
<thead>
<tr>
<th>Ownership</th>
<th>Model Plantation</th>
<th>Government Plantation Development Program</th>
<th>State allocated degraded land</th>
<th>Modified system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ownership</td>
<td>Timber planted and therefore owned by the State</td>
<td>State and landowners own planted timber according to GPDP report</td>
<td>Timber Planted and therefore owned by private companies</td>
<td>Timber planted by the State in collaboration with local farmers so shared ownership of planted timber</td>
</tr>
<tr>
<td>Control</td>
<td>No trusteeship so controlled by State</td>
<td>No trusteeship so controlled by State</td>
<td>No trusteeship so controlled by planter</td>
<td>No trusteeship so controlled by State</td>
</tr>
<tr>
<td>Management</td>
<td>State</td>
<td>State with the help of hired labour and inspectors</td>
<td>Managed by planter</td>
<td>Managed by State and Farmers</td>
</tr>
<tr>
<td>Use rights</td>
<td>All use rights controlled and managed by state</td>
<td>All use rights controlled and managed by state</td>
<td>Use rights relating to trees (like collection of fruits) owned, controlled and managed by private company; Use rights relating to the land owned by landowners and controlled and managed by State</td>
<td>Use rights relating to planted trees and planted timber owned and managed by state and farmers. Especially clear during first years (intercropping)</td>
</tr>
</tbody>
</table>

Table 1: Simplified Summary Table on Planted Forest Resources Ownership, Control, Management and Use Rights – ON-RESERVE
2.7.2 Off-reserve Ownership, Control, Management and Use Rights of Planted Forests

At first sight, the Concessions Act does not seem to make a difference between naturally occurring and planted trees in off-reserve areas when vesting them in the President. However, the Concessions Act has to be read with the modifications necessary to give effect to the Timber Resources Management Act. In this act it is stated that no timber right shall be granted in respect of land with private forest plantations or land with any timber grown or owned by any individual or group of individuals. This means planted timber is not intended to be included in the vesting of trusteeship by the Concessions Act.

Table 2: Simplified Summary Table on Planted Forest Resources Ownership, Control, Management and Use Rights – OFF-RESERVE

<table>
<thead>
<tr>
<th>Ownership</th>
<th>Expanded plantation development program</th>
</tr>
</thead>
<tbody>
<tr>
<td>State and landowners (own planted timber)</td>
<td>Landowner</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Control</th>
<th>Private off reserve plantations</th>
</tr>
</thead>
<tbody>
<tr>
<td>No trusteeship so controlled by State and landowners</td>
<td>Landowner</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Management</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td>State and landowners</td>
<td>Landowner</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use rights</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td>State and landowners</td>
<td>Landowner</td>
</tr>
</tbody>
</table>

Although customary laws in Ghana do not prevent tenants from planting trees, landowners do not encourage this because most people believe that the long production period and the lack of appropriate documentation of land ownership increases the security of the tenant to land rights when trees are planted. Therefore, an attempt by a tenant to plant trees is regarded as an attempt to acquire permanent ownership of land. However, immigrants who have acquired long-term title or right to the use of land through some form of agreement (such as granting on leasehold basis) have the right to plant and use any species of tree.

2.7.3 Private Off-reserve Plantations

These are plantations that have been established without any intervention from the state. Ownership, control, management and use rights therefore lie 100% with the landowner if he was also the planter. If the trees were not planted by the landowner the agreement between him and the planter will determine who owns, controls and manages the timber resources and the use rights that lie on them.

The law on rights to planted trees has been amended to support afforestation, reforestation and private plantations. The law prohibits the granting of timber rights on private forest plantations and land with trees grown or owned by private persons.

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Except for this prohibition and the creation of the Forest Plantation Development Fund (including a Board managing this fund), the law and regulations say very little on planted timber and the sharing of benefits in relation to it. However, historically as well as under the more recent National Forest Plantation Development Plan, a number of different plantation schemes, some with provisions for benefit sharing, have emerged.

With the off-reserve plantations, farmers are to register with the Plantation Development of the FC in order to benefit from technical support and loans. As regards benefits, one hundred percent (100%) of the total proceeds go to the private farmer if the land is privately owned. However, if the farmer happens to be a tenant on a stool/chief or traditional land, 33% of the timber proceeds go to the landowner.

Where the distribution of benefits is done differently from the constitutional benefit sharing formula, one could question whether this distribution is in breach of the Constitution. However, this constitutional benefit sharing formula is included in chapter 21, titled ‘Land and Natural Resources’. This would suggest that planted timber, because it is not a natural resource, is not targeted by the constitutional provision on benefit sharing.

2.7.4 Benefits and Benefit Sharing Arrangements on Planted Trees
Included below is a brief overview of the different plantation schemes and the possible benefit sharing mechanisms included within them.

**On-reserve Government Plantation Development Program**

**Description:** The government has supported the establishment of industrial plantations utilizing hired labour and contract supervisors. This strategy was funded through the Highly Indebted Poor Countries (HIPC) funds. Under this scheme, the plantations developed are owned by the government and the respective landowner.

**Collected / Distributed by:** Revenue for these plantations is collected and distributed by the FC.

**Distribution/Beneficiaries:** According to the yearly reports of the National Plantation Development Fund, landowners are entitled to royalties. It is however unclear how much royalties will be given to them.

**Timing:** At harvest

**On-reserve State Allocated Degraded Land**

**Description:** The Forestry Commission is permitted to allocate proportions of degraded reserves to private entities for the establishment of forest plantations. This is encouraged by offering the majority of the revenue from the harvest of timber to the private entity.

**Collected/Distributed By:** Revenue from the forest plantation is collected by the planter, who subsequently has to pay a part to the Forestry Commission. It is the FC who further distributes between other beneficiaries.
Distribution and Beneficiaries: Revenue from private plantations on state allocated degraded land primarily goes to the planting entity. The FC, landowners and local communities are only entitled to a small proportion of the generated revenue:

- Private entity (90%)
- Landowner (6%)
- Forestry Commission (2%)
- Local Community (2%)

In addition to these benefit sharing arrangement, the private developer currently pays a rent on the land equivalent to $2.00 per hectare per annum to the landowners (who in most instances happen to be the traditional authorities).

Timing: At harvest.

Modified Taungya System (MTS)

Description: Under the Modified Taungya System farmers are allocated land in degraded parts of forest reserves and are given seedlings to reforest the area. They are also permitted to plant food crops on the same land during the first years of plantation establishment until the forest cover closes (intercropping). In spite of being mentioned in the Forest and Wildlife policy, the MTS does not have a specific legal basis in one of the acts or regulations governing the forest sector. In some cases the terms and conditions have been laid down in signed agreements. The Community Forest Management Project also used this system to establish community plantations.

It is not entirely clear what ownership, control, management and use rights structures govern the timber resources that come from these plantations. Logically, ownership would be shared between the state and the farmers who collaboratively have established the plantations. Therefore control, management and use rights also lie with the state and farmer together. This is confirmed by the fact that farmers are allowed to intercrop (= use right) in the plantations during the first years of their establishment.

Collected / Distributed by: Farmers collect the revenues from intercropping activities themselves. Revenue from the trees on the plantations is collected and distributed by the FC.

Distribution/Beneficiaries: Farmers are entitled to 100% of the benefits accruing from intercropping. Benefits from the planted trees are distributed as follows based on the responsibilities and costs incurred by the actors/parties:
<table>
<thead>
<tr>
<th>Actor/Party</th>
<th>Responsibilities</th>
<th>Benefits</th>
<th>Cost Elements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forestry Commission</td>
<td>Supplying the MTS Farmer Group with good quality seedlings; providing requisite training and extension services; marketing and accounting of the plantation products; overall financial management and supervision.</td>
<td>40% of timber revenue</td>
<td>Costs of technical inputs (seedlings, working tools like pruning saws), supervision, extension services, and training of farmers.</td>
</tr>
<tr>
<td>Farmers</td>
<td>Provision of labour for planting and maintenance of trees; growing non-permanent food crops in the MTS farm until tree canopy closure; labour for wildfire protection; recruitment of additional hand to assist in plantation development.</td>
<td>100% Non-permanent food crops and 40% of timber revenue</td>
<td>Labour costs for planting and maintenance of trees and crops; costs for recruiting additional hands; labour costs for wildfire protection</td>
</tr>
<tr>
<td>Landowner</td>
<td>Provision of land within the degraded forest reserve; guaranteeing uninterrupted access to the allocated land.</td>
<td>15% of timber revenue (8% to Stool landowner and 7% to Traditional Authority)</td>
<td>Opportunity cost for releasing land for forest reservation and development</td>
</tr>
<tr>
<td>Local Community</td>
<td>Assisting FC to prevent and control fire outbreaks (natural and man-made) and illegal activities within the plantation</td>
<td>5% of timber revenue</td>
<td>Cost of labour and risks for prevention and control of fire outbreaks and illegal activities</td>
</tr>
</tbody>
</table>


**Timing:** At harvest.

**Off-reserve Private Plantations**

**Description:** Private entities, communities or farmers who want to reforest the land they own can apply for support from the Forest Plantation Development Fund. A beneficiary of the Fund who observes the conditions determined by the Board is entitled to exercise ownership over the timber produced. This means that, unless differently determined in the conditions, he is entitled to the full revenue from the timber he planted.

**Collected / Distributed by:** All revenues are collected by the planters.
**Distribution/Beneficiaries:** 100% of the revenue belongs to the planter if he is at the same time the landowner. Where trees are planted on land not owned by the planter, agreements may exist to share the revenue between the planter and the landowner. In situations where the farmer is a tenant on chief or traditional lands, usually 33% of timber proceeds is given to the landowner.

**Timing:** At harvest.

Figure 5 shows a summary of the distribution of benefits for planted trees as currently practised in Ghana.

**Figure 5** The distribution of benefits for planted trees as currently practiced in Ghana

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**CREMAs**

Community Resource Management Area (CREMA) represents a geographically defined area endowed with sufficient resources where the constituent local people have organized themselves for the purpose of sustainable management of their natural resources. The CREMA approach provides the conditions and rules that enable local communities to really benefit from sustainable natural resource use and as such devolves management responsibility and authority for natural resources. It also promotes community rights and local ownership. It was developed by the Wildlife Division of the Forestry Commission, together with its partners, to support community resource governance and management in off-reserve lands.

CREMA does not alter or address ownership of natural resources. It is a tenure mechanism that grants natural resource governance and management rights to communities. The CREMA mechanism gives...
communities the right to manage and benefit economically from their natural resources (within the accepted CREMA boundaries) and in line with the CREMA’s constitution and associated by-laws. CREMA benefit sharing arrangement is contractual and varies from CREMA to CREMA. CREMA communities thus determine their own benefit-sharing arrangements that are responsive to the CREMA stakeholders’ values, perceptions of equity and needs.

**Dedicated Forests**
Like the CREMA, the Dedicated Forest Scheme seeks to institutionalize community and individual ownership and management of forests outside forest reserves (Asare 2007, cited in Proven Ag Solutions, 2014). The main characteristics of the scheme are as follows:

- Community or individual ownership and management of land for forestry purposes;
- An approved technically feasible management plan by the Forestry Commission;
- Technical, legislative and material support from government; and
- Community control over harvesting rights in accordance with existing legislation.

Dedicated Forests provide an opportunity for local communities to protect sacred groves or otherwise locally-valued off-reserve forests and to receive economic benefits through community forestry management. Ghana currently has two Dedicated Forests that have engaged in attempts at artisanal harvesting of timber and collection of NTFPs. Eco-tourism also plays a minor role in returning some benefits to the forest owning communities. The mandate of the Dedicated Forests evolved in response to the 1994 Forest and Wildlife Policy and subsequent efforts were made to secure legal backing for these through the creation of associated legislation, but these were unsuccessful. Currently, the Dedicated Forests are backed at the district level through by-laws that recognize their status.

Government cannot arbitrary grant timber rights over recognized Dedicated Forests. This is to serve as an incentive and to put the message across that communities and individuals stand to receive all the benefits that are due if they invest their energy in managing Dedicated Forests. Plans are underway to expand the concept of Dedicated Forests as a viable option to government reservation (Proven Ag Solutions, 2014).

**Strengths and Weaknesses of Tree Growing Management Regimes**
TBI Ghana (2014), in their analysis of benefit sharing schemes in Ghana, came out with strengths and weaknesses of existing benefit sharing schemes. These are summarized in Table 5.
### Table 5- Strengths and Weaknesses of Tree Growing Management Regimes

<table>
<thead>
<tr>
<th>No.</th>
<th>Type of Management Regime</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Modified Tuangya System</td>
<td>i. The MTS arrangement has legal backing, ii. It has clearly defined institutions and a benefit sharing arrangement that involves multiple actors, iii. The MTS has arrangements for more equitable sharing of timber benefits, iv. Farmers have secure access to land to plant trees and get benefit from it as well as getting benefit from food crops until canopy closure (Mirjam et al. 2013), (v) This is better protection of planted trees since groups of the local people have benefits in the trees</td>
<td>i. Marfo (2009) has observed that even though the modified taungya agreement had provisions for the plantation to be insured by the Forestry Commission, none of the studied cases had been insured. This was observed to be problematic due to the threats posed by wildfire and theft. ii. Marfo (2009) has again observed that even though farmers had assurance of 40 per cent benefit from the future revenue from tree sales, there was no way they could use this future capital as a collateral to negotiate opportunities for business alliance and credit to engage in other economic activities to support their livelihoods. This is noted to be particularly crucial if no direct financing will be provided to support farmers’ livelihoods once trees cover the land. iii. There is absence of a clear benefit-sharing mechanism for the distribution of the 40% share in timber benefits among individual farmers. The existing benefit-sharing agreement applies to the MTS group as a whole, which adds to the insecurity about future timber benefits and is seen as a potential source of conflict in the future, i.e. during time of harvest (Insaidoo, forthcoming).</td>
</tr>
<tr>
<td>2</td>
<td>Commercial Forest Plantations</td>
<td>i. The benefit sharing arrangement in the CFPD has legal backing (as in the MTS), ii. It has clearly defined institutions and a benefit sharing arrangement that involves multiple actors.</td>
<td>i. Asare (2010) has observed that this system fails to account for the drivers of deforestation and future threats.</td>
</tr>
</tbody>
</table>
Investor has secure access to land to plant trees and get benefit from it as well as getting benefit from growing food crops until canopy closure (as in the MTS).

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Trees on Farms</td>
<td>i. The main strength in the On-farm tree planting is that the farmers (plus landowner) have ownership right and 100% benefit-share of trees. This is based on Act 547 and the amended Plantations Development Fund Act of 2002 (Act 617), which grants ownership right to people who plant trees in off-reserve areas.</td>
</tr>
<tr>
<td>4</td>
<td>Forest Reserves (Stumpage Fees)</td>
<td>i. The greatest share goes to government institutions, like the District Assembly for development activities at the district level.</td>
</tr>
<tr>
<td>5</td>
<td>CREMA</td>
<td>with the accruing benefits shared among stakeholders—but not the farmer.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>i. CREMAs include clear boundaries, a constitution that is developed through a participatory process, backing by District Assembly bye-laws, strong social cohesion and opportunities for generating revenue and benefit-sharing outside the normal legal framework Katoomba (2009).</td>
<td>Under the current legal arrangements, timber is classified as an economic resource and commodity, which has to be shared among stakeholders (Asare, 2010). However, the fact that the state effectively owns the timber (economic trees) in both on- and off-reserve areas present challenge to equitable benefits sharing. The 1962 Concessions Act (Act 124: Section 16 (4)) grants all rights to “economic trees” to the President in trust for the Stools, which means that the government, through the FC, has the sole responsibility and right to manage, harvest, and sell the country’s timber resources.</td>
<td></td>
</tr>
<tr>
<td>ii. CREMAs represent a strong community structure that facilitates landscape planning, democratic decision-making, community-based governance and local design of benefit-sharing agreements for all stakeholders (Asare et al., 2013). A greater percentage of benefits are allocated to communities for development activities; hence the community members are more committed to participate in activities and ensuring the protection of resources.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>iii. The local communities and people have the greatest share for development activities. The CREMA involves transparency and participatory approaches. Hence, the processes involved in the CREMA can be seen as good governance platform for improving benefit sharing in the forestry sector.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Benefit Sharing Schemes in Other Countries**

Foli and Dumenu (2015) have noted that other countries are also engaged in reforming forest benefit sharing arrangements in the bid to encourage local participation in the forest management. Table 6 summarizes benefit sharing arrangements in some countries they cite.

Table 6- Benefit Sharing Arrangements in Other Countries

<table>
<thead>
<tr>
<th>No.</th>
<th>Benefit Sharing Scheme</th>
<th>Allocation</th>
<th>Forest Management Regime</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lao Peoples Democratic Republic Joint Forest Management benefit sharing</td>
<td>60%: for a village development fund; 30%: to cover operating costs; 10%: for forest protection fee for villages where logging activities do not take place in a particular year.</td>
<td>Forest reserves (Protection reserves, e.g. GSBAs; Production reserves).</td>
</tr>
<tr>
<td>2</td>
<td>Indonesia indigenous forest areas benefit sharing</td>
<td>Community Forest; 50%: Community; 30%: Developers; 20%: Government (40%-Central, 20% Provincial, 40%-District government).</td>
<td>Community Forests; Off-reserves; Forest reserves (Protection reserves, e.g. GSBAs).</td>
</tr>
<tr>
<td>3</td>
<td>Nepal Protected area buffer zone</td>
<td>30%: Conservation 30%: Community development 20%: Income generation 10%: Education activities 10%: Administration cost</td>
<td>Forest reserves (Protection reserves, e.g. GSBAs).</td>
</tr>
</tbody>
</table>
CHAPTER THREE
CURRENT TREE MANAGEMENT AND TENURE REGIMES AND ASSOCIATED BENEFIT SHARING ARRANGEMENTS IN GHANA

3.1 TREE TENURE AND BENEFIT SHARING ARRANGEMENTS

In this section, implementation of the benefit sharing arrangements as seen from the perspective of the stakeholders consulted in the field through the Focus Group Discussions and key informant interviews, are discussed. A summary of the current state of tree tenure and benefit sharing arrangements in Ghana has been divided into the various regions. While the information gathered from the field was on the basis of administrative districts it became apparent that zonal rather than regional differences was the common strand. Thus the results of the tree growing mechanisms are presented a consolidated form:

Southern – comprising Volta, Greater Accra, Central, Western

Middle – Ashanti, Eastern, Brong Ahafo

Northern – Northern, Upper East, Upper West

Table 7- Tree Growing Management Regimes

<table>
<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Southern</th>
<th>Middle</th>
<th>Northern</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Forest/wildlife reserves</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>On-Reserve Plantation</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Dedicated Forests</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>National Plantation Programme</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Public Private Partnership</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Private Commercial Plantations (on-reserve)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Sacred Grove</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>MTS</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>9</td>
<td>Off-Reserve Plantation</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Private Commercial Plantation (off-reserve)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Trees on Farm (Planted)</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>Trees on Farm (Naturally Occurring)</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Source: Results of FGD in the Regions (2015)
The focus was on the common tree growing management regimes in specific regions, although other tree growing activities could be practised. This is from literature reviewed in the previous chapter and information gathered from the Focus Group Discussions and expert interviews undertaken in this study. Table 7 presents a summary of the major management regimes in the three zones.

The Middle zone practices more tree growing management regimes than the Southern and Northern zones. This is mainly because, currently, more tree planting and management regimes happen within the Ashanti, Brong- Ahafo and Eastern Regions than in the other parts of the country.

Table 8 gives details on the tree tenure and benefit sharing arrangements for each of the tree growing management regimes whiles Appendix 4 shows the summary per region. The main stakeholders represented in the matrix are the traditional authority, landowners, farmers, timber contractors and the State. However, the farmers were divided into migrant farmers, indigenous farmers and women farmers in order to get the dynamics for each of them. It was realised that, with regard to tree tenure and benefit sharing arrangements, there were very few differences amongst the ten (10) regions of Ghana. Generally, migrant farmers have limited rights than indigenous farmers. An example is that they are not allowed to farm on communal land. Also, women have greater rights on private land in matrilineal societies but generally have limited rights on communal land.
Table 8- Tree Tenure and Benefit Sharing Arrangement

<table>
<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>On-Reserve Plantation</td>
<td>Traditional Authority (Chief)</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC); Unrecognised management rights</td>
<td>9% (Reason not stated); SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Indigenous Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Migrant Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Women Farmers</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>TUCs</td>
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<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
</tr>
<tr>
<td>2</td>
<td>Dedicated Forests</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber; Unrecognised management rights</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
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<td></td>
<td>Migrant Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td>3</td>
<td>Traditional Authority</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC); Unrecognised management rights</td>
<td>9% (Reason not stated); SRA (Community)</td>
<td></td>
</tr>
<tr>
<td>National Plantation Programme</td>
<td>Landowner</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
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<tr>
<td>Migrant Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
<td></td>
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<tr>
<td>Women Farmers</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
<td></td>
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</tr>
<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>TUCs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
<td></td>
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<tr>
<td>4</td>
<td>Public Private Plantation</td>
<td>Traditional Authority (Chief)</td>
<td>Access to NTFP (Requires Permit from FC)</td>
<td>4% - Community (Protection)</td>
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<tr>
<td>Landowner</td>
<td>Access to NTFP (Requires Permit from FC)</td>
<td>12% (Release of land)</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access to NTFP (Requires Permit from FC)</td>
<td>4% - Community (Protection)</td>
<td></td>
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<tr>
<td>Migrant Farmer</td>
<td>Access to NTFP (Requires Permit from FC)</td>
<td>4% - Community (Protection)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women Farmers</td>
<td>Access to NTFP (Requires Permit from FC)</td>
<td>4% - Community (Protection)</td>
<td></td>
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<tr>
<td>Timber Contractors/private investor</td>
<td>Access and withdrawal rights (TUC)</td>
<td>80%- (Management)</td>
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<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 4% (Technical Advice)</td>
<td></td>
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<td>5</td>
<td>Private Commercial Plantations (On Reserve-Degraded Forest Areas)</td>
<td>Traditional Authority (Chief)</td>
<td>Unrecognised management rights</td>
<td>Harvesting of NTFPs</td>
</tr>
<tr>
<td>Landowner</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>6% (Release of Land); Harvesting of NTFPs</td>
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<td></td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Community -2% (not directly to the farmer)- Protection of Trees; Harvesting of NTFPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Migrant Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Community -2% (not directly to the farmer)- Protection of Trees; Harvesting of NTFPs</td>
<td></td>
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<tr>
<td>Women Farmers</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Community -2% (not directly to the farmer)- Protection of Trees; Harvesting of NTFPs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timber Contractors/ Private investor</td>
<td>Access and withdrawal rights (TUC)</td>
<td>90%- Private Entity</td>
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<td></td>
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<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 2% (Support and Assistance)</td>
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<tr>
<td></td>
<td></td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber; Unrecognised management rights</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
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<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
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<tr>
<td></td>
<td></td>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
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<tr>
<td></td>
<td></td>
<td>Migrant Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>6</td>
<td>Sacred Grove</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber; Unrecognised management rights</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
<td>15%- Responsible for providing land, community mobilization and conflict resolution. Guarantee uninterrupted access to the allocated land for the FC and other parties; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmer (whether Indigenous, migrant or a woman)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>Benefit from 100% food crop harvest and 40%- Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>100% of profits are payments of stumpage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 40%- Responsible for the provision of technical support services, demarcation and mapping of sites, species matching, monitoring, quality control and plantation</td>
</tr>
<tr>
<td>7</td>
<td>MTS</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
<td>15%- Responsible for providing land, community mobilization and conflict resolution. Guarantee uninterrupted access to the allocated land for the FC and other parties; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>15%- Responsible for providing land, community mobilization and conflict resolution. Guarantee uninterrupted access to the allocated land for the FC and other parties; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmer (whether Indigenous, migrant or a woman)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>Benefit from 100% food crop harvest and 40%- Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>100% of profits are payments of stumpage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 40%- Responsible for the provision of technical support services, demarcation and mapping of sites, species matching, monitoring, quality control and plantation</td>
</tr>
<tr>
<td>8</td>
<td>CREMA</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
<td>Some CREMAs give part of the revenue to Traditional Authorities; 5-10% to CREMA Executive Committee</td>
</tr>
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<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to communities (Not directly to the Landowner)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmer (whether Indigenous, migrant or a woman)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>Some CREMA’s give part of the revenue to DAs</td>
</tr>
<tr>
<td>9</td>
<td>Off-Reserve Plantation</td>
<td>Traditional Authority (Chief)</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>On Stool/ Family Land (Stool- 33%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>On Stool/ Family Land (Planter- 67%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmer (whether Indigenous, migrant or a woman)</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUCs)</td>
<td>On Private Land (100% to the Private Entity)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Private Commercial Plantation (Off Reserve)</td>
<td>Traditional Authority (Chief)</td>
<td>Unrecognised management rights</td>
<td>Harvesting of NTFPs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Harvesting of NTFPs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmer (whether Indigenous, migrant or a woman)</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>On Stool/ Family Land (67%- Private Entity, 33%- Stool/ Family); On Private Land (100%- Private Entity)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Trees on Farm (Planted)</td>
<td>Traditional Authority (Chief)</td>
<td>Unrecognised management rights</td>
<td></td>
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<tr>
<td>Role</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>Rights</td>
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</tr>
<tr>
<td>Landowner</td>
<td>100%; 33% if land is rented out</td>
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<tr>
<td>Indigenous Farmer</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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<tr>
<td>Migrant Farmer</td>
<td>On Stool/ Family Land (Planter- 67%)</td>
<td></td>
<td></td>
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<tr>
<td>Women Farmers</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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<tr>
<td>Timber Contractors</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>State</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trees on Farm (Naturally Occurring)</td>
<td>9% (Reason not stated); SRA (Community)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traditional Authority (Chief)</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landowner</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indigenous Farmer</td>
<td>SRA (Community)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Migrant Farmer</td>
<td>SRA (Community)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women Farmers</td>
<td>SRA (Community)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timber Contractors</td>
<td>TUCs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
<td></td>
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</tr>
</tbody>
</table>
3.1.1 Categories of Tree Management Schemes

Ansah et al (2016) categorised the current state of tree tenure and benefit sharing arrangements in Ghana into four. These are Forest Reserves, Off-forest Reserves, Planted Trees and Naturally Occurring Trees. These categorisation is adapted slightly to give a clearer reflection of the practice on the ground. This categorisation is based on whether the trees are naturally occurring or planted and whether it is within a formally designated forest (or wildlife) reserve or not. The different tree management regimes identified are assigned to a category as indicated in Table 9.

Table 9- Categories of Tree Management Schemes in Ghana

<table>
<thead>
<tr>
<th>Naturally Occurring</th>
<th>On-reserve</th>
<th>Off-reserve</th>
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<tbody>
<tr>
<td></td>
<td>Forest Reserves</td>
<td>Trees on Farms</td>
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<td></td>
<td>Wildlife Reserves</td>
<td>Trees on Secondary Forests</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CREMA</td>
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<td></td>
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<td>Dedicated Forest</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sacred Groves</td>
</tr>
<tr>
<td>Planted</td>
<td>National Plantation Programme, including (HIPC, Model Plantation)</td>
<td>Private Plantation</td>
</tr>
<tr>
<td></td>
<td>Public-Private Plantation</td>
<td>Community Plantations</td>
</tr>
<tr>
<td></td>
<td>Modified Taungya System</td>
<td>Woodlots</td>
</tr>
</tbody>
</table>

Source: Authors’ Own Construct, 2016

Forest/ Wildlife Reserves

Because Forest Reserves are fully vested in the State, through the Forest Ordinance of 1927, there are requirements for entry, such as timber rights, permits for timber exploitation, permits for NTFPs and the provision of guaranteed usufruct rights. Most management plans for forest reserves use permits to define communal rights to hunt, fish, collect fuelwood, snails and medicinal plants and farm on admitted farms. Communal rights have been the subject of dispute between the government and communities, because communities want unrestricted access to the forest on the grounds that they contribute in preventing illegal timber exploitation. Some studies have confirmed that in many cases, farmers complained that the procedures for acquiring permits were cumbersome and that the FC did not readily give permits for some items. The FC on the other hand, claimed that it issues permits quickly, unless it has difficulties with supervising and monitoring them. In reality, prevailing conditions make the forest reserve highly inaccessible to the marginalized poor, regarding use of trees and the acquisition of permits for NTFPs, for which there is demand in urban centres.

The main reasons for fringe communities’ lack of access to forest resources are the highly bureaucratic and centralized processes involved and the communities’ distance from District Forestry offices. Time constraints and competing demands on limited budgets at the FC are other factors. In spite of the policy
shift towards collaborative management, forest resources still face serious encroachment because of inequities regarding benefits and the lack of enforcement of forestry rules.

Unlike forest reserves, wildlife reserves are government acquired lands for which processes of acquisition have been established. While wildlife protected areas are strictly maintained by well-trained and armed staff, illegal chainsaw operators are still able to pitch camp in the heart of forest reserves and sometimes even exchange fire with military task forces whose assistance has been sought. The establishment of the CREMA concept is an attempt to encourage locals to support the management of wildlife reserves. Devolution of power for wildlife management, especially outside protected areas, is intended with the management of CREMA. However other social factors may also account for the lack of cooperation from communities. The lack of/delay in compensation as well as the one-time payment of these compensations at the time of acquisition of wildlife reserves, is a major reason for agitation in many communities around these reserves.

**Off-reserve Forests**

Ownership rights to economic timber trees in off-reserve forests also rest with the government. However, at the community level, access to NTFPs and trees depends on the prevailing landownership and inheritance system. Generally, at the community level, tree resources are allocated by landowners to satisfy the increasing domestic and fuelwood demands. The greater a tree’s economic value, the greater the restrictions placed on its use by landowners, especially for tenants and immigrants. For immigrants (often tenant farmers), it is difficult for them to have ownership of the trees they plant since they rent the land they farm on.

The customary arrangements regarding the rent of the land may not allow for planting of trees. Such tenure restrictions reduce tenant farmers’ attachment to their farmlands and are major disincentives to Sustainable Forest Management (SFM) and poverty reduction. Land tenure rights and land administration have to be fully reviewed so that their contributions to both local and national economies can be increased through SFM and poverty eradication. Further forest and tree tenure arrangements and timber logging rights in Ghana, especially in the off-reserve areas of the high forest zone (HFZ), is highly complex. Depending on whether trees are planted or are naturally occurring and whether they occur on family, communal or rented land, several usufruct rights exist. In off-reserve areas, tree tenure is also different for planted trees compared to those growing naturally, and for timber trees compared with non-timber species.

There can be at least two main actors with access rights to timber trees in off-reserve areas. These are actors with right to direct benefit which in most cases are timber companies given timber rights permits and actors with rights to benefit indirectly which includes the state, District Assemblies and Traditional Authorities. The direct benefit is referred to as timber for commercial purposes, whereas the indirect benefit is considered as share of revenue from the grant of timber rights (stumpage, concession rents, SRAs, etc). The right to direct benefits from trees is acquired through the permit system (felling permits)
whereas the right to indirect benefits cannot be acquired but is derived from the Constitution of Ghana with the constitutional benefit sharing quota for revenue from stool lands.

It is also instructive to note that apart from the state-based legislation governing access rights to timber trees in off-reserve areas, there are also a number of customary practices and rules regulating timber trees access and use. In the customary law, rights to timber trees are closely linked to land tenure arrangements. There is no distinction however between land and tree tenure (except in the case of planted trees). Benefit right holders to timber trees are the de facto land owners. However, due to the complex nature of customary land tenure, it is difficult to identify clearly who holds the rights to benefit from timber trees.

The Forestry Commission has full right to control access to timber trees. In off reserve areas role of the FC is somewhat limited in favour of other stakeholders, especially traditional authority.

**Planted Trees and Naturally Occurring Trees**

Planted trees are subjected to different legal regulative regimes in terms of rights than naturally grown trees in off-reserve areas. Statutory as well as customary regulations concerning planted trees in off-reserve areas are fairly consistent and give rights (benefit, access and control rights) to actors who planted the trees (called the “Planters Right”). While land owners have full rights to benefit and control access to their land, the rights to naturally grown trees are vested in the President (the state).

The rights of ownership and access to trees differ depending on whether the tree is naturally growing or planted. With respect to the Concession Act of 1962 all naturally growing trees (in Forest Reserves and Off-Reserve areas) are vested in the President in trust for the traditional authorities (forest communities by extension). As a result, the State has the formal right to control and manage these tree resources, including the right to allocate trees for logging. However, the statutory law recognizes customary access and use rights on forest products for domestic purposes.

The practice is that the Minister responsible for the forestry sector has the right to grant right to the felling of trees to timber companies subject to the approval of Parliament. The Minister is also responsible to define management rules and is responsible for monitoring and enforcement of such rules. Maximum number of trees to be felled for both on and off-reserve areas is regulated by an Annual Allowable Cut (AAC) which is determined by the Forestry Commission based on its management regulations (manuals). In off-reserve areas, the timber firm and Forestry Commission undertake a pre-felling assessment of trees identified by the timber company. Act 617 redefined what lands are subject to state-issued timber utilization rights. With reference to this Act, no timber rights can be granted on farmlands without written authorization of the farmer(s) involved, or on lands with private plantations or privately grown timber. This new legal framework in principle increased the rights of local people over timber resources on their lands. In practice, however, this is rarely the case. In instances where such permission is granted it is done by the land owner or the chief who may not be the farmer farming on the land (in which case it could be a tenant farmer).
A direct right to naturally occurring timber trees in off-reserve areas is given to contractors who hold a TUC to the area by statutory legislation (Act 617, Act 547). However, according to some customary arrangements, benefits are also given to persons who hold usufruct rights to the land. In Ghana, access to timber trees both on and off-reserve, is strictly regulated by legislation. Therefore, cutting any tree, regardless of land ownership, nature of the tree or the purpose requires permission issued by the Forestry Commission. Local actors such as communities and individual members of communities have to apply for Timber Utilisation Permits (TUP) to harvest trees on their land for social or communal purpose like building a hospital, school, etc.

The economic rights to trees is by far the most important string from the bundle of rights associated with timber trees in both on and off reserve areas in Ghana. And for any reform, this aspect of the right need to feature strongly at the heart of any solution that is negotiated.

3.2 STAKEHOLDERS KNOWLEDGE OF BENEFIT SHARING ARRANGEMENTS

The level of knowledge of a system plays a key part in the choices one can make. In their work on transparency in the forest sector in Ghana, CIKOD 2012, makes some interesting observations about benefit sharing, particularly in relation to stumpage (royalties) and SRA. With regards to royalties, the report says that “majority of stakeholders (average of more than 70%) are aware of royalties but most of them (90%) do not have knowledge of how the royalties are calculated.” Only 4% of community stakeholders have knowledge on how the royalties are calculated. Of the community stakeholders, 1.8% of women group respondents and 1.6% of youth group respondents know how royalties are calculated. Even with the traditional authorities who normally receive royalties just 11% know how royalties due them are calculated. With the traditional authorities, stool chiefs (18.3%), paramount chiefs (25%) and queen mothers (7.9%) know how royalties are calculated.

However, FC and OASL officers indicated high knowledge in the calculation because they are involved with the calculation and disbursement. The District Assembly expressed limited knowledge on the calculation of royalties. Again, the females who knew how the royalties were calculated are half of the males who also have knowledge on calculation of royalties (female-6% and male-12%). In terms of region comparisons, it is obvious that the awareness of royalties is minimal in the Northern region (32%) while in terms of the calculation of royalties, the knowledge level is least in the Central region (2%).

As part of getting a good understanding of what stakeholders prefer to have and what informs their choices, an assessment of the knowledge of the various stakeholders in tree tenure and benefit sharing arrangements and their rights to these was carried out. The analyses was done based on the three geographical areas in Ghana i.e. the Southern Zone comprising the Greater Accra, Central and Volta regions and the Middle zone which includes Ashanti, Brong-Ahafo, Eastern and Western regions. Northern, Upper East and Upper West regions were also classified as Northern Zone.

Many respondents in the FGD had no idea about the benefit sharing arrangement for the various tree growing activities beyond the ones they were engaged. However, the key informants were able to
mention some of the benefit sharing arrangements relating to activities they were personally not involved in. Responses for benefit sharing arrangement for the National Plantation Programme and On-Reserve Plantations were not consistent with the norm. This may be attributed to ignorance on the part of the respondents.

Also, most of the respondents in the Southern and Middle zones knew about the benefit sharing arrangement for MTS. This is mainly because it is currently the most popular tree growing activity being practiced in those areas. Some of the respondents only knew about what accrues to them and not that of other stakeholders. There is therefore the need for more education on the benefit sharing arrangements for beneficiaries to appreciate the benefits that they and other stakeholders are deriving from the trees.

According to the respondents, the main beneficiaries of the benefit sharing arrangements were the Traditional Authority, Forestry Commission, Farmers and the Community. The respondents were of the view that the benefit sharing arrangement for the various tree growing activities were based on the roles that each of the stakeholder’s plays. This however is not exactly so since farmers do not get any benefit from nurturing of trees on their farms.

With few exceptions, the local communities visited did not have knowledge of the existing mechanism for sharing benefits from plantation products and natural timber harvested from forest reserves or, at least, did not appear to be interested. This is because they perceived their benefits to be limited to the food crops from Taungya Systems they participated in, and that their benefits ended at the third year when they were expected to finish harvesting their food crops. The exception was where the communities had been exposed to their obligations and benefits through the establishment of Community Forest management support groups such as Community Biodiversity Advisory Groups (CBAGs), Community Forest Committees (CFC), Community Resource Management Committees (CRMC), etc.

The lack of knowledge about the benefit sharing arrangements under the Taungya System might be due to the fact that the farmers and local communities did not receive any benefits under the previous arrangements from the tree crop. Their only benefit was through access to land for food crop farming. Secondly, it appears that a number of the communities were satisfied with access to the more fertile degraded forest lands compared to their farmlands, since there appeared to be a higher demand for Taungya land than was released by the Forestry Commission. However, there were indications from Forestry Commission staff that because of the premium placed on food crops, the farmers pursued practices that reduced the potential to establish the trees successfully. Even more serious is the fact that if a field was not successfully established with trees, then there was the likelihood that it would be made available to the farmers again.

Under the old Taungya System, the benefits from the established trees did not trickle down to the fringe communities. The share of the proceeds from the plantations that should otherwise benefit the community is paid to the District Assembly without the necessary legislative framework to compel them to use their share of the proceeds to the benefit of the resource owning communities. The net result is that, legislation has turned landowners into passive and marginalized recipients of insignificant and irregular shares of revenue with no decision-making role in any aspect of forest management. They
therefore have little incentive to protect, manage or invest in the resource within and outside forest reserves. The challenge then is how to develop strategies for effective partnerships between management, protection and equitable distribution of benefits from the forest resource.

Consultations and informal interviews carried out amongst forest fringe communities and especially tree farmers revealed an overwhelming inclination to participate in tree planting under a Modified Taungya scheme that guarantees equitable benefit to the tree crop at maturity. The argument of the farmers was that the additional benefit from the share of the intermediate and final crops would be more than enough to offset their labour input in the care and maintenance of the plantations. Other stakeholders such as foresters and traditional authorities were overwhelming in their support of broadening the participation of local communities and allied bodies in forest plantation investments.

The poorer sections of the forest fringe communities and migrants appeared more enthusiastic about the Modified Taungya System than the other sections of the communities even though they were aware of the fact that a higher demand on their labour resources was required to make the system successful. They claimed that they were prepared to sacrifice their labour and other resources for the envisaged future benefits which may serve as pension during their retirement age. The commitment of labour resources towards wealth creation through forest plantations is akin to what prevails in the cocoa plantation industry that has characterised Ghana for decades now. In the case of wealthier sections of the community they were prepared to hire labour to assist in the plantation work on their behalf.

Even though all sections of the communities were interested in participating in the Modified Taungya System, there were however a number of concerns with respect to the current benefit sharing framework, namely:

- The quantum of the share that goes to the Forestry Commission is considered unjustifiable by landowners, who have raised the issue about the legality of the proportion, especially with regard to benefit sharing of outside forest reserve resources;

- The mode and choice of priority area for disbursement of the 55% District Assemblies share of benefits;

- At the community level there is a general concern about what the Stool Land Owners (Alienation Holders) do with forest revenue. The provision of the social responsibility agreements (SRA)s\(^6\) to ensure that communities benefit from the extraction of timber from their areas is fraught with difficulties, as communities are disadvantaged in their negotiation skills and also have very little avenue for redress in case a Timber Utilisation Contract (TUC) holder reneges on agreements. In any case, no TUCs are operative now and therefore no SRAs have been implemented. There

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\(^6\) The holder of a Timber Utilisation Contract (TUC) should provide social amenities to the inhabitants of the contracted area. The cost of such provision should amount to 5% of the annual stumpage accruing under the TUC.
appears to be no legal grounding for SRAs to be enforced\(^7\). The provision of social amenities as part of the TUC is mandatory but no mechanisms for enforcing it have been developed; and

- Another issue of extreme concern to communities involve community access to timber resources both for domestic and commercial purposes. Local people’s access to lumber, particularly for construction, is becoming more and more difficult due to the increasing rate of deforestation. Yet the provision in legislation for access to wood resources is only for community projects and not for individual use. It is important to point out that through effective collaboration, owners of natural resources should not only be entitled to resources to meet domestic needs (access) but should also benefit from income generated from commercial extraction of the resources which are on their land or within their community. This includes a share in benefits from timber operations, bushmeat sales and tourism revenues.

3.3 ROLES OF STAKEHOLDERS

Kotey et al, 1998:40 have reported that in Ghana, key stakeholders in forests, that is, those with rights, powers or direct impacts related to the forests, include - traditional authorities, forest fringe communities, farmers, the state and its (forest sector) agencies and the private sector. These stakeholders, who have their respective roles below, should interact through dialogue and consultations to come out with options for equitable benefit sharing mechanisms.

**Stool land-owners and traditional authorities** - Provide land within the degraded forest reserve for reforestation and guarantee uninterrupted access to the allocated land;

**Forest fringe communities**: - Assist to prevent and control fire outbreaks (natural and man-made) and illegal activities within forests and plantations, i.e. help in protecting forests and plantations;

**Farmers**: - Shoulder implementation, transaction and opportunity costs; responsible for forest management and protection;

**Government agencies**: - Management, regulation, facilitation and coordination of-tree growing schemes as well as project implementation, financial management and provision of funds; and

**The private sector**: - These include timber operators and millers, Non-Governmental Organizations (NGO) and individual developers. They directly or indirectly interact with local institutions (farmers and traditional authorities) at the local and district levels to ensure the management, use and improvement of forest and tree resources; Monitoring to ensure effectiveness and compliance.

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\(^7\) The Timber Resource Management Act (547, 1997) states “The application to the Timber Rights Evaluation Committee established under section 5 of this Act. The application shall be accompanied with—(e) proposals to assist addressing social needs of communities” (Cathy Butcher Consultancy Report, September 2001).
Responding to the question on the roles of stakeholders, respondents from all the three geographical zones indicated the roles as follows:

- **Traditional Authority** - provides land and develop and enforces community bye-laws to protect trees;
- **Farmer** - plants, nurtures and protects trees (illegal chainsaw operators, bushfires, charcoal burners, firefighting and whistle blowing);
- **Forestry Commission** - provides tree seedlings, technical advice and monitoring of forests; and
- **Community** - general protection of the forests (illegal chainsaw operators, bushfires, charcoal burners, firefighting and whistle blowing).

The above indicates that the stakeholders are aware of the roles being played by the various stakeholders and would therefore be motivated to undertake tree growing activities only if the benefit sharing arrangement for the various tree growing activities were based on the roles that each of the stakeholder’s plays to ensure effectiveness, efficiency and equity.

### 3.3 RIGHTS OF STAKEHOLDERS

Diverse rights with respect to trees exist in the country. The bundle of rights relating to trees that were investigated are right to plant trees, right to own or inherit trees, right to use trees and tree products and right to dispose of trees. The right to use trees and tree products include the right to gather (dead branches, barks etc.), to use standing trees, to cut all or part of the tree, to harvest tree products and to use products under or inside the trees (e.g. roots). The right to dispose of trees include the right to destroy, to lend the use of the tree, to lease, mortgage, pledge and to give away or sell trees. The respondents were asked to indicate which rights were exercised by different stakeholders.

Table 9 gives a summary of the rights of the various stakeholders as identified by the respondents. These are general and not to any specific tree growing activity. The right to plant trees is the most prominent right across the country while at the northern zone the right to use trees or tree products is rather dominant. The right to plant trees, which is prominent, could be as a result of the various plantation programmes by government and other institutions undertaken in these areas. Also related to this is the work by NGOs on awareness on farm forest systems (agroforestry) technologies and support given to communities to take part in tree planting initiatives.

The right to dispose of trees is the right that is exercised least across the country. This could be due to the customary system in the communities which treats trees as common goods, thereby making its disposal difficult. Also, the current challenges with the documentation and security of rights of farmers, who have participated in Modified Taungya systems, could be attributed to the minimal exercise of the rights. The current law which criminalizes the economic right to disposals of trees could be attributed to this trend.

The traditional authority and the FC have the right to own the trees and right to disposal of the trees respectively. It is interesting to note that although the traditional authority knows they own the trees, they also know that they cannot dispose of the trees. This is because all trees and forests in Ghana are
vested in the President. This implies that all trees are held by the State in trust for the communities concerned. Although communities’ legal ownership is not affected, in practice the State has control over trees and forest resources, even though communities and landowners are involved in forest management tasks.

The community and traditional authority, although have rights to the usage of trees for medicinal and other purposes, have to seek permission from the FC if the trees are in a Forest Reserve. Ghanaian customary law and administration support the multiplicity of rights, interests, and entitlements in land and forest resources. Non-public land can be owned by families, communities or groups with multiple-use rights vested in the members that can co-exist at the same time and on the same parcel of land (Tsikata et al, 2008 cited in Osafo, 2010). There are no specific legal provisions separating the ownership, control and management of non-timber forest resources from the ownership, control and management of the land and timber resources that make up that forest. Generally speaking, this means that land/tree owners also own the non-timber forest products (NTFP) from the trees/land. Ownership of naturally occurring trees is not separated from the ownership of land by the Constitution or any of its implementing acts and regulations. Therefore, the ownership of natural trees (even if stripped from any control over it) coincides with the ownership of the land on which the trees occur.

Table 9- Rights of Stakeholders

<table>
<thead>
<tr>
<th>Arrangement in Place</th>
<th>Community</th>
<th>FC</th>
<th>Farmer</th>
<th>Traditional Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right to Plant trees</td>
<td>x</td>
<td>X</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Right of Access to the trees</td>
<td>x</td>
<td>X</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Right to own the trees</td>
<td>x</td>
<td>X</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Right to the usage of trees(^8)</td>
<td>x</td>
<td></td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>Right to the disposal of trees</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right to prevent others from use of trees in your farm</td>
<td>x</td>
<td>X</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

Ownership and use rights of land and resources are intimately linked to the right to share the benefits that arise from these resources. Ownership includes but is not limited to the control and management of the said resource. Currently, the majority of the timber which is harvested from Ghana’s forests stems

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\(^8\) Use right as used here imply consumptive use by which the tree material is involved as separate from access right where the right to use it non-consumptively is implied.
from naturally occurring trees. The rights to naturally occurring trees are vested in the State in trust for and on behalf of the stools concerned regardless of their on- or off-reserve status.

During the Gold Coast era, forests were owned in common by communities (families, clans and 'stools'). However, the country's Forest Ordinance of 1927 gave authority to the colonial government to reserve parts of the country's forests. Although the bill did not alter ownership of the forest reserves, it vested control of them in the Government of Ghana and prescribed that they should be held in trust for the communities. In theory, the ownership of land and forests did not alter at the time of reservation, in practice, the traditional owners have no right of access to the trees or land in the reserve, except on permit from the Forest Services Division (FSD) of the Forestry Commission (Acheampong and Marfo, 2011).

Ownership rights to naturally occurring economic timber trees in off-reserve forests rests with the government, but access to other forest and tree resources depends on the prevailing landownership and inheritance system. The greater a tree’s economic value, the greater the restrictions placed on its use by landowners, especially for tenants and immigrants. Tenant farmers have very limited incentive to plant or maintain shade trees because of land tenure issues with landowners. Also, landowners have limited rights to naturally occurring trees on their land. The land carrying the trees is leased to farmers by stool landowners, the trees are raised entirely through the effort of farmers and their harvesting is controlled by the FC.

Ownership of planted trees does not by default coincide with the ownership of the land they are planted on in the same way as a farmer owns his crops even if not planted on his own land, a planter owns the trees he has planted even if it was not on his own land.

Most management plans for forest reserves use permits to define communal rights to hunt, fish, collect fuelwood, snails and medicinal plants, and farm on admitted farms. Prevailing conditions, such as difficulty in acquiring permits, make the forest reserve highly inaccessible to the marginalized poor, regarding use of forest resources. The main reasons for fringe communities’ lack of access to forest resources are the highly bureaucratic and centralized processes involved and the communities’ distance from district forestry offices. Time constraints and competing demands on limited budgets of the FSD are other factors (Acheampong and Affum, 2008).

Planted timber is not intended to be included in the vesting of trusteeship by the Concessions Act. Ownership, control, management and use rights therefore lie 100% with the landowner if he was also the planter. If the trees were not planted by the landowner the agreement between him and the planter will determine who owns, controls and manages the timber resources and the use rights that lie on them. The law on rights to planted trees has been amended to support afforestation, reforestation and private plantations. The law prohibits the granting of timber rights on private forest plantations and land with trees grown or owned by private persons.

Generally, in all parts of the country, planted trees and naturally occurring trees are not regarded as part of the land and are not necessarily included in a land sale. Trees may be purchased or inherited separately.
Title to trees, especially economic ones, vests in the holder of the paramount interest to the land on which they grow and therefore, the family head can validly sell trees occurring on family land.

Current policy on land and tree tenure is such that it does not serve as a disincentive to tree planting or to equitable benefit sharing. In most of the communities visited, land tenurial arrangements are negotiated among the different parties in any agricultural or plantation development venture. The key constraint however, is the fact that some members of the community are vulnerable and do not have as much bargaining power as other members.

Secondly, it was observed in some communities, especially in Northern Ghana, that the tree tenure systems in force did not facilitate local ownership of certain planted and naturally occurring trees even though usufructuary rights to all naturally occurring trees are guaranteed. Slight variations exist in different communities depending upon the tree species and whether they occur on communal or family lands. For example, the right to use Parkia clappertoniana (dawadawa), an economically important tree, on one’s farm depends on the status of the person and the type of community. Most of the people consulted indicated that community’s usufructuary and ownership rights to planted trees and naturally occurring trees which are tended on their farms need to be strengthened to secure their participation in tree planting or nurturing.

Issues that the communities felt should be addressed include the right of all members of the community to own land and the trees on it. The freedom to use these trees and the likelihood of their children inheriting them affect the person’s willingness to conserve forest lands and plant trees.

3.3.1 Rights of Migrants

Customary laws do not prevent tenants from cultivating trees. However, landowners do not encourage this because the long gestation period of trees and the lack of appropriate documentation proving land ownership, increases the tenant’s security of tenure when trees are planted. People generally have more secure rights to own planted, than naturally occurring trees. In this regard, tenants are not usually permitted to sell fruits, trees and parts of trees growing naturally on their farm but can harvest them for personal use. They can, however, dispose of planted commercial trees, after consulting the landowner, who normally requests a percentage of the revenue.

Generally, within forest reserves, migrants within the communities exercise equal rights and privileges as the indigenous people. Indeed, in a number of communities surveyed, the majority of members of the community were migrants. However, judging from the reactions of some landowners within the Offinso District of the Ashanti Region, which has a large migrant community, the position, status and privileges which the migrant farmer enjoys under the current on-reserve plantation development scheme could be adversely affected with the introduction of an equitable benefit sharing scheme.

There was an apparent hesitation on the part of some of the landowners to grant long-term interest in the land to migrant farmers, as is the case in plantation development. The reasoning behind this position is that in most of the societies, trees are used as a mark of ownership rights. Planting of trees and long
maturing commercial crops such as cocoa, coffee, oil palm etc. can substantially increase the value of land and also accelerate the individualisation of land tenure.

With the present arrangement within the tree plantation project where the investments made by the investor are inheritable by the next in succession and also alienable, the exercise of the stranger’s rights in the land, by virtue of the planted trees, could be for a very long time if not perpetually. It is the fear of ceding what they consider as their heritage to strangers that underscores the reluctance of the landowners in granting such rights to the migrant framers/strangers. Interactions with the communities and some landowners revealed that such rights could be granted only under certain conditions. These are:

- The migrant farmer must have lived in the community for a long time and must be seen to have contributed to the development activities in the community;
- Migrants who are not resident in the community but decide to commute from elsewhere to undertake the tree plantation (transient migrants) would not be entertained;
- Migrants should also be seen to exercise continuous management functions in the plantation throughout the period of the investment. A situation where the migrant/stranger investor abandons the farm for a long time only for a next of kin to come around at a much later date to claim ownership would not be countenanced; and
- The landowners suggested that migrants should pay some rent to them for use of even forest reserve lands to secure their ownership rights, while the migrants exercise beneficiary rights over the produce.

It can therefore be concluded from the discussions above that access to land by migrant farmers for such long-term investments could be hindered and might not be achieved without some kind of advocacy on their behalf. Since the aim of the Ministry of Lands and Natural Resources is to create equal opportunities for all Ghanaians without making any distinctions, mechanisms should be developed to prevent the marginalisation of migrant farmers particularly, in the case of plantation development by local communities within forest reserves.

3.3.2 Gender Specific Rights to Land and Trees

The rights of women under customary systems vary from place to place. However, it is recognised that no customary law in the country distinguishes between men and woman in their rights to own and use land or trees. Studies on women’s access to land tend to suggest that they are extremely disfavoured by the land allocation process. The discrimination of women as regards tenure rights is even more pronounced in the allocation of forestlands. They are generally last in line to obtain protection contracts or full management rights for forestlands. Considerable differences in gender specific rights to plant trees can occur due to distinct inheritance laws.

In some patrilineal societies in Northern Ghana, women are not allowed to inherit land. The specific issues which affect women relate to the fact that their rights to land are determined by their marital status, by the laws of inheritance, by divorce and by institutions that are themselves deeply embedded within a local perception of the role that women should play in society. In most traditional societies, a married woman could gain access to land but could also lose it in the event of a breakdown in relations, divorce or widowhood. Without a clear legal status as regards land rights, widows or divorced women could face
expulsion from their former husband’s family under customary law. Women’s’ rights of access therefore tend to be highly dependent on the social ties which link them to those with primary rights.

The disadvantaged position of women in access to land was quite apparent in most of the communities visited. Even though many of the Taungya groups had as many women (or even more) as men, further probing revealed that most of the women farmers were cultivating the land with their husbands. Even in situations where they were stand-alone farmers, differential access to labour virtually disfavoured them.

In most places visited, the rights of women to inherit the family head, especially men, were weak but once they have acquired land, their use is not restricted. For example, in some communities in the Patrilineal Societies of Ghana, if a man dies and his land is divided among his children, the portion received by the daughters is much smaller than the sons (Nukunya, 1972). In most cases, the daughters claim to land is regarded as a privilege and not a right to be enforced in a court of law. Increasing scarcity of land is forcing sons and family heads to assert the male claims and lineage principle more strongly in the patrilineal societies (Nukunya, 1972). However, in matrilineal societies the tenurial rights of women were stronger and women have greater recognition than in patrilineal societies. In spite of these constraints to women’s access to land, gender issues have widely been neglected in most programmes that have been initiated in the past to shape land tenure systems and land allocation processes in the country.

In the Ghanaian society which is male-dominated and where women are often excluded from important investment decisions and rather tied to reproductive tasks and household chores, the rights of women to have secured titles to land and to plant trees have to be carefully negotiated for. Women’s claim to land within customary systems is generally obtained through their husbands or male kinsfolk and hence may be considered secondary rights. The reality of family structure in many ethnic groups is that husband and wife share the fieldwork on the family fields and a certain level of joint decision-making is common.

Although land inheritance of women is not common, there are a few exceptions giving women in some communities full individual use rights including rights to plant trees. While conceding the fact that conditions are changing and that in some customary situations women are achieving firmer rights and recognition of their major contributions to household incomes and livelihoods, the fact still remains that gender inequalities in relation to access to and control over land still remains a major problem.

Substantive shifts in social and power relations as well as wider changes in socio-cultural attitudes and the strengthening of women’s rights under family and inheritance laws are required to help create an enabling environment and framework within which women could effectively participate in the project. If women’s social security is jeopardised, their engagement in long term investment such as tree planting and tree protection will be limited.

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9 There are basically two types of inheritance systems in Ghana namely: the Patrilineal and Matrilineal. The individual who succeeds in Patrilineal Societies is traced from the male ancestor in the direct male line. Land is passed by patrilineal succession from father to sons. The succession to property among the Akans and for that matter throughout matrilineal societies is through the matrilineal line according to primogeniture in the following order of preference, brothers, eldest sister’s sons, next elder sister’s sons, sisters and sister’s daughters.
3.4 UNDERLYING LEGAL AND CUSTOMARY REGULATIONS INFORMING STAKEHOLDER RIGHTS

The respondents in the FGD in the regions mentioned the following as the underlying legal and customary regulations pertaining to the current tree tenure regime:

Legal

- Forestry Laws and Regulations e.g. TRMA 1998;
- Royalties are paid to the Traditional Authorities; and
- Lease hold for 50 years subject to renewal.

Customary

- Abunu and Abusa system; and
- Customary/Traditional Laws and Taboos- sacred groves etc.

However, the main underlying legal regulations pertaining to the current tree tenure regime, which is the 1992 Constitution of Ghana, was not mentioned. One of the most important provisions relating to ownership is contained in the guiding principles of state policy in Chapter 6 of Ghana’s 1992 Constitution, where it is stated that ownership and possession of land carry a social obligation to serve the larger community. In addition, managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, the Stool, Skin or family concerned and are accountable as fiduciaries in this regard. In a fiduciary relationship, one person vests trust in another whose aid, advice or protection is sought in some matter. In such a relation the fiduciary is required to act at all times for the sole benefit and interest of the one who trusts. Article 267 provides for a formula on benefit sharing in relation to Stool and Skin lands. 10% of all revenue accruing from these lands has to be paid to the Office of the Administrator of Stool Lands to cover administrative expenses. The remaining revenue has to be disbursed between the following constitutional beneficiaries: stool (25%), traditional authority (20%) and District Assembly (55%).

The Constitution does not specifically mention use rights of local communities. However, it does recognize customary law to be part of Common law and therefore part of the laws of Ghana. Customary law is defined by the Constitution as rules of law which are by custom applicable to particular communities in Ghana. The Constitution continues by obliging the State to integrate appropriate customary values into the fabric of national life through education and conscious introduction in national planning.

At the local level and among farming communities, traditionally developed agricultural crop/land sharing arrangements (or traditional share contracts) are the most common arrangements governing customary law. These contracts between a landowner and a tenant farmer are meant to gain access to land, labour and capital (Amanor, 2001). These are the crop sharing arrangements of ‘Abunu’ and ‘Abusa’ in which the land owner and farmer enter into arrangements of sharing produce from the farm in 1:1 or 1:2 proportions respectively, depending on the levels of investments.
Abunu system denotes a half share sharecropping system in which a tenant farmer gains access to land in return for providing half of the crops or cultivated land to the landowner while the tenant keeps the other share. In the Abusa system, a tenant farmer gains access to land in return for providing one-third share of crops to the landowner while the tenant keeps two-thirds. In some areas, only land outputs are shared and not the land.

The various local variations in these arrangements notwithstanding, there is a common strand in these arrangements that seem to have a universal appeal across the regions.

3.5 MAIN ISSUES AFFECTING TREE GROWING ACTIVITIES

While attributing the lack of benefit flow to tree growers as the main disincentive to engaging in tree planting and/or protection of trees, respondents also mentioned other issues that affect local people in getting themselves involved in tree growing, which has resulted in a reduction in the tree stock of the country. They attributed this problem to the following:

- Some farmers face difficulties and delays in receiving compensation for trees felled on their farms. This is a disincentive for farmers to nurture trees on their farms. There is also a lack of clear guidelines on compensation for trees felled on farms. The present strong disincentive for cocoa farmers to maintain valuable timber trees on their farms, since they are not compensated properly for damage and yield losses resulting from removal of the tree, represents a major threat to sustainable forest management in Ghana;

- Inequitable benefit sharing arrangement due to the fact that farmers generally get less benefits although they put in more effort in nurturing trees than the other stakeholders. The FC receives 50% of the off-reserve revenue in recognition of its service or contribution to off-reserve tree or forest management. Due mainly to the system of land and tree tenure, the farmers who select the seedlings and look after the growing saplings do not receive any financial benefit. Yet they are the de facto managers of the resource;

- Landowners do not encourage farmers to plant trees on their farms since they might claim ownership of land if allowed to do so. This is because of the long gestation period of trees. It should be noted that land tenure is closely linked to tree tenure in Ghana. In one breadth the duration of the land agreement between a farmer and a landowner determines which crops to plant. Land tenure agreements that have longer terms of arrangement are more likely to stimulate tree planting. When land is leased, the agreement between the land owner and the lessee determines whether the lessee could plant trees on the land or not. In many instances tenants are not allowed to plant trees since this is a long term investment on the land and a decoy to own the land. The current customary land arrangements are a disincentive to tree planting;

- Lack of awareness on tree planting schemes by farmers, poor access to planting materials, lack of interim benefits for trees due to the long gestation period and poor access to vast land for tree
planted due to fragmentation of land in the country does not encourage farmers to cultivate trees;

- Food security after tree canopy closure under MTS is a disincentive for farmers to nurture the trees. Also, there is absence of a clear benefit-sharing mechanism for the distribution of the 40% share in timber benefits among individual farmers. The existing benefit-sharing agreement applies to the MTS group as a whole, which adds to the insecurity about future timber benefits and is seen as a potential source of conflict in the future, i.e. during time of harvest.

These issues need to be addressed to improve tree cover in Ghana.

3.6 STAKEHOLDERS’ PREFERRED TREE TENURE AND BENEFIT SHARING OPTIONS

Based on perceived rights, level of effort in the establishment of the specific tree management regime, and the general power relations within the area, respondents gave indication of their preferred tree tenure arrangements for schemes in their locality. The preference of the respondents for tree tenure and benefit sharing options per zone are indicated in Table 10. Respondents were asked to rank their preference for the benefit sharing options on a Likert Scale, 1 being the best preferred option. In order to validate the preferred options, a Pairwise Ranking was also undertaken. This involved comparing any two of the benefit sharing options and asking the respondents to select their preferred option. The results, which were analysed, are presented in table 10.

Table 10- Preferred Tree Tenure and Benefit Sharing Options

<table>
<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Southern</th>
<th>Middle</th>
<th>Northern</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>On-reserve (Naturally Occurring)</td>
<td>50% to FC; 25% to DA; 5% to OASL; 9% to Traditional Authority; 11% to Stool</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>On-Reserve (Planted)</td>
<td>90% to farmer, 2% to FC, 6% to landowner and 2% to community</td>
<td>40% to FC, 40% to farmer, 15% to landowner and 5% to community</td>
<td>90% to farmer, 2% to FC, 6% to landowner and 2% to community</td>
</tr>
<tr>
<td>3</td>
<td>Off-reserve (Naturally Occurring – Trees on Farm)</td>
<td>100% if nurtured by landowner; Abunu/Abusa if nurtured by farmer</td>
<td>100% if nurtured by landowner; Abunu/Abusa if nurtured by farmer</td>
<td>100% if nurtured by landowner; Abusa i.e. 66.6% to farmer and 33.3% to landowner if nurtured by farmer</td>
</tr>
<tr>
<td>4</td>
<td>Off-reserve (Naturally Occurring – Secondary Forest)</td>
<td>Disputed positions – chiefs/landowners want 100%. Farmers prefer a sharing on the basis of abunu. Others want it treated like forest reserves</td>
<td>Not an issue</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Off-reserve (Planted)</td>
<td>100% if planted by Landowner; 66.6% to farmer and 33.3% to landowner if planted by tenant farmer</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
3.6.1 Naturally Occurring Trees On-reserve
Respondents in all the three zones were of the view that since they had no control over On-reserve naturally occurring forests, the existing benefit sharing arrangement should hold. However, they indicated that every effort should be made to ensure that SRA agreements are signed and implemented. The traditional authority also complained about delays in the payment of their share of the benefits.

With respect to wildlife reserves, there were real agitations over unpaid compensations and the lack of direct benefits to the fringe communities. In instances where compensation has been paid in the past there are still agitations in communities with the complaint that they (the current generation) do not know about it or that the amounts paid were too meagre. Whichever way it is considered, it is a basic questioning of the principle of one-time payment of compensation for a long term resource like wildlife reserve.

There were suggestions of an SRA-type of arrangement for the communities fringing the protected areas to share in the revenues flowing to government. This, they proposed, is to be administered through the community based institutions like the PAMAUs at the community level.

3.6.2 Naturally Occurring Trees Off-reserve
With regard to naturally occurring trees off-reserve, there is a general preference for the state to keep off the benefit sharing arrangements.

Trees on Farm

Concerning trees on farm, the southern and middle zones opted for 100% if nurtured by Landowner and Abunu/Abusa (depending on the arrangement between the landowner and the tenant farmer) if nurtured by a tenant farmer. In the northern zone while also preferring 100% if nurtured by Landowner, they were categorical in selecting (Abusa) two-thirds to farmer and one-third to landowner if nurtured by tenant farmer.

The basic argument laid against the state directly benefiting from trees on farm is that there is hardly any effort from the state in the maintenance of the trees on farms. The trees have basically been nurtured by occupants of the land who by virtue of choosing to leave it on the land and/or deliberately nurturing it, have become the owner and/or manager, for which full compensation for the resource should go to. A further legal argument raised particularly during the expert meeting with the MLNR and FC, was whether or not technically, Act 617, in stating that any tree that is planted or grown by an identifiable entity, cannot be subject to TUC allocation, had not tacitly actually included nurtured trees in the law. i.e. if growing of a tree is considered to include deliberate effort to ensure that the tree survives into maturity. If that is considered to be a right interpretation, then the farmer/landowner would already have the basis in law to claim the benefit from the trees on farm. This needs to be further explored.

The key questions raised with this option are:
a) how would the relationship between the farmer and landowner be managed to ensure that there is enough incentive to keep tree cover on the land;

b) who would manage this;

c) in the case of multiple occupation of the land by different farmers who becomes the ultimate beneficiary of the tree? and

d) furthermore, what would happen with the constitutional arrangement for the distribution of the stool land revenue?

CREMA, Dedicated Forests and Sacred Groves

For CREMA, dedicated forests and sacred groves, there was consensus that the state should allow the governing institutions around them to continue. Thus the management plans of the dedicated forests, the constitution of the CREMA and the customary rules of the sacred groves be used as the basis for the tenurial arrangement. Nonetheless, for the CREMA it was noted that the constitutions should be reviewed to incorporate rights of communities in the timber trees the same way the right to wildlife is devolved to them.

Trees in Secondary Forest (Fallow Land)

In the southern and middle zones, the question of what the status of timber trees is, in secondary forests or fallow lands which were under cultivation in the past but are currently not and have become secondary forests was raised. It was noted that in several cases, over time especially with the cocoa landscape, farmers abandon a piece of land when it is considered unproductive and subsequently it becomes a fallow land with secondary forest. The status of trees on these types of lands were raised during the field visits. Whereas traditional authorities and landowners mostly maintained that these should be considered as part of communal (or stool land) and so be treated as such, others (especially farmers and family heads) argued that since the trees have been as a result of nurturing in the past by some farmers, they should be treated the same way as trees on farms.

In many of the traditional areas, after the expiration of the farmers’ tenure on the piece of land, the property (the land and all that thereon) reverts to the landowner. This was suggested as the preferred mode to treat trees on secondary (and fallow land), by chiefs and landowners. However, a counter argument raised was that if trees on farms are to be recognised as resulting from the effort and investments of occupants, while they were still remained on the land, it cannot be said that when trees come into maturity after they have left the land, they (occupants) lose all their interest in the said trees. Some respondents were of the view that a sharing arrangement akin to the MTS, be used to share benefits from trees on such lands.

3.6.3 Planted Trees On-reserve

Whereas the middle zone preferred 40% to FC, 40% to farmer, 15% to landowner and 5% to community for trees planted in on-reserves, the southern and northern zones preferred 90% to farmer, 2% to FC, 6% to landowner and 2% to community. The chiefs however were not too happy with this option. The
argument of the traditional authorities is that there is no justification to have a differential sharing system between the MTS and private development of planting on-reserve, since in the final analysis, the ultimate crop are trees on-reserve. If the investment of the FC and the farmer is considered to be worth 80% of the value of the tree crop, for which reason there is an 80% share going to them, it couldn’t be that the investment of the private developer (90%) could be considered to be any higher and so deserving of a higher proportion of benefit. The middle zone argued that this will bring equity in the distribution of benefits to all stakeholders. The traditional authorities thus prefer a uniform sharing arrangement in relation to planted trees on reserve.

In the southern and northern zones the reason for their preferred option was that this will encourage more farmers to plant trees in on-reserves. The middle zones preferred option could be attributed to MTS being common in that zone.

3.6.4 Planted Trees Off-reserve
For most parts of the high forest zone, farmers who use individual or family/clan lands for tree planting have a share in the benefits based on 100% of crops (all types) and 100% of the tree benefits. There was not much difference between respondents’ preference for benefit sharing arrangements for planted trees off-reserve. All the three zones preferred 100% if planted by landowner, 66.6% to farmer and 33.3% to landowner if planted by tenant farmer for off-reserve planted trees. Their main reason was that farmers are mainly responsible for the nurturing of trees on farms and therefore should be given adequate compensation. Farmers who plant trees at off-reserve areas are responsible for all phases from planting to marketing, even though, in some instances, supporting organizations provide seedlings, extension services and initiate alternative income generating projects. Respondents also indicated that this option will encourage land owners to give out land whiles at the same time compensating for the farmers’ efforts.

In an innovative arrangement between Samartex Timber and Plywood Co. Ltd. (in the Western Region), and the Oda Kotoamso community, Samartex, as part of its support for farmers negotiates with chiefs to release land from its (Samartex’s) TUC area to farmers interested in tree planting but do not have their own land. In this arrangement, in the case of farmers who use the chief’s land, benefit-sharing regarding timber trees is based on 33% for the chief/landowner and 67% for the farmer, and 100% of food crops for the farmer. In the case of planting timber trees in cocoa farms under a share-cropping arrangement, benefit-sharing is based on the Abunu sharing system (50% for the landowner and 50% for the tenant for both timber and crop benefits).

3.7 PREFERENCE FOR LAND AND TREE TENURE REFORM OPTIONS
Along with the preferences for tree tenure and benefit sharing, reforms required in order to implement the proposed choices were solicited from respondents.

The main preference for land and tree tenure reform from the point of view of the respondents is that the farmer should have the right to adequately negotiate benefit sharing arrangements from trees that
he/she plants/nurture with land owner. The next is that there should be a decentralized land and tree title registration that allows farmers to demarcate and register their lands and trees in the community/district. The third priority is that land owners and farmers in owning the trees they plant and nurture could call on the government (Forestry Commission) who would provide management services in the off-reserve area to traditional authorities and communities for which they are compensated by way of management fees of not more than 10% of the value of the trees. The other details are shown in Table 11.

**Table 11- Preference for Land and Tree Tenure Reform**

<table>
<thead>
<tr>
<th>No.</th>
<th>Land and Tree Tenure Reform</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The farmer has the right to adequately negotiate benefit sharing arrangements from trees that he/she plant/nurture with land owner</td>
<td>1st</td>
</tr>
<tr>
<td>2</td>
<td>A decentralized land title registration allows farmers to demarcate and register their lands and trees in the community/district</td>
<td>2nd</td>
</tr>
<tr>
<td>3</td>
<td>Land owners and farmers own the trees they plant and nurture and the government (Forestry Commission) provides management services in the off-reserve area to TAs and communities which they are compensated for by way of management fees.</td>
<td>3rd</td>
</tr>
<tr>
<td>4</td>
<td>The farmer has the right to dispose (also for economic benefit) trees that he/she plants/nurtures</td>
<td>4th</td>
</tr>
<tr>
<td>5</td>
<td>The government controls the right to give right for felling of trees to timber companies (for economic purposes) both on and off-reserve.</td>
<td>5th</td>
</tr>
</tbody>
</table>

The above is consistent with a study undertaken by FERN and Civic Response in 2014 in 9 regions (except for Greater Accra) covering 557 respondents from 280 communities in 47 districts in Ghana on tree tenure and benefit sharing. The result of the study on land and tree tenure reform is indicated in Fig. 7.

**Figure 6** Result of FERN/ Civic Response Study on Land and Tree Tenure Reform Options

![Chart showing preferences for land and tree tenure reform options](image_url)
The results present an interesting trend. Forest communities are in favour of rights related to decentralize land and tree tenure governance that gives more right to land owners and farmers who invest resources in the creation of forests. Communities do not favour the right of government to dispose of trees across the country. This means that for sustainable management and strengthening rights of communities, right to own, manage and dispose of naturally occurring trees off-reserve should be given to forest communities (landowners and farmers).

The above should therefore form the basis for any recommendation for policy reform in tree tenure and benefit sharing arrangement in Ghana.

### 3.8 SUMMARY OF FINDINGS

Most analyses of the underlying challenges to achieving legality in the management of off-reserve forest resources in Ghana conclude that inadequacies in the legislation and/or misinterpretations of the very complex texts relating to tree tenure and benefit sharing are at the root of the problem (see in particular ClientEarth, 2013). This complex system has led to confusion between some of the ‘bundles of rights’ that make up complete ownership.

In a nutshell, the problem is that farmers do not wish to retain trees on their farms because they don’t have sufficient rights over or benefits from the sustainable management of tree resources on their land.

As a result, most farmers would prefer to do one or more of the following:

(a) fell most commercial trees before they plant their cocoa or other crops;

(b) not allow young trees of commercial value to grow in their farms; or

(c) sell trees illegally to chainsaw operators / other exploiters who pay the farmer more than they would have gotten from compensation under a legitimate sale.

As a result, the current tree tenure regime is a major driver of illegality and/or deforestation. Tree tenure reform has therefore been the subject of many studies and proposals since the early 1990s as a necessary step towards securing sustainable management, and more equitable benefit sharing from off-reserve trees (see for example Richards & Asare, 1999, Djokoto and Opoku, 2010), but no reforms have yet been made.

The Constitutional Review Commission (set up in 2010) has recently made a proposal to clarify the notion of the role of ‘Trusteeship’ (a responsibility) of the President and traditional rulers over natural resources (including trees), rather than ownership. The Constitutional Review Implementation Committee is currently working on completing the process of constitutional reforms by proposing bills for amendment and preparing Ghanaians for a referendum on the changes to some entrenched provisions.

This study is part the effort by the Ministry of Land and Natural Resources to institute reform in tree tenure that will provide incentives to maintain trees on the Ghana landscape.
The major findings of the study are:

- From the literature reviewed and field survey, it was realised that there are twelve (12) different types of tree growing activities in Ghana with different benefit sharing arrangements. The major stakeholders who benefit from trees are the State (FC, OASL and Stool Lands), Traditional Authority, Farmers (Tenant, Indigenous and Women), Landowners and Contractors.

- Land tenure system was almost the same in all the three geographical areas. Lands are held in trust for the communities by stools, skins, clans, families, individuals and the state. It was realised that most of the lands are customary lands (owned by stools, clans or families) where traditional and customary norms and practices govern their tenures and administration;

- All land and tree tenure conflicts are reported at the Unit Committee level then to the Landowner/Chief, District Assembly, Forest Services Division/ Lands Commission and finally to the Law Courts. The issue is moved from one step to the other till it is resolved. It should be noted that stakeholders such as landowners, chiefs, FC or the Lands Commission are consulted in order to help resolve a conflict in any of the steps;

- Most of the respondents in the FGD had no idea about the benefit sharing arrangement for the various tree growing activities. However, the key informants were able to mention some of the benefit sharing arrangements. Some of the respondents only knew about what accrues to them and not that of other stakeholders. There is therefore the need for more education on the benefit sharing arrangements for beneficiaries to appreciate the benefits that they and other stakeholders are deriving from the trees;

- The main issues affecting the implementation of tree growing activities include inequitable distribution of benefits, lack of compensation for crops destroyed on farms during harvesting of trees and difficulties and delays in accessing benefits. These issues needs to be resolved if tree growing activities are to improve in the country;

- The preferred tree tenure and benefit sharing arrangement for each of the zones are summarised in the table below:
<table>
<thead>
<tr>
<th></th>
<th>Off-reserve (Naturally Occurring – Trees on Farm)</th>
<th>100% if nurtured by landowner; Abunu/Abusa if nurtured by farmer FC only regulates harvesting</th>
<th>100% if nurtured by landowner; Abunu/Abusa if nurtured by farmer FC only regulates harvesting</th>
<th>100% if nurtured by landowner; Abusa i.e. 66.6% to farmer and 33.3% to landowner if nurtured by farmer</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Off-reserve (Naturally Occurring – Secondary Forest)</td>
<td>Disputed positions – chiefs/landowners want 100%. Farmers prefer a sharing on the basis of abunu. Others want it treated like forest reserves</td>
<td>Not an issue</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Off-reserve (Planted)</td>
<td>100% if planted by landowner; 66.6% to farmer and 33.3% to landowner if planted by tenant farmer</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- There is a ground swell with forest communities that is in favour of rights related to decentralize land and tree tenure governance that gives more right to land owners and farmers who invest resources in the creation of the forest. Communities do not favour the right of government to dispose of trees off-reserve across the country. This means that for sustainable management and strengthening rights of communities, right to own, manage and dispose of naturally occurring trees should be given to forest communities (landowners and farmers).
CHAPTER FOUR
RECOMMENDED TREE TENURE AND BENEFIT SHARING SCHEMES

This chapter presents recommended tree tenure and benefit sharing regimes and its associated policy and legal reforms.

4.1 General Basis
On the basis of the general zonal preferences discussed in the foregoing sections, the different shades and tones of stakeholder expressed interests and the overwhelming expression of the need for plantation development (and indeed, forest management in general) to be made to explicitly benefit local community members, specific tree tenure options and benefit sharing arrangements are recommended for the different categories of tree management on or off-reserve. The impact of the proposed reform on different stakeholders and the institutional arrangements needed to implement the reform are discussed.

4.1.1 Naturally Occurring Trees On-reserve
Due recognition is given to the different categories of forest reserves and their capacity to provide benefit flow in the form of revenues to the various stakeholders. In particular, for forest reserves that are protected such as GSBAs, no timber is expected to be harvested and so the land owners and fringe communities have fewer opportunities for financial benefits from the forests. Table 12 summarises the recommended tenure and benefits sharing arrangements for naturally occurring trees on-reserve.

For production reserves, where TUCs are awarded, the current tenure framework is considered adequate for management of the resources and not much changes are required. The caveat though is that there is a need for clarity on the use to which recipients of forest revenue are expected to put the funds to. In particular, the limits of use of funds by district assemblies and stool chiefs must be clearly spelt in the regulation to reduce abuse. In addition, support is needed by communities in the negotiation and quick disbursement of SRAs.

It is also noted that the statutory role of the OASL is currently played by the FC in the collection of the stool land revenue and this forms part of the cost of the FC for which 50% of stumpage is deducted. It stands to reason therefore that the 10% deduction for OASL as required by the Constitution should be coming from the FC’s deducted cost rather than from the remaining funds, otherwise it constitutes double payment for the same service.

For protection reserves such as GSBAs, the recommendation is to link these reserves to the REDD+ programme and treat them according to agreed mechanisms for REDD+ benefit sharing arrangements i.e. treating them either as sequestered carbon or as carbon sinks. In addition, in pursuit of payment for ecosystem services (PES), the MLNR and Forestry Commission could generate funds for the owners of these resources.
Table 12 Recommended Tree Tenure and Benefit Sharing Scheme for Naturally Occurring Trees – On reserve

<table>
<thead>
<tr>
<th>Type of Reserve</th>
<th>Tree Tenure Rights</th>
<th>Benefit Sharing Arrangements</th>
<th>Institutional Arrangements Needed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production Reserve</td>
<td>FC maintains management and regulatory rights</td>
<td>Distribution of revenue according to the constitutional provisions.</td>
<td>Regulation on the limits of the use of revenue by respective recipients is required.</td>
</tr>
<tr>
<td></td>
<td>Landowners maintain ownership rights</td>
<td></td>
<td>Clarify the source of payment of 10% for OASL.</td>
</tr>
<tr>
<td></td>
<td>Communities’ domestic use rights reviewed and regulated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Production Reserve</td>
<td>FC maintains management and regulatory rights</td>
<td>Currently no revenues accrue to resource owners from these reserves.</td>
<td>Link such reserves to REDD+ and FIP</td>
</tr>
<tr>
<td>Protected Forest Reserves (Such as GSBAs)</td>
<td>FC maintains management and regulatory rights</td>
<td>Explore revenue options from PES and Carbon sinks and regulate same as property rights in controlling trees</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Landowners maintain ownership rights</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Communities’ domestic use rights reviewed and regulated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wildlife Reserves</td>
<td>FC maintains management and regulatory rights</td>
<td>Compensation paid for acquisition of areas – many of these payments are in arrears and must be paid.</td>
<td>Community resource management committees strengthened to relate with the management of parks.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Institute an SRA-like arrangement for fringe communities to benefit from revenues to the reserves (especially from ecotourism)</td>
<td></td>
</tr>
</tbody>
</table>

As noted by stakeholders, for wildlife reserves there is a basic questioning of the propriety of making a one-time compensation payment for a life-time cross generational resource like a wildlife reserve. The current agitation around some reserves over payment of compensation are borne out of ignorance of such payments, perceived inadequacy of the amounts or downright non-payment of compensations. Nonetheless, the wildlife reserves could also be linked to the REDD+ programme as well and whatever carbon rights derived from it considered in the category of the ecotourism revenue accruing to some of the reserves at present.
4.1.2 Naturally Occurring Trees – Off-reserve

The management regime that has dominated discussions and generated most heat has been the management of trees off-reserve. Three types of naturally occurring tree management schemes off-reserve have been identified. There are:

1. Trees on Farms – especially but not exclusively, in cocoa farms;
2. Trees in Secondary Forests (fallow lands), resulting from trees left on previously farmed lands abandoned or left fallow; and
3. CREMAs, Dedicated Forests and other Community Based Natural Resource Management Schemes - communally managed forest based activities.

The major reform proposed is with the trees on farms where the key proposal is that since the state does not play any key management role, the state should only be compensated for the regulatory role it plays in the allocation of the resources, for which a fee should be charged. Thus farmers and landowners would have full ownership of the trees on farm and will enter benefit sharing arrangements based on the traditional agricultural sharing systems pertaining in their areas.

Table 13 summarises the recommended tenure and benefit sharing arrangements for naturally occurring trees off-reserve.

**Table 13 Recommended Tree Tenure and Benefit Sharing Scheme for Naturally Occurring Trees – Off-reserve**

<table>
<thead>
<tr>
<th>Tree Management Regime</th>
<th>Tree Tenure Rights</th>
<th>Benefit Sharing Arrangements</th>
<th>Institutional Arrangements Needed</th>
</tr>
</thead>
</table>
| **Trees on Farm**      | Farmers given de jure and de facto ownership and management rights  
Landowners maintain ownership rights  
State have regulatory authority | Distribution of revenue according to customary sharing arrangements  
FC charges fees for regulatory services (based on proportions commensurate with the level of effort of the FC)  
An agreed proportion of the revenue accruing to the farmer/landowner deducted as stool land revenue to be distributed according to the constitutional provision | A decentralised system of identification and registration of trees on farms and their ownership developed by the FC and OASL  
A transparent and publicly available pricing system for different timber species developed  
A conflict management system developed at various levels to adjudicate conflicts arising from the benefit sharing arrangements between farmers and landowners - |
<table>
<thead>
<tr>
<th>Trees in Secondary Forests</th>
<th>Landowners maintain ownership and management rights</th>
<th>Distribution of revenue according to the customary sharing arrangements (particularly in instances where original farmers are identifiable)</th>
<th>A transparent and publicly available pricing system for different timber species developed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Communities’ domestic use rights reinforced</td>
<td>FC charges fees for regulatory services</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State have regulatory authority</td>
<td>An agreed proportion of the revenue accruing to the farmer/landowner deducted as stool land revenue to be distributed according to the constitutional provision</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>SRA paid to fringe communities</td>
<td></td>
</tr>
<tr>
<td>CREMA, Dedicated Forests</td>
<td>Tenurial arrangements to be detailed out in the CREMA constitution or in the Dedicated forest management plans</td>
<td>Use benefit sharing mechanism detailed in the CREMA constitution or the Dedicated forest management plans</td>
<td>Community resource management committees strengthened to relate with the management of parks.</td>
</tr>
<tr>
<td></td>
<td>For CREMAs, the communities’ rights to timber trees (as it is with wildlife must be included).</td>
<td></td>
<td>Review of the forest laws to incorporate CREMAs, Dedicated Forests and general Community Based Natural Resource Management schemes in general</td>
</tr>
</tbody>
</table>
agreements had been entered into between previous farmers and landowners and these farmers and agreements are identifiable, then such agreements must be respected. For such forests, since it is considered the communities would have some communal interest in its protection and domestic use, SRA must be paid for the harvest of fallow lands.

Dedicated Forests and CREMAs should have their guiding principles, management functions and benefit sharing arrangements already pre-determined in their constitutions and management plans. Strengthening management institutions in the communities for the management of these types of forests are the key ingredients needed to ensure their proper functioning and benefit flow.

4.1.3 Planted Trees On-Reserve
There is a general support for developing plantations on degraded forest reserves across all the regions visited. In general, two types of plantation development schemes on-reserve were observed:

1. Commercial lease agreements with a financer (other than the Forestry Commission)
2. Forestry Commission partnering with local farmers through the modified taungya system.

Notwithstanding, the popular support for participation in plantation development and the development of the accompanying benefit sharing framework, many respondents expressed their concern about some associated risks. Throughout all the regions visited, the farmers expressed a lack of trust in Government. Changes in government and change in policy are perceived by farmers to be the most important sources of risk. The apprehension of farmers that succeeding governments will not honour agreements, reflected in their preference for upfront payments i.e. cash payments before maturity, either for invested labour or credit. It is necessary to emphasize that care should be taken to ensure that the share of farmers in the final product is not reduced to the barest minimum due to the effect of high interest rates and the fact that any payments that are made to the farmers at the beginning will be discounted over a long period because of the long gestation period of plantations. Actions that can be taken to reduce risks to farmers and investors should therefore include the signing of formal agreements with all identifiable stakeholders.

Generally, it was perceived that the most important risks to commercial plantation development are political risk, lack of liquidity of investment and the investment timeframe. It is therefore important that legislation should be introduced to provide a guarantee against political risk for investors. For commercial plantation development, it is proposed that the investor should carry most of the risks, including fire, encroachment etc. since they are better placed to maximise returns while minimising risk.

Plantation development, as an economic activity, has a very high potential of reducing the total risk to rural households as it makes possible the diversification of sources of livelihoods. However, the activity itself is subject to risk, largely because of its long gestation period. For the investment as a whole, the risk of failure to achieve objectives is of particular importance up to the stage of tree establishment.

The potential risks to plantation development are in relation to land acquisition, policy changes, loss of
production, market access and price changes. These are explained below:

**i) Land acquisition:** There is opposition to land acquisition, particularly by the youth, who view such acquisitions as depriving them of land which is a critical production factor in rural livelihoods. This problem is less likely to arise for on-reserve plantation development. However, with increasing population pressure, there would be higher risk of encroachment. The decision to increase the level of participation of the community should reduce this risk;

**ii) Policy changes:** This risk arises because of the history of policy changes associated with changes in government. One stakeholder’s loss may be another’s gain. Farmers and investors are those more likely to be affected depending on the direction of the change. Farmers who are potential participants consider this to be the greatest threat to their interest. Farmers do not wield much political power and could therefore have their interests being sacrificed when expedient to do so. Legally binding agreements that guarantee the interests of each stakeholder should reduce this threat;

**iii) Loss of production:** This could arise out of weather failure (i.e. inadequate rainfall) at the plantation establishment stage, bush fire at the stage between establishment and maturity and theft in the maturity stage. The threat of weather failure is the least important of these factors. At worst, its impact would be delayed establishment and the additional costs incurred on extra seedlings. The threats of bush fire and theft reduce with community participation and education; and

**iv) Markets and prices:** The under-utilised capacity of local timber processing firms and the deficit in local supply, as well as the high demand of products from timber plantations in foreign markets assures a good market. Prices of timber products are also less likely to fluctuate. The trend over the past 20 years is one of stability and the outlook for the future is promising.

In sum, the important sources of risk are the policy environment, threat of bush fire and theft and community agitation for a share of the benefits from the plantation. These reduce with community participation. The risk of yield loss through failure to achieve target production as a result of natural occurrence is very minimal once the trees are established. Market risks are also of minimal importance. All these risks have a great potential to reduce stakeholder participation in plantation development and must therefore be carefully addressed.

Table 14 summarises the sources of risk for each stakeholder, the potential impact, possible solutions to reduce it and the rating in terms of possibility of occurrence and the ability to control the risk factor. In this table the financier’s role is separated from that of the Forestry Commission.
Table 14: Risks faced by Stakeholders - On-reserve Forest Plantation

<table>
<thead>
<tr>
<th>Participant</th>
<th>Risk Factor/Source</th>
<th>Potential Impact</th>
<th>Possible Solutions</th>
<th>Risk Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual farmers</td>
<td>Change in policy</td>
<td>Less incentive to invest labour because of an uncertain future, leading to poor maintenance and protection; tendency for more labour use in alternative economic activities</td>
<td>Agreements setting out obligations and benefits that are backed by law</td>
<td>Low/High</td>
</tr>
<tr>
<td></td>
<td>Inability to continue to maintain trees due to infirmity or relocation elsewhere</td>
<td>Little impact to the total investment</td>
<td>Farmer groups developing procedures that set out conditions under which a participant may opt out or be replaced by another person</td>
<td>Low/Low</td>
</tr>
<tr>
<td>Traditional authority (land owners)</td>
<td>Change in policy</td>
<td>Less incentive to give out land for plantation development</td>
<td>Agreements setting out obligations and benefits that are backed by law</td>
<td>Low/High</td>
</tr>
<tr>
<td>Fringe communities</td>
<td>Change in policy</td>
<td>Less incentive to protect forest resources</td>
<td>Agreements setting out obligations and benefits that are backed by law</td>
<td>Low/High</td>
</tr>
<tr>
<td>Forestry Commission</td>
<td>Poor management by farmers resulting in poor plant population</td>
<td>Undermines the forest sustainability objective Reduced income</td>
<td>Training Monitoring</td>
<td>Low/High</td>
</tr>
<tr>
<td>Financier</td>
<td>Agitation within communities for greater share of benefit</td>
<td>Disruption of activities</td>
<td></td>
<td></td>
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<tr>
<td>----------</td>
<td>----------------------------------------------------------</td>
<td>--------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High cost of protecting trees from illegal activities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poor management of fields</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Increased risk of bush fire through loss of interest in controlling fire</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Agreements with communities (SRAs)</td>
<td></td>
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<tr>
<td></td>
<td>Performance agreements including setting targets with participating farmers</td>
<td></td>
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<tr>
<td></td>
<td>Retention of part of payments due participating farmers for their labour use</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>High</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General</td>
<td>Bush fire</td>
<td>Complete loss of investment</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Fire belts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community education and enforcement of bush fire control regulations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>High</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Theft</td>
<td>Income loss through i) reduced tree population, ii) pressure to harvest before physiological maturity or inability to harvest as planned or according to market requirement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Education on benefits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Community watchdog (e.g. CFCs)</td>
<td>Low</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>High</td>
<td>High</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
It is clear, except for plantation on-reserve, that the benefit sharing arrangement in the national plantation strategy currently in place is generally well-thought through and have quite groundswell of support. The apprehensions expressed has more to do with the enumerated risks. Consequently, rather than proposing any new schemes, it is recommended that measures be taken to minimise risks and reduce the level of apprehension. A key measure that would assure participation in plantation development on-reserve would be a comprehensive review of the laws relating to natural resource management in order to ensure effective community participation.

Such a review should ensure that there is security for the rights of participants in the plantation development process. While perceptions of what constitutes security may vary, some key attributes can be identified that should provide guidance for revision of legal provisions that support participation in natural resource management. These include the following:

- The legal provisions should provide clarity as to what the rights of participants are;
- Security would also require that the legislation (and agreements) provide certainty that the rights cannot be taken away or changed unilaterally and unfairly;
- Security is enhanced if the duration of rights is either in perpetuity or for a period that is clearly spelled out and is long enough for the benefits of participation to be fully realised;
- Security require that stated rights are enforceable, even against the State;
- Exclusivity is required to ensure security, i.e. who has the right to what is clearly defined;
- The boundaries to which the rights apply should be certain in order to ensure security;
- Entities engaged in entering into the agreements must have clear authority to do so;
- The holder of the right should be recognised as a legal entity; and
- Security requires that accessible, affordable and fair avenues are provided for seeking protection of rights, for settling disputes and for appealing the decisions of authorities.

Agreements and legislation that have these characteristics would send the signal to stakeholders that government is serious about their rights and this would engender participation. At the same time, it is important that legislation and agreements maintain enough flexibility to accommodate local differences.

Furthermore, to assure the security of the agreements signed especially with local communities (farmers), it is suggested that the Forestry Commission should register participants and keep a records card for each participant bearing their photographs and containing information on next of kin, hometown and age. Copies of benefit sharing agreements, which may be in the form of bonds, should be lodged with the Attorney-General’s Department, the National Archives, participants, the FC and other relevant institutions. The bonds or certificate should specify the area and location of the plantation and the proportion of revenue due as well as the share of the bearer (participant). A photocopy of the record
cards of all the participating farmers within each plantation development group should be attached to the benefit sharing agreement.

4.1.4 Planted Trees Off-reserve
No additional recommendations are made for planted trees off-reserve as the various stakeholders are satisfied with the current arrangements.

4.2 Implications on Stakeholders – Winners and Losers
The expected impact of the proposed benefit sharing framework for off-reserve tree management as well as the Modified Taungya System on the different groups in the community is presented in Table 15. The benefit sharing framework will lead to increased revenue and other benefits such as increased food and cash to farmers, landowning communities and traditional authorities. The MTS will also lead to increased jobs and reforestation of degraded forests.

Negative impacts will be on the FC, which is expected to have a lower share of benefits from off-reserve timber harvesting. Another potential negative impact of the MTS would be the loss of common property resources that may be of particular value to the poor and vulnerable groups. The impact of the benefit sharing framework on social structure and community cohesion may be negative since the arrangements may empower only sections of the community.

Table 15 Impact/Influence of the Recommended Benefit Sharing on Different Stakeholder Groups

<table>
<thead>
<tr>
<th>Primary Stakeholder</th>
<th>Interest and Issues relating to Benefit Sharing in Plantation Development In Forest Reserves of Off-reserve Tree Management</th>
<th>Potential Impact</th>
<th>Level of Influence / Importance of Issues$^{10}$</th>
</tr>
</thead>
</table>
| Land-poor or land insecure households (e.g. migrants, youth) | - access to land on-reserve for a limited period  
- increased employment opportunities on- and off-reserve  
- revenue sharing of thinning and final crop  
- loss of main livelihood at the end of taungya period | +  
  +  
  +  
  - | A |

10 The classification of the influence on and importance of the issues to the different stakeholders are done on the basis of the following matrix:

<table>
<thead>
<tr>
<th>Level importance of issue</th>
<th>Influence on the stakeholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td></td>
</tr>
<tr>
<td>High</td>
<td>A</td>
</tr>
<tr>
<td>Low</td>
<td>C</td>
</tr>
<tr>
<td>Land-rich or land secure households</td>
<td>tree planting opportunities on and off-reserve</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>reduced labour availability</td>
</tr>
<tr>
<td></td>
<td>increased yields from relatively more fertile lands</td>
</tr>
<tr>
<td></td>
<td>revenue sharing of thinning’s and final crop</td>
</tr>
<tr>
<td>Stools Chiefs</td>
<td>reduced royalty revenue</td>
</tr>
<tr>
<td></td>
<td>Increased revenue to stool subject</td>
</tr>
<tr>
<td></td>
<td>Increased social tension</td>
</tr>
<tr>
<td></td>
<td>Increased development opportunities in communities under the stool</td>
</tr>
<tr>
<td></td>
<td>Reduced influence or perception of reduced influence</td>
</tr>
<tr>
<td></td>
<td>Increased pressure and demand for accountability</td>
</tr>
<tr>
<td>Traditional Authorities</td>
<td>reduced royalty revenue</td>
</tr>
<tr>
<td></td>
<td>Increased revenue to stool subject</td>
</tr>
<tr>
<td></td>
<td>Increased social tension</td>
</tr>
<tr>
<td></td>
<td>Increased development opportunities in communities under the stool</td>
</tr>
<tr>
<td></td>
<td>Reduced influence or perception of reduced influence</td>
</tr>
<tr>
<td></td>
<td>Increased pressure and demand for accountability</td>
</tr>
<tr>
<td>Landlord Farmers</td>
<td>Higher yields</td>
</tr>
<tr>
<td></td>
<td>Higher output</td>
</tr>
<tr>
<td></td>
<td>Loss of revenue from tenants (in rents and shared outputs)</td>
</tr>
<tr>
<td>Tenant Farmers</td>
<td>Decreased land rents</td>
</tr>
<tr>
<td></td>
<td>Retained share of outputs</td>
</tr>
<tr>
<td></td>
<td>Increased security of tenancy</td>
</tr>
<tr>
<td>Women</td>
<td>Increased security of tenure for a short term</td>
</tr>
<tr>
<td></td>
<td>Livelihood diversification out of agriculture</td>
</tr>
<tr>
<td></td>
<td>Increased labour requirements</td>
</tr>
<tr>
<td></td>
<td>Increased need for credit</td>
</tr>
<tr>
<td>Stakeholder Group</td>
<td>Increased/Decreased/Unaffected</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td><strong>District Assemblies</strong></td>
<td></td>
</tr>
<tr>
<td>- Reduced royalty revenue</td>
<td>+</td>
</tr>
<tr>
<td>- Increased development opportunities for specific communities</td>
<td></td>
</tr>
<tr>
<td>- Reduced influence or perception of reduced influence</td>
<td></td>
</tr>
<tr>
<td>- Increased pressure and demand for accountability</td>
<td></td>
</tr>
<tr>
<td><strong>Forestry Commission</strong></td>
<td></td>
</tr>
<tr>
<td>- Increased timber production on reserve</td>
<td>+</td>
</tr>
<tr>
<td>- Increased timber revenue</td>
<td>+</td>
</tr>
<tr>
<td>- Increased workload</td>
<td></td>
</tr>
<tr>
<td>- Changed relationship with stools, District Assemblies and Timber firms</td>
<td></td>
</tr>
<tr>
<td>- Increased responsibilities towards communities</td>
<td></td>
</tr>
<tr>
<td><strong>FC staff</strong></td>
<td></td>
</tr>
<tr>
<td>- Increased workload</td>
<td>−</td>
</tr>
<tr>
<td>- Perception of loss of authority</td>
<td>−</td>
</tr>
<tr>
<td>- Shared decision with other stakeholders</td>
<td></td>
</tr>
<tr>
<td><strong>Farm labourers</strong></td>
<td></td>
</tr>
<tr>
<td>- Increased income/wages</td>
<td>+</td>
</tr>
<tr>
<td><strong>Nursery operators</strong></td>
<td></td>
</tr>
<tr>
<td>- Improved demand for products</td>
<td>+</td>
</tr>
<tr>
<td>- Improved seed quality</td>
<td>+</td>
</tr>
<tr>
<td><strong>Community Forest Committees</strong></td>
<td></td>
</tr>
<tr>
<td>- Increased role in forest reserve management</td>
<td>+</td>
</tr>
<tr>
<td>- Potential role in benefit sharing management</td>
<td>+</td>
</tr>
<tr>
<td>- Disempowerment if knowledge and ideas are not incorporated</td>
<td>−</td>
</tr>
<tr>
<td><strong>MLNR</strong></td>
<td></td>
</tr>
<tr>
<td>- Increased resource requirement for policy dialogue</td>
<td>+</td>
</tr>
<tr>
<td>- Increased monitoring and evaluation responsibilities</td>
<td>+/−</td>
</tr>
<tr>
<td>- Increased need for conflict resolution skills</td>
<td>𝑏 −</td>
</tr>
<tr>
<td>- Increased workload</td>
<td>−</td>
</tr>
</tbody>
</table>

Information summarised from Butcher (2001)
4.3  Recommendations for Policy and Legal Reform

The recommendations made for improving benefit sharing for the different categories of tree management have been guided by stakeholder preferences as well as the general principles in benefit sharing schemes. These are principles are explained below:

“Effectiveness: Ensuring that benefits reach those who contribute to a particular resource and create the right incentives for them to continue doing so in the long term;

Efficiency: Ensuring that the benefit sharing mechanism maximizes benefits on each unit of input and delivering benefits in a reasonable amount of time; and

Equity: Ensuring that benefits are shared among all legitimate actors in a manner that is widely perceived as fair” (Davis, 2012; Xiaoting Hou, 2013: 2, cited in TBI Ghana 2014).

The following recommendations for policy and legal reforms are therefore recommended:

- The policy should ensure that the farmer has the right to adequately negotiate benefit sharing arrangements from trees that he/she plant/nurture with land owner (labelled as farmer right with landowner);

- There should be a decentralized land title registration that allows farmers to demarcate and register their lands in the community/district and also register trees on their farms in order to ensure that at the time of benefit sharing, ownership of trees would not be in dispute;

- There should be a standardized benefit sharing options for on-reserve (naturally occurring), on-reserve (planted), off-reserve (naturally occurring) and off-reserve (planted);

- Off-reserve planted and naturally occurring trees should be managed by the traditional authority and landowners. The FC can provide guidelines, such as supporting farmers to register trees, since legally it has no mandate in off-reserve forests. Also, incentives should be given to farmers who nurture trees on their farms instead of being part of the benefit sharing arrangement; and

- Landuse plans for district assemblies should reserve areas for forest plantations.

4.4  CONCLUSION

It is apparent from the study that all bundle of rights associated with trees on farmlands exist across the country. The right to plant trees is the most prominent right exercised across the country while in the northern zone the right to use trees or tree products is rather dominant. The right to dispose of trees is the right that is least exercised across the country.
The most dominant conclusion from the study is that the existing tree tenure should be reformed such that ownership of naturally occurring timber trees are vested in persons or entities with management, exclusion and alienation rights to trees and land. The implication is that holders of allodial and freehold land titles under customary land ownership would exercise ownership right over naturally occurring trees on their lands. This would incentivize critical stakeholders, such as farmers and forest-adjacent communities, to invest in forest management and conservation for effective implementation of any tree growing mechanism.

Going in this direction will require some reform in the policy and legal framework. The most favoured arrangement for land and tree tenure reform in the country is the right for the farmer and the land owner to negotiate their rights to own trees and benefit sharing with each other followed by decentralized land titling and registration that allows for framers to register not only their land but also trees on their farms. The least favoured option is the right of government and Traditional Authorities to give the right to dispose of trees on farmlands.

Changing the current tree tenure regime requires revisions at many levels, including the Constitution and has fundamental knock-on effects on many other components of the forest legislative framework, so will be virtually impossible to treat alone. To be pragmatic, the analyses and drafting processes for tree tenure reform and broader forest regulatory framework reform will need to run in parallel, with very close coordination and communication between the two.

There is a ground swell with forest communities that is in favour of rights related to decentralize land and tree tenure governance that gives more right to land owners and farmers who invest resources in the creation of the forest.
GLOSSARY

Abunu- This is a leasehold system between land owners and tenant farmers. In this system, the farm and/or the proceeds from the farm is divided equally between the farmer and the land owner.

Abusa- This is a leasehold system between land owners and tenant farmers. In this system, the farm and/or proceeds are split three-ways with the migrant farmer taking one part and the land owner taking two.

Admitted Farms- These are the rights of farmers (cultivators) who had farms in the reserve area before their designation as reserves upheld for them to continue to farm in those areas. To a very large extent these rights have been respected in most of the reserves where they occur.

Admitted Rights- These are customary rights held by individuals or communities to the forest reserve land at the time of reservation. These rights, especially, when they were considered as not been harmful for the forest were upheld and documented. Such rights included indigenous cultural or religious rights. In some instances, such rights included access to specified quantity of forest resources, including timber trees, per annum.

Allodial/Absolute Ownership- This is the absolute right to own, control, manage, use and dispose of a piece of land.

Annual Allowable Cut (AAC)- Estimated yield of timber expected to be harvested (through government given concessions) annually to ensure productivity and sustainability of forests. The calculation of the AAC is done by the Forestry Commission and adjusted periodically.

District Assembly- They are the second-level administrative subdivisions in Ghana below the level of a region. They represent the local level state governance structure responsible for decentralized governance at the district level. There is currently a total of 216 District Assemblies in Ghana.

Domestic Use Rights- The rights of forest fringe communities to access forest resources in the forest reserve for domestic purposes (for medicinal purposes, home consumption, poles for construction, etc.) was also recognised. These rights are also virtually non-existent now.

Eminent Domain- The constitutional power government possesses to take lands for projects and compensate for it.

Family Head (Abusuapanyin)- The leader of a family group or tribe. He/she is responsible for distributing lands and managing lands belonging to the family.
**Forestry Commission**- The state institution responsible for the regulation of utilization of forest and wildlife resources, the conservation and management of these resources and the coordination of policies related to them. The Commission embodies the various public bodies and agencies that were individually implementing the functions of protection, management and regulation of forest and wildlife resources.

**Freehold**- The right to be given land to farm on by virtue of the fact that you belong to a family who owns lands.

**High Forest Zone**- The land area in Ghana that stretches the southern one-third of the country. The forest type is generally dense and of most semi-deciduous forest type.

**Land Tenure**- The various laws, rules and obligations that govern the holding and ownership rights and interest of land and covers both statutory and customary rights.

**Leasehold**- This is the right to use land for any agreed use without the power to sell it. An individual with this right only takes benefits from the use of the land such as crops or space to build a structure.

**Non Timber Forest Products**- They are forest products (other than timber) mostly harvested by forest communities for food, furniture, etc. Examples are canes, raffia palm, chewing-sticks, snails, mushrooms, etc.

**Office of the Administration of Stool Lands**- It is a government structure that is responsible for managing revenue accruing from the use of stool lands. This includes revenue from timber exploitation and mining.

**Off-Reserves**- Forests and lands outside of designated forest reserves (including National Parks and other lands gazetted for protection) are commonly referred to as off reserve areas and represents 89% of Ghana’s land area.

**On-Reserve/ Forest Reserves**- These are areas designated and gazetted as reserves by the state for purposes of conservation or timber production. They cover 11% of Ghana’s land area.

**Paramount Chief (both skin and stool)**- The chief with highest power and control in an area. He usually has sub-chiefs who owe allegiance to him/ his Stool. Its source is in the Pre-and Colonial era where lands were captured or given to families to rule. He can destool sub-chiefs or endorse them. He also settles disputes between his sub-chiefs and is the ultimate arbiter.

**Private Lands**- These are lands bought outright by individuals or given out as gifts from someone with an allodial or absolute ownership. In the past, Chiefs used to give out lands to allies as a way to show their gratitude.
**Revenue Share**- It is the share of revenue that goes to landowners from the incomes accruing from the management of the forest reserves. At present, the most significant revenues are obtained from stumpage fees on timber extraction, but there is also the land rent, which are paid directly to the landowners (basically the stool chiefs and traditional council) without going through a sharing process.

**Salvage Permits**- Permits granted to timber companies to remove (salvage) trees in an area designated for a development activity (such as building of road, etc) or agricultural activity (such as cocoa farming, rubber plantations, etc).

**Savannah Zone**- The land area (66%) in Ghana that encompasses the northern drier part of the country. The landscape is characterised by woodland that is scattered all over with much shorter trees. Prominent food/cash trees in the region include the shea tree.

**State Land**- This refers to land that the Government has compulsorily acquired under the State Lands Act 1962 Act 125 in the interest of the public.

**Statutory Allocation**- Customary lands that have been taken by government and are thus state lands either temporary or permanently.

**Stool/ Skin**- This is the term given to the seat of Chiefs in the Southern and Northern parts of Ghana respectively. It is believed the stool/skin is the embodiment of ancestral spirits and souls. It is believed that the chiefs who sit on the stool/skin are backed by the ancestors to rule. As an institution, lands and resources are for the stools and its bearer to manage and rule.

**Stool Land**- This refers to land that is vested in the appropriate stool on behalf of the community represented by the Chief, or any in a fiduciary capacity for his people. Members of the landholding group have usufruct rights, equivalent to a freehold. Practically such land belongs to the member of the landholding group and his interests are secure, inheritable and generally alienable. The alienation of such land by the stool or family requires the consent of the holder of this interest. The problem with stool land as far as investment is concerned is that a prospective investor may have to deal with a multiplicity of interests and rights in the land he wants to acquire.

**Sub-Chiefs**- Subjects to the Paramount chief and the stool. They manage the lands, pay respects and owe allegiance to the paramount chief.

**Taungya**- An agroforestry technology in which trees are planted together with crops on the same piece of land. The crops and the trees are tendered together until the tree canopies close and crops cannot be cultivated any longer. This system helps government to undertake reforestation with community labour providing a win-win situation where communities farm on reserves for food crops while they plant and tender for trees for a specified period of time.
**Tendamba** (the plural of Tendana) The owners of the land and forest groves. Usually, they are the first settlers in various communities.

**Tendana** - Earth Priest in some Northern communities responsible for allocating vacant land to “migrants”, settle land disputes, spiritual leadership and sanctify the land etc. Have control/management functions over land in some parts of Northern Ghana.

**Traditional Council** - Defines a geographical area in a region which comprises two or more stools guided by the same ancestral lineage.

**Tree Tenure** - The various laws, rules and obligations that govern the holding and ownership rights and interest in trees.

**Usufruct Rights** - This is rights of enjoyment from the land which enables a holder to derive profit or benefit from the property that is titled to another person or which is held in common ownership as long as the property is not damaged or destroyed.

**Vested Lands** - This is the vestment of stool lands in the state under the Administration of Lands Act 1962 Act 123. The state acts as a Trustee for the appropriate stool. They are customary lands with resources (forests, minerals) which the government manages on behalf of the people. Government has mechanisms for sharing proceedings from the resources on the land between itself and the owners using the institution of OASL.
<table>
<thead>
<tr>
<th>Author(s)</th>
<th>Title and Details</th>
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<tbody>
<tr>
<td>Acquaye, E. and Murphy, M.C. (1973)</td>
<td>Landuse, land tenure and agricultural development in Ghana (with two case studies Offinso and Kumbungu Areas); Contemporary changes in agrarian structure. UN/FAO studies; Land Administration Research Centre, Department of Land Economy, U.S.T., Kumasi, Ghana.</td>
</tr>
<tr>
<td>Civic Response and FERN (2014)</td>
<td>A Study of Land and Tree Tenure Situation in Ghana</td>
</tr>
<tr>
<td>Title</td>
<td>Author</td>
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<tr>
<td>The Distribution of Benefits Derived from Forest Resources</td>
<td>ClientEarth (2013)</td>
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<tr>
<td>Benefit Sharing Mechanism for REDD+ Implementation in Ghana</td>
<td>Dumenu W. K et al (2014)</td>
</tr>
<tr>
<td>An interim report on the state of forest resources in the developing countries. FAO, Rome. 18pp.</td>
<td>FAO. (1988)</td>
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<tr>
<td>Seminar on Sustainable Timber Production from Outside Forest Reserves. Forestry Department, Accra</td>
<td>Forestry Commission (1997)</td>
</tr>
<tr>
<td>Forestry in development assistance. Washington, D.C: Office of Science and Technology, USAID.</td>
<td>Freeman, P.H. (1979)</td>
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<tr>
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</tr>
<tr>
<td>Proven Ag Solutions (2014)</td>
<td>Review of the existing Tree Tenure Policies and Legislations and their Implications for the Cocoa Sector in Ghana</td>
</tr>
<tr>
<td>Author</td>
<td>Title</td>
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</table>
APPENDICES

APPENDIX ONE

LIST OF PERSONS CONTACTED

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Organisation</th>
<th>Position</th>
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</thead>
<tbody>
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</table>
APPENDIX TWO

FOCUS GROUP DISCUSSION GUIDE

DEVELOPMENT OF A FRAMEWORK ON TREE TENURE AND BENEFIT SHARING SCHEME

INTERVIEW GUIDE FOR FGDs

STAKEHOLDER GROUP .................................................................

1. What are the existing land tenure systems in your area?
2. What are the existing tree growing activities in your area?
3. What is the benefit sharing arrangement associated with each of the options?

<table>
<thead>
<tr>
<th>Tree Growing Activity</th>
<th>Benefit Sharing</th>
<th>100% to farmer</th>
<th>66.6% to farmer and 33.3% to landowner</th>
<th>50% to farmer and 50% to landowner</th>
<th>90% to farmer, 2% to FC, 6% to landowner and 2% to community</th>
<th>5-10% to CREMA Executive Committee and 90-95% to community</th>
<th>40% to FC, 40% to farmer, 15% to landowner and 5% to community</th>
<th>Other (Specify)</th>
<th>No Idea</th>
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<tbody>
<tr>
<td>CREMA</td>
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<tr>
<td>Modified Taungya System</td>
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</tbody>
</table>
4. Who are the beneficiaries?
5. What is the basis for sharing?
6. What are the roles and responsibilities of the various parties involved?
7. What rights does each participant have? (indicate according to stakeholder)

<table>
<thead>
<tr>
<th>Arrangement in Place</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Right of Access to the trees</td>
<td></td>
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<tr>
<td>(ii) Right to own the trees</td>
<td></td>
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<tr>
<td>(iii) Right to the usage of trees</td>
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<tr>
<td>(iv) Right to the disposal of trees</td>
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<tr>
<td>(v) Right to prevent others from use of trees in your farm</td>
<td></td>
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</tr>
</tbody>
</table>

8. What are the underlying legal and customary regulations pertaining to the tenure regime?
9. Why has there not been a change in the tree growing activities in your area?
10. In your view, what are the main issues (legal, socio-economic, customary, demographic, governance, etc.) affecting the implementation of the tree growing activities?
11. How are land and tree tenure conflicts resolved in your area?

12. Rank the following benefit sharing options in order of preference (1 for the highest rank)?

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Rank</th>
<th>Reason</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>100% to farmer</td>
<td></td>
<td></td>
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<tr>
<td>2</td>
<td>66.6% to farmer and 33.3% to landowner</td>
<td></td>
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<tr>
<td>3</td>
<td>50% to farmer and 50% to landowner</td>
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<td>3</td>
<td>90% to farmer, 2% to FC, 6% to landowner and 2% to community</td>
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<td>4</td>
<td>5-10% to CREMA Executive Committee and 90-95% to community</td>
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<tr>
<td>5</td>
<td>40% to FC, 40% to farmer, 15% to landowner and 5% to community</td>
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<td>6</td>
<td>Other (specify: _________________________________)</td>
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</tbody>
</table>
13. Undertake pairwise ranking of the following benefit sharing arrangements (1 being the highest)

<table>
<thead>
<tr>
<th>Benefit Sharing Arrangements</th>
<th>100% to farmer</th>
<th>66.6% to farmer and 33.3% to landowner</th>
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<th>Other (Specify)</th>
<th>Total</th>
<th>Rank</th>
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<tr>
<td>100% to farmer</td>
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<td>50% to farmer and 50% to landowner</td>
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</tbody>
</table>

14. Answering with a simple Yes or No select among each of the following land and tree reform options you would prefer

   a. The farmer has the right to adequately negotiate benefit sharing arrangements from trees that he/she plant/nurture with land owner (labelled as farmer right with landowner). Yes/No

   b. The farmer has the right to dispose (also for economic benefit) trees that he/she plants/nurture (labelled as farmer right to dispose tree). Yes/No

   c. The government controls the right to give right for felling of trees to timber companies (for economic purposes) both on and off-reserve (labelled as government right to dispose trees). Yes/No

   d. The traditional authority (including chiefs, local customary institutions) has right to give trees out for economic purpose in off-reserve area (labelled as TA right to dispose trees in OFR). Yes/No

   e. A decentralized land title registration allows farmers to demarcate and register their lands in the community/district (labelled as decentralized land titling and registration). Yes/No

   f. Land owners and farmers own the trees they plant and nurture and the government (Forestry Commission) provides management services in the off-reserve area to TAs and communities which they are compensated for by way of management fees (labelled as FC purely manages, planters owners of trees). Yes/No

15. Do you have any comments/ suggestions?
## APPENDIX THREE

### KEY INFORMANT INTERVIEW GUIDE

**DEVELOPMENT OF A FRAMEWORK ON TREE TENURE AND BENEFIT SHARING SCHEME**

**INTERVIEW GUIDE FOR FGDs**

**STAKEHOLDER GROUP** …………………………………………

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</tbody>
</table>

4. Who are the beneficiaries?
5. What is the basis for sharing?
6. What are the roles and responsibilities of the various parties involved?

Page 104 of 138
7. What rights does each participant have? (indicate according to stakeholder)

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</tbody>
</table>
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a. The farmer has the right to adequately negotiate benefit sharing arrangements from trees that he/she plant/nurture with landowner (labelled as farmer right with landowner). **Yes/No**

b. The farmer has the right to dispose (also for economic benefit) trees that he/she plants/nurtures (labelled as farmer right to dispose tree). **Yes/No**

c. The government controls the right to give right for felling of trees to timber companies (for economic purposes) both on and off-reserve (labelled as government right to dispose trees). **Yes/No**

d. The traditional authority (including chiefs, local customary institutions) has right to give trees out for economic purpose in off-reserve area (labelled as TA right to dispose trees). **Yes/No**

e. A decentralized land title registration allows farmers to demarcate and register their lands in the community/district (labelled as decentralized land titling and registration). **Yes/No**

f. Land owners and farmers own the trees they plant and nurture and the government (Forestry Commission) provides management services in the off-reserve area to TAs and communities which they are compensated for by way of management fees (labelled as FC purely manages, planters owners of trees). **Yes/No**

15. Do you have any comments/ suggestions?
## APPENDIX FOUR

CURRENT STATE OF TREE TENURE AND BENEFIT SHARING ARRANGEMENTS IN GHANA

### GREATER ACCRA REGION

<table>
<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Stakeholder</th>
<th>Tree Tenure Rights</th>
<th>Benefit Sharing Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sacred Grooves</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber; Unrecognised management rights</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
</tr>
<tr>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tenant Farmer</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP and artisanal harvesting of timber</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
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</tr>
<tr>
<td></td>
<td>Timber Contractors</td>
<td>Unrecognised management rights</td>
<td>NTFPs and Artisanal Harvesting of Timber</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>100%; 33% if land is rented out</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tenant Farmer</td>
<td>Access, withdrawal (consult with landowner), management, alienation and exclusion rights; Fewer rights than indigenous; Restrictions on communal land</td>
<td>On Stool/ Family Land (Planter- 67%)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Women Farmers</td>
<td>Access, withdrawal, management, alienation (limited) and exclusion rights; Greater rights on private land in matrilineal societies; Limited rights on communal land</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Tree Growing Management Regime</td>
<td>Stakeholder</td>
<td>Tree Tenure Arrangement</td>
<td>Benefit Sharing Arrangement</td>
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<tr>
<td>1</td>
<td>Off- Reserve Plantation</td>
<td>Traditional Authority (Chief)</td>
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<td>On Stool/ Family Land (Stool- 33%)</td>
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<td>Tenant Farmer</td>
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**CENTRAL REGION**

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<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
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<td><strong>Traditional Authority (Chief)</strong></td>
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<td>Access, withdrawal, management, alienation and exclusion rights</td>
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<td>Access, withdrawal (consult with landowner), management, alienation and exclusion rights; Fewer rights than indigenous; Restrictions on communal land</td>
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<td>100%; 33% if land is rented out</td>
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<tr>
<td>Landowner</td>
<td>NTFP (Permit from FC); Unrecognised management rights</td>
<td>15% Responsible for providing land, community mobilization and conflict resolution. Guarantee uninterrupted access to the allocated land for the FC and other parties; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<td>Indigenous Farmer</td>
<td>NTFP (Permit from FC)</td>
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<td>NTFP (Permit from FC)</td>
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### BRONG AHAFO REGION

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<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
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<tr>
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<td>Access, unrecognized management, de jure exclusion and withdrawal rights (TUPs)</td>
<td>SRA (Community)</td>
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<tr>
<td>Tenant Farmer</td>
<td>Access, unrecognized management, de jure exclusion and withdrawal (not allowed to SRA (Community)</td>
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<tr>
<td>No.</td>
<td>Tree Growing Management Regime</td>
<td>Stakeholder</td>
<td>Tree Tenure Arrangement</td>
<td>Benefit Sharing Arrangement</td>
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<td>1</td>
<td>National Plantation Programme</td>
<td>Traditional Authority (Chief)</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC); Unrecognised management rights</td>
<td>9% (Reason not stated); SRA (Community)</td>
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<td>Landowner</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
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<td>Indigenous Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
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<td>Tenant Farmer</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
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<td>Women Farmers</td>
<td>Access to NTFP and farming on admitted farms (Requires Permit from FC)</td>
<td>SRA (Community)</td>
</tr>
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<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>TUCs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
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<tr>
<td>Category</td>
<td>Access and Withdrawal Rights</td>
<td>Responsibilities</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
<td></td>
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<tr>
<td>Tenant Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<tr>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>FC- 40% - Responsible for the provision of technical support services, demarcation and mapping of sites, species matching, monitoring, quality control and plantation management, marketing and accounting of plantation products</td>
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<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>Harvesting of NTFPs</td>
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<tr>
<td>Commercial Plantation (Off Reserve)</td>
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<td>Harvesting of NTFPs</td>
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<td>4</td>
<td>Commercial Plantations (On Reserve- Degraded Forest Areas)</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Harvesting of NTFPs</td>
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<td>Tenant Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Harvesting of NTFPs</td>
<td></td>
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<tr>
<td>Women Farmers</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
<td>Harvesting of NTFPs</td>
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<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>On Stool/ Family Land (67%- Private Entity, 33%- Stool/ Family); On Private Land (100%- Private Entity)</td>
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<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
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<table>
<thead>
<tr>
<th>5</th>
<th>Trees on Farm (Planted)</th>
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<tbody>
<tr>
<td>Traditional Authority (Chief)</td>
<td>Unrecognised management rights</td>
</tr>
<tr>
<td>Landowner</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
</tr>
<tr>
<td>Tenant Farmer</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
</tr>
<tr>
<td>Women Farmers</td>
<td>Access and Withdrawal rights limited to NTFPs</td>
</tr>
<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
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<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
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<th>6</th>
<th>Trees on Farm (Planted)</th>
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<tr>
<td>Landowner</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
</tr>
<tr>
<td>Tenant Farmer</td>
<td>Access, withdrawal (consult with landowner), management, alienation and</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>Tree Tenure Arrangement</td>
</tr>
<tr>
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<tr>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
</tr>
<tr>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
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**WESTERN REGION**

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<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CREMA</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
<td>Some CREMAs give part of the revenue to Traditional Authorities; 5-10% to CREMA Executive Committee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to communities (Not directly to the Landowner)</td>
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<td>Group</td>
<td>Access and withdrawal rights limitation</td>
<td>Revenue distribution and responsibilities</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
<td></td>
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<tr>
<td>Tenant Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
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<tr>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
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<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>Some CREMA’s give part of the revenue to Das</td>
<td></td>
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<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
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<tr>
<td>2 MTS</td>
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<tr>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
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<tr>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>15%- Responsible for providing land, community mobilization and conflict resolution. Guarantee uninterrupted access to the allocated land for the FC and other parties; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<tr>
<td>Tenant Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<tr>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP ( Permit from FC)</td>
<td>40% - Responsible for seedling production, land preparation, planting and maintenance of the plantation; Local Community- 5% (Not directly to farmer)- Responsible for protection against encroachers, illegal activities, wildfire prevention and control</td>
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<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>FC- 40%- Responsible for the provision of technical support services, demarcation and mapping of sites, species matching, monitoring, quality control and plantation management, marketing and accounting of plantation products</td>
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<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
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</tr>
<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 40%- Responsible for the provision of technical support services, demarcation and mapping of sites, species matching, monitoring, quality control and plantation management, marketing and accounting of plantation products</td>
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<td>3</td>
<td>On-Reserve Plantation</td>
<td>Traditional Authority (Chief)</td>
<td>Access to NTFP and farming on admitted farms ( Requires Permit from FC); Unrecognised management rights</td>
<td>9% (Reason not stated); SRA (Community)</td>
</tr>
<tr>
<td>Landowner</td>
<td>Access to NTFP and farming on admitted farms ( Requires Permit from FC)</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
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</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access to NTFP and farming on admitted farms ( Requires Permit from FC)</td>
<td>SRA (Community)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tenant Farmer</td>
<td>Access to NTFP and farming on admitted farms ( Requires Permit from FC)</td>
<td>SRA (Community)</td>
<td></td>
<td></td>
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<tr>
<td>Women Farmers</td>
<td>Access to NTFP and farming on admitted farms ( Requires Permit from FC)</td>
<td>SRA (Community)</td>
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<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
<td>TUCs</td>
<td></td>
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</tr>
<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
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<td>4</td>
<td>Trees on Farm (Planted)</td>
<td>Traditional Authority (Chief)</td>
<td>Unrecognised management rights</td>
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<tr>
<td>Landowner</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>100%; 33% if land is rented out</td>
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</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
<td></td>
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<tr>
<td>No.</td>
<td>Trees on Farm (Naturally Occurring)</td>
<td>Stakeholder</td>
<td>Tree Tenure Arrangement</td>
<td>Benefit Sharing Arrangement</td>
</tr>
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<tr>
<td>5</td>
<td>Traditional Authority (Chief)</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>9% (Reason not stated); SRA (Community)</td>
<td></td>
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<tr>
<td></td>
<td>Landowner</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
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<td>Indigenous Farmer</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>SRA (Community)</td>
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<td>Tenant Farmer</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>SRA (Community)</td>
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<tr>
<td></td>
<td>Women Farmers</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs)</td>
<td>SRA (Community)</td>
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<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUCs)</td>
<td>TUCs</td>
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</tr>
<tr>
<td></td>
<td>State</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
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</table>

**NORTHERN REGION**

<table>
<thead>
<tr>
<th>No.</th>
<th>Tree Growing Management Regime</th>
<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CREMA</td>
<td>Traditional Authority (Chief)</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC); Unrecognised management rights</td>
<td>Some CREMAs give part of the revenue to Traditional Authorities; 5-10% to CREMA Executive Committee</td>
</tr>
<tr>
<td>Role</td>
<td>Access and withdrawal rights</td>
<td>Revenue Share</td>
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<tr>
<td>Landowner</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to communities (Not directly to the Landowner)</td>
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<tr>
<td>Indigenous Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
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<tr>
<td>Tenant Farmer</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
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</tr>
<tr>
<td>Women Farmers</td>
<td>Access and withdrawal rights limited to NTFP (Permit from FC)</td>
<td>90-95% to the Communities (Not Directly to the Farmer)</td>
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<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUC)</td>
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</tr>
<tr>
<td>State</td>
<td>Access, withdrawal, management and exclusion rights</td>
<td>Some CREMA's give part of the revenue to Das</td>
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<table>
<thead>
<tr>
<th>2 Trees on Farm (Planted)</th>
<th>Traditional Authority (Chief)</th>
<th>Unrecognised management rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landowner</td>
<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td>100%; 33% if land is rented out</td>
</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
</tr>
<tr>
<td>Tenant Farmer</td>
<td>Access, withdrawal (consult with landowner), management, alienation and exclusion rights; Some restrictions; Fewer rights than indigenous; Restrictions on communal land</td>
<td>On Stool/ Family Land (Planter- 67%)</td>
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<tr>
<td>Women Farmers</td>
<td>Access, withdrawal, management, alienation (limited) and exclusion rights; Some restrictions; Greater rights on private land in matrilineal societies; Limited rights on communal land</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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<tr>
<td>Timber Contractors</td>
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<tr>
<td>State</td>
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</table>

<p>| 3 Trees on Farm (Naturally Occurring) | Traditional Authority (Chief) | Access, unrecognized management, de jure exclusion and withdrawal rights (TUPs) | 9% (Reason not stated); SRA (Community) |</p>
<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landowner</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
</tr>
<tr>
<td>Indigenous Farmer</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
<td>SRA (Community)</td>
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<tr>
<td>Tenant Farmer</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal (not allowed to sell if it occurs on family land) rights (TUPs); Some restrictions; Fewer rights than indigenous</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td>Women Farmers</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUCs)</td>
<td>TUCs</td>
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<tr>
<td>State</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
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**UPPER EAST REGION**

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<th>Stakeholder</th>
<th>Tree Tenure Arrangement</th>
<th>Benefit Sharing Arrangement</th>
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<tbody>
<tr>
<td>1</td>
<td>Trees on Farm (Planted)</td>
<td>Traditional Authority (Chief and ‘Earth Priest’)</td>
<td>Unrecognised management rights</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td>100%; 33% if land is rented out</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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<tr>
<td></td>
<td></td>
<td>Tenant Farmer</td>
<td>Access, withdrawal (consult with landowner), management, alienation and exclusion rights; Some restrictions; Fewer</td>
<td>On Stool/ Family Land (Planter- 67%)</td>
</tr>
<tr>
<td>No.</td>
<td>Tree Growing Management Regime</td>
<td>Stakeholder</td>
<td>Tree Tenure Arrangement</td>
<td>Benefit Sharing Arrangement</td>
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</tr>
<tr>
<td>2</td>
<td>Trees on Farm (Naturally Occurring)</td>
<td>Traditional Authority (Chief and ‘Earth Priest’)</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
<td>9% (Reason not stated); SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Landowner</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
<td>Stool – 11% (Maintenance of the stool); SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Indigenous Farmer</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Tenant Farmer</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal (not allowed to sell if it occurs on family land) rights (TUPs); Some restrictions; Fewer rights than indigenous</td>
<td>SRA (Community)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Women Farmers</td>
<td>Access, unrecognized management, <em>de jure</em> exclusion and withdrawal rights (TUPs); Some restrictions</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Timber Contractors</td>
<td>Access and withdrawal rights (TUCs)</td>
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</tr>
<tr>
<td></td>
<td>State</td>
<td>Access, withdrawal, management, alienation and exclusion rights</td>
<td>FC- 50% (Management responsibilities); DA- 25% (Community Development); OASL- 5% (Administrative Expenses)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Trees on Farm (Planted)</td>
<td>Traditional Authority (Chief and ‘Earth Priest’)</td>
<td>Unrecognised management rights</td>
<td>100%; 33% if land is rented out</td>
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</tr>
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<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>Indigenous Farmer</td>
<td>Access, withdrawal, management, alienation and exclusion rights; Some restrictions</td>
<td></td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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</tr>
<tr>
<td>Tenant Farmer</td>
<td>Access, withdrawal (consult with landowner), management, alienation and exclusion rights; Some restrictions; Fewer rights than indigenous; Restrictions on communal land</td>
<td></td>
<td>On Stool/ Family Land (Planter- 67%)</td>
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<tr>
<td>Women Farmers</td>
<td>Access, withdrawal, management, alienation (limited) and exclusion rights; Some restrictions; Greater rights on private land in matrilineal societies; Limited rights on communal land</td>
<td></td>
<td>On Stool/ Family Land (Planter- 67%); On Private Land- 100%</td>
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<tr>
<td>Timber Contractors</td>
<td></td>
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<td></td>
</tr>
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<th>2</th>
<th>Trees on Farm (Naturally Occurring)</th>
<th>Traditional Authority (Chief and ‘Earth Priest’)</th>
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<th>9% (Reason not stated); SRA (Community)</th>
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