



FINAL NARRATIVE REPORT

ON

ASSIGNMENT ON LEGISLATIVE AUDIT AND LEGAL COMPLIANCE TO PROMOTE RESPONSIBLE COMMODITY SUPPLY CHAINS

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CHAPTER ONE

INTRODUCTION AND BACKGROUND

Introduction:

1. This document provides a narrative on assessments undertaken by consultants in benchmarking the requirements of the Forest Stewardship Council, FSC standards, against legal requirements in Ghana. The document aims at summarizing the assessment of these standards against Ghanaian law, as has already been provided through a detailed matrix designed for the purpose.
2. This document is structured in four parts; Part I deals with the introduction, Part II discusses the sources of Law in Ghana, Part III, the findings on the FSC national legislation benchmark and Part IV, the summary of the findings and conclusions.

Project Background

3. Proforest under The Africa Responsible Production and Sourcing Programme (ARPS) aims to promote the uptake of sustainably best practices in forestry and agricultural commodity supply chains. As part of this, Proforest is leading on a sub-component that seeks to build on legal compliance to promote responsible commodity supply chains.
4. This assignment involved a legislative audit of the existing domestic law and international law obligations against the existing principles and standards of the Roundtable on Sustainable Palm Oil (RSPO) and the Forest Stewardship Council (FSC).

Objective of the assignment

5. This assignment primarily aims at benchmarking the requirements of the Forest Stewardship Council (FSC) against the legal requirements in Ghana, with the view of assessing which of the sustainability standard indicators the existing legal/regulatory environment in the country already addresses.

Methodology

6. The consultants undertook this assignment deploying a four-prong methodology to the assignment. The first was a desk review of the FSC standards, concepts and requirements. The second process was to do an assessment of domestic laws in Ghana. The domestic laws considered were the 1992 Constitution; Acts of Parliament, Legislative instruments and ratified international conventions. Also assessed were policies and guidelines applicable to the FSC.
7. The third methodology was the development of a benchmark Framework enhanced by a colour code for the assessment of the standard. There were four colour codes used in the document. Green, Yellow, orange and Red. Green was used where an

indicator was fully and specifically covered by domestic law. Where the criterion was covered by a combination of domestic law, the colour code used was yellow. The colour orange was used where some general provisions in legislation covered the indicator. Finally, the colour red was used in situations where the indicators were not addressed or covered by any legislation at all.

8. In the fourth methodology, the consultants provided the benchmarking of the indicator alongside the existing domestic laws.
9. As part of the deployment of the methodology, the consultants were faced with the actual document to be used for the benchmarking. There were the FSC International Generic Indicators (FSC-STD-60-004 V1-0 EN) and the Ghana National Interpretation (Ghana Forest Stewardship Standard FSC-STD-GHA-01-2012). Though initially the bench marking was based on the International Generic Indicators, it was later agreed together with the client and stakeholders at a validation workshop that benchmarking be based on the FSC National Interpretation.

CHAPTER TWO

SOURCES OF LAW IN GHANA

1. The 1992 Constitution of Ghana emphatically provides in its first article its supremacy. All Acts and Laws inconsistent with the constitution are to the extent of the inconsistency a nullity. Article 11 of the 1992 Constitution sums up the sources of law in Ghana as: The Constitution; Enactments made by or under the authority of the Parliament established by this Constitution; Any Orders, Rules and Regulations made by any person or authority under a power conferred by this Constitution (Subsidiary Legislation); Customary law; The existing law; and The common law.
2. Inadvertently, Article 11 indicates the hierarchy of laws in Ghana. As indicated earlier, the constitution is the supreme law of the land and operates as the pantheon of Authority. Article 1(2) of the 1992 constitution emphasizes this where it states that any law found to be inconsistent with the constitution will be declared void (paraphrased). Any law here being the other sources of law provided under Article 11, be they Orders, Rules, Regulations, Customs, International law or the common law.
3. Next in order of authority after the constitution are the Acts of parliament. Parliament plays the role of legislation making with an eye to the binding nature of the 1992 constitution. These enactments further expound on the constitutional provisions and provide regulations that govern the functioning of some governmental bodies.
4. Subsidiary legislation falls next in line where the constitution, and in some instances parliament, delegates its function of law making to external bodies.
5. Ghanaian customary laws are far spread and distinguishable from one part of the country to another. Ultimately the customary heads of the various parts, sections or

ethnic groups regulates these forms of law. They are not as binding however and where found to be inconsistent with the constitution or other laws above it in order of hierarchy can be held as void.

6. Ghana identifies as a commonwealth country and a dualist state in terms of its collaborative attempts internationally. In this regard, Ghana is bound only by the international laws and dictates that it has ratified.
7. For the purpose of benchmarking, consultants were required to concentrate on the more concrete sources of law, that is the sources of law that can be readily identified in writing and which create legal enforceable obligations. These being the 1992 Constitution, Acts of Parliament, Subsidiary Legislation and International treaties signed and ratified by Ghana only. In some cases, however, references were made to administrative procedures and manual of the Forestry Commission.

CHAPTER THREE

BENCHMARKING THE FOREST STEWARDSHIP COUNCIL CERTIFICATION AND STANDARDS

1. In an era where the need to ensure environmental improvement and sustainable use of natural resources has never been more prevalent, the FSC Certification provides a framework for users of forest products along the value chain to have some form of assurance that the products they use do not come from a place of environmental exploitation. That is, the environment is not significantly harmed in the process of production.
2. Through a voluntary framework, the FSC certification provides a criterion for assessment against prior agreed principles and criteria. Each criterion provides a number of indicators. To ensure a national adaption to these principles, the FSC permits the development of national interpretations and National Forest Stewardship standards.
3. Conformity with these principles and criteria ensures that the assessed company is issued with an FSC certificate.
4. In benchmarking the FSC to Ghanaian law, the consultant decided to benchmark at the indicator level to ensure a more drilled down assessment of laws. In this narrative summary of the matrix, however, the discussion is provided for at the principle level.
5. In that context therefore, the Consultant limited the scope of law to The 1992 Constitution, Acts of Parliament, Subsidiary Legislation and International laws ratified by Ghana. However, after its first validation meeting on the draft benchmark document, it was decided that the sources of law should consider the Logging Manuals and the various Manuals of procedure (MOPs) being used by the FC. Consultant were further tasked to, as much as possible, indicate some practices in the forestry sector, which may have an effect on the implementation of the FSC standards.
6. On the question of policies, the consultant noted that policies provide the framework through which the Executive branch of government indicates its intention in a particular area of national life. They merely guide the actions of government, and are

generally not enforceable. In that context, therefore, policies do not qualify as a source of law in Ghana and thus were not considered in this assignment. However, in the explanatory notes to the benchmark matrix, the existence of policies are used in illuminating some of the conclusions arrived at.

7. Another critical issue consultants were confronted with was the definition of a forest manager within the framework of the FSC Certification standards. It was found that, although the Ghanaian framework of law and practice dictates an understanding of a forest manager as the forestry commission, the FSC Principles & Criteria are voluntary standards to which the Commission is not necessarily obliged to comply with. This notwithstanding, it was decided that in recognition of the Ghanaian Law, the benchmark would stick to the definition of a forest manager as the forestry commission. However, in situations where there arose a need to provide further clarification in the assessment, a distinction would be drawn between the FC as a forest manager and private corporate institutions as forest managers.

Principle 1. Compliance with Laws and FSC Principles

1. The first principles under the FSC standards dwell on the obligation on all Forest Management Enterprises to ensure that their exploitation activities meet, and do not go contrary to the laws of the host state, here being Ghana.
2. Consultants found the principle, upon consideration of its individual elements, to be primarily addressed in law, with only the requirement for an evaluation of conflicts between laws, regulations and the FSC Principles and Criteria for the purposes of certification, being completely devoid of any legal authority.
3. As part of the compliance enforcement techniques provided for under the FSC principles was the requirement that Forest Managers maintain an up to date register of all statutes relating to forestry. Managers were also to possess copies of all relevant regulations. Consultants found the forest manager for the purposes of this exercise to be in the person of the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit. Under the laws of Ghana however, this position was found not to be entirely accurate as the role of forest management is shared between the Forestry Commission and Timber Rights holder. The consultants reached a conclusion that, the current legislative framework does not place a duty on a forest manager to provide or keep a register of laws that must be regularly updated to keep abreast with time; however possible it may be that Forest Managers as part of their administrative practice keep track of existing law for the purposes of compliance. The requirement was hence placed in the red-zone as not provided for in law.
4. Again, was the requirement that Forest Managers demonstrate an understanding of and comply with relevant codes of practice, guidelines and agreements. On the reasoning that the law (The Timber Resource Management Regulations) places a duty on the forest manager to employ and keep in their employ professional foresters at all times (also a requirement for the issuance and renewal of a TUC), Consultants marked this requirement as fully addressed. It was noted that the duty

on understanding and compliance is also supported by the administrative operational guidelines of the Forestry Commission.

5. As part of the principle, there were indicators requiring Forest Managers to document and implement monitoring procedures to guarantee compliance with the law. Managers were also obligated to take corrective action if and when non-compliance was detected. Researchers marked this requirement as addressed in law (Paragraph 1.7 and 4.2 of the Logging Manual 1998(L.I. 1649)), repeating the very reasoning given on the requirement that Forest Managers maintain an up to date register of all statutes relating to forestry and possess copies of relevant regulations. Consultants pointed out the fact that, the Logging Manual enjoins TUC holders/Forest Managers to keep records of their operations and respond to non-compliances when detected during timber harvesting assessment by District Managers and the Resource Management Support Centre (RMSC).
6. It was stated within the indicators under Principle 1 also that, the TUC was to be awarded in accordance with due procedures laid down in the Timber Resource Management Regulations 1998. Sections 1 and 3 of the Timber Resource Management Act, 1998 (Act 547) were applied in addressing the indicator. The two provisions were found by Consultants to be responsible for the prescribing of methods and procedures for Timber harvesting without a TUC while further stating that, a TUC can be acquired through the procedures set out in the Timber Resource Management Regulations.
7. Again, was the requirement that, there be no substantiated outstanding claims of noncompliance with national and local laws, regulations or administrative requirements related to forest management. This was placed under the yellow highlight of “addressed” by consultants. As stated in Chapter 2 of this report, the 1992 constitution declares itself supreme, thus all laws and persons are subject to the constitution. This includes forest management. The constitution creates an avenue for unconstitutional acts to be challenged in the Supreme Court. It is also worth noting that under the regime on TUCs if you do not comply with national laws you do not get a TUC renewed. Also, the Voluntary Partnership Agreement (VPA) verification protocols empower the Timber Validation Division (TVD) of the Forestry Commission to conduct audits and issue Corrective Action Requests (CARs) for non-compliances by timber companies, to be responded to within a given period of time. A failure to respond to the CARs has the consequence of non-receipt of a Forest Law Enforcement Governance and Trade (FLEGT) license.
8. As part of its requirement on payment of all applicable fees, royalties, taxes and other charges, one of the FSC indicators under Principle 1 states that Forest Managers are to provide evidence that said payments have been duly made. This instruction was found to be fully addressed in law via the 1992 constitution and some subsidiary legislations. Again, it was noted that the forest manager for the purposes of evidence of payment was the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit. The point was also made however that under the laws of Ghana this may not be entirely accurate as the role of forest management is shared between the Forestry Commission and

Timber Rights holder. The 1992 Constitution, the Trees and Timber Act, 1974 (NRCD 273), Administrator of Lands Act, Act 123, and the Environmental Assessment Regulations were said to illustrate the satisfaction of the criterion with respect to royalties from stool lands, trees and timber, and land usage and the periodic publication of evidence of payments of fees. It was noted that, companies are also required to show evidence of compliance and that, the operator takes on such duties voluntarily. Forest Managers (companies) were said to require a demonstration of adherence to this provision every 6 months during the renewal of their property marks.

9. The principle also states that, Forest Managers are to be aware of the implications of the Convention on International Trade in Endangered Species (CITES) in the region, and should as such implement appropriate measures or controls to ensure that its provisions are respected. The forest Manager here being the company (to an arguable extent), it was explained that the 1992 Constitution and the Vienna Convention on the Law of Treaties require of Ghana, steps to be taken to implement international law.
10. In addition, the principle of "*pacta sunt servanda*" which underlines every treaty means that international law should be performed in good faith (This analysis was indicated as being applicable to indicators 1.3.1-4, On the requirement to respect the provisions of all binding international agreements). CITES has been ratified under Ghanaian law- It was pointed out that, the law enjoining companies to have a competent forest officer could be stretched to imply that the presence of the competent officer would enhance compliance. CITES has been internalized into local laws and practices where special permits are needed at two different levels to exploit CITES protected species. (1) RMSC needs to approve the inclusion of CITES (restricted species) before they can be given in yields (2) CITES export certificate is needed before CITES species can be exported, this certificate is given by Wildlife Division. This principle was on this basis found to be addressed in law.
11. Similar to the CITES principle is the stipulation that Forest Managers are to adhere to Ghana's Labour Laws and the ILO conventions applicable in Ghana and shall implement appropriate measures to ensure that their provisions are respected. Again, consultants thought it wise to point out the fact that Forest Managers could be construed as the Company although Ghanaian law does point to the conclusion that the role of forest manager may be shared between the timber rights holder and the Forestry Commission.
12. The Labour Act also provides that its provisions apply to all except those in the security agency. This implies that Forest Managers have to obey the Act. This is fully operational even if the context in which forest manager as used in the document was to be changed to the Commission. As stated in the paragraph prior the constitution and international law in the form of the Vienna Convention on the Law of Treaties mandate the recognition of this principle. Consultants found the requirement fully addressed in law. Similar reasons were given for the finding of the principles to be aware of and implement both the International Tropical Timber Agreement (ITTA) and the Convention on Biological Diversity in Ghana as addressed.

13. On Forest Managers being aware of and adhering to all phytosanitary regulations to control pests and diseases of timber and wood products traded internationally or internally, consultants found that under the Plants and Fertilizer Act, 2010, Act 803, a forest manager cannot export any of his products without acquiring a phytosanitary certificate. Beyond export, the legislation also requires compliance as a day to day practice of forest management. The principle was marked as addressed.
14. Again, is the stipulation that, all Forest Managers are to be aware of the implications of International Conventions on Climate Change and Desertification. On the basis of Article 40 of the 1992 constitution on the promotion of respect for international law, this requirement was found to be addressed in law. Ghana ratified the Kyoto Protocol that enjoined the country to take steps to reduce carbon emission and to also reduce deforestation. In practice, the logging manual laid down certain environmental standards that Forest Managers (companies) were required to strictly adhere to.
15. As stated in the introductory paragraph, the totality of Criterion 1.4 on conflicts between laws, and the FSC Principles and Criteria being evaluated for the purposes of certification on a case by case basis, was found to be absent in law. This on the reasoning that, there are no laws which currently deal with conflict between laws, regulations and FSC principles, at least not expressly. However, it was noted that, under the 1992 constitution article 11 does establish a hierarchy of laws to guide the courts to resolves conflicts between laws. This hierarchy to an extent can be extended to cover the criteria. The logging manual also entreats loggers (Forest Managers) to report all problems (either conflict of laws, regulations or what have you) to the District Manager for redress.
16. The specifying of terms and condition of admittance or ownership in any admitted farms and alienated land was found to be addressed in law, via provisions within the constitution and the Forests Act, 1927 (Cap 157). The laws cited were found to create general requirements that the terms of condition for any land taken for forestry purposes was to be given. Although provisions were found to also exist on the administration of admitted farms (in the Manual of Procedures A of the FC and is supposed to be in the Management Plans of Timber Rights Holders), Consultants upon consideration found these provisions insufficient, as no law specifically states these terms and conditions.
17. On the requirement that terms and conditions of occupation be adhered to, it was found that Section 8 of the Timber Resource Management Act, 1998 (Act 547) sufficiently limits holders of timber rights to the area of their concession. It's legislative instrument, the Timber Resource Management Regulations, L.I 1649 continues on the same tangent, to mandate strict adherence of these provisions. Hence, the principle was marked as addressed in law.
18. As part of the FSC principles is the identification, demarcation, description, and protection of the DFA/FMU, against unauthorized human activities. This requirement was found to be fully provided for, upon a comprehensive analysis of provisions within the Forest Protection Act, NRCD 243, and the Trees and Timber Act, NRCD 273. The aim of these laws was cited as being to protect forests from human activities by creating offences out of them: As supported by Section B of the Manual of Procedure

on operational planning (forest reserves) and Instruction sheet B2 operational planning methodology (on-reserve delineation).

19. Again, on the DFA/FMU is the principle that its area and structure, be maintained under the law. This provision was found to be fully addressed within the constitution and the Timber Resource Management Act, and Regulation. It took a broad interpretation of the constitutional provision relied on however, to mark the indicator as addressed. These provisions mandate that, the natural environment be maintained. This also supported by MOP Section B – operational planning (forest reserves); Instruction sheet B2 operational planning methodology (on-reserve delineation).
20. Managers under the FSC principles are also mandated to take measures to prevent illegal harvesting, settlement and other unauthorized activities within the management area. Such measures as including: that forest roads have gates, that they are physically closed off after harvesting, and are patrolled to detect and prevent illegal access to the forest.
21. This was found to be addressed in Ghana's laws. It was noted that, one of the core functions of the Forestry Commission was to perform on the stipulations of this principle. This as provided for in the establishing act of the commission: The Forestry Commissions Act, 1999, Act 571. In addition to the Forestry Commissions Act, the Forest Protections Act and the Trees and Timber Act, the Timber Resources Management Regulations, 1998(LI 1649) and The Timber Resources Management (Legality Licensing) 2012 (LI2184) were found to aid in the protection of timber from illegal harvesting. The regulations were stated as being cumulatively responsible for the protection of timber through the setting up of a licensing scheme and other mechanisms for the determination of lands for timber utilisation.
22. On the matter of monitoring the forest for evidence of illegal or unauthorized activities, the provisions of the Forests Act, and the Forests Protection Act were found to place the principle within the categorisation of fully addressed. The laws within these legislative provisions establish and set out the functions of forest officers. The main function being to prevent the commission of forest offences.
23. The principles also mandate the taking of appropriate measures when illegal activities are detected. This is found to be fully addressed within the Forests Protection Act. Per the Act, forest Officers can detain an offender and submit him/her for prosecution.
24. Also, addressed by the Timber Resource Management Act was the indicator that for Large Enterprises only, managers have documented policies and procedures to protect the forest from illegal harvesting, settlement and other unauthorized activity. The Forest Reserve Management plan document policies and procedures to protect the forest (MOP A - Strategic Planning). The TUC holder is also required to develop a 5 years TUC operational plan that shall document plans and programmes to manage the TUC area (MOP C - Sustainable Timber Production - on-reserve)
25. That the enterprise maintains a record of all detected instances of illegal harvesting and other unauthorized activities within its management area, and of any subsequent actions taken to control the illegal activity was found however, to have no expression

within the law. Consultants on the matter, noted notwithstanding, that although there is no law requiring such maintenance of records in practice, the bush manager of the enterprise reports all detected instances of illegal felling to the District Manager or the Range Supervisor. These to be made a part of its monthly reports to the Headquarters.

26. As part of the FSC principles, Forest Managers are to have developed agreements in discussion with local communities for their help in identifying and/or preventing illegal or unauthorized activities. This is fully addressed, within the Forests Protection Act and the Timber Resource Management Regulations. These laws bind persons from the community that use forest reserves or exercise a right in one and workers that work within a reserve to aid forest officers in situations of breach. Also, they require that Enterprises sign Social Responsibility Agreements (SRAs), these in two parts, the first of which (code of conduct) addresses the principle fully. It was noted yet again, the fact that the forest manager here, was to be construed as the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit, although under the laws of Ghana this may not be entirely accurate as the role of forest management is shared between the Commission and Timber Rights holder.
27. Managers, according to the principles are to take measures to prevent illegal harvesting, settlement and other unauthorized activities within the management area. Relying on the Forests Protection Act, the Trees and Timber Act, the Forestry Commission Act and the Environmental Protection Agency Act, 1994, Act 490, consultants found the principle to be fully addressed. Emphasis was placed on the fact that, one of the core functions of the Forestry Commission under the Forestry Commission Act, was to perform on the stipulations of the principle. The Timber Resources Management Regulations, 1998(LI 1649) and The Timber Resources Management (Legality Licensing)2012 (LI2184) were found to also assist in the protection of timber from illegal harvesting. The regulations cumulatively protect timber by setting up licensing schemes and mechanisms for determining specific lands for timber utilisation.
28. Also stated was the requirement that, the forest should be monitored for evidence of illegal or unauthorized activities. The Forests Act and the Forests Protection Act were found to fully address this obligation through the institution of Forest officers whose primary function is to prevent the commission of forest offences.
29. The principles mandate that appropriate measures be taken when illegal activities are detected. This principal, much similar to that on forest monitoring was found to be fully provided for under the Forest Protections Act, which set out the functioning of Forest Officers, including that to detain an offender and submit him or her for prosecution
30. On a repetition of the principal that for large enterprises only, managers be expected to document policies and procedures to protect the forest from illegal harvesting, settlement and other unauthorized activity, consultants relied yet again on the Timber Resource Management Act, giving the same reasoning as before.

31. Maintaining a record of all detected instances of illegal harvesting and other unauthorized activities within its management area, and of any subsequent actions taken to control the illegal activity was found to be absent in law. In practice, the bush manager of the enterprise reports all detected instances of illegal felling to the District Manager or the Range Supervisor. These, is made part of the monthly reports of the District.
32. Concerning the requirement that Forest Managers have developed agreements in discussion with local communities for their help in identifying and/or preventing illegal or unauthorized activities, consultants relied on the Forests Protection Act and the Timber Resource Management Regulations to state that the law binds persons from the community that use forest reserves or exercise a right in one and workers that work within a reserve to aid forest officers in situations of a breach. It was noted that the SRA has 2 parts, the first on the code of conduct, being what addresses the principle fully. The principle was found to be fully addressed.
33. Forest Managers are as part of the principles supposed to demonstrate long-term commitment to the values of responsible forest management. The law was found to give provision to this under the Forestry Commissions Act. The consultants reasoned that, although there exist no laws expressly demonstrating a long-term commitment to the adherence to the FSC Principles and criteria, the 2012 Ghana Wildlife and Forest Policy actually does address most of them. In the opinion of consultants, these policies can be considered an indication of a certain commitment to the FSC principles and criteria. Timber Companies are required to prepare and have approved a 40 year TUC operational plan and a five year logging plan which demonstrates the long-term commitment to principles of responsible forest management.
34. The requirement that the policy objectives of Forest Managers coincide with international definitions of sound forest management and good practice, was found to be absent in law. The 1992 constitution was still cited however on the reasoning that although it advocates for an effort to be made to comply with international obligations, (including internationally accepted good forestry management principles), it appeared to apply more to the Forestry Commission, as opposed to the enterprise as a private concern.
35. On the obligations of Forest Managers again was the requirement that they display an understanding of and commitment to the concepts and practices of sustainability and the precautionary principle. This was marked as addressed under Ghanaian law, as per the 1992 constitution, the Rio Declaration on Environment and Development 1992, the Timber Resource Management Act and the Forests Commission Act. It was noted that, the 2012 Forest and Wildlife Policy has the overall theme of ensuring sustainability and providing the strategic direction for achieving Ghana's sustainability goals. Based on the policy, all activities by Forest Managers, be they companies or the commission itself were to have sustainable development as one of its primary goals. It was pointed out that, the MOP C is dedicated to implementing sustainable timber production and all Forest Managers are obliged to follow them.
36. Consultants answered the question of whether Forest Managers are obligated to strive for a compliance with management requirements, especially in other areas

under their responsibility with a partial yes. Stating the Tree and Timber Act as authority, it was explained that the conditions that need to be met before a property mark (Form C) is renewed include clearance from all management areas (Districts that contractors operate in) and proof that, the forest manager (contractor) is adhering to the standards required of him. .

37. There is no provision in law for the indicator that, Forest Managers are to demonstrate a commitment to compliance with requirements of the certification standard. Forest Managers here being the company (timber rights holder) as explained in the paragraphs prior.

INSTITUTIONAL ASSESSMENT:

1. Registrar General's Department (RGD)

As part of the duties of the Registrar Generals department is that to ensure compliance with the Companies Act 1963. It is the state institution responsible for the registering and liquidation of companies, playing both a regulatory and enforcement function. The Companies Act, 1963 (Act 179) governs generally the corporate activities and operations of all companies in the country, including companies dedicated to forestry operations.

The Companies Act mandates companies to regularly file documents that indicate the state of their compliance to the provisions of the Act. It also empowers the Registrar of Companies and the officers companies directly responsible for the default.

In some instance where the company fails to comply with some of the provisions of the Act, the Act permits members or officers of the company and in some instances third parties to apply to the registrar, who in some instances has the authority to give appropriate direction or fine the officers (principal or other) at fault.

2. Lands Commission

The Lands Commission is established by the 1992 Constitution and the Lands Commission Act, 2008 (Act 767). The commission was established with a view to integrate the operations of public service land institutions under the Commission in order to secure effective and efficient land administration.

The Lands Commission has 10 regional branches and a number of district offices. The Regional Lands Commission is to perform the functions of the Commission in respect of the region. The Ministry of Land and Natural Resources provides leadership to the Commission on matters of policy in respect of the functions of the Commission. One objective of the Commission is to ensure that land use is in accordance with sustainable management principles and the maintenance of a sound eco-system.

The functions of the Lands Commission include registering deeds and instrument (including documents provided for through the Land Registry Act and the Land Title Registration Act) that affect land throughout the country. The commission has a specialized unit known as the

Survey and Mapping Division which supervises, regulates and controls the survey and demarcation of land for the purposes of land use and land registration and a Land Registration Division which is responsible for the publication of notices of registration, registration of instruments and title to land and the maintenance of land registers that contain records of land and other interests in land.

The registration and documentation of interests in land by the commission thus provide substantially for an adequate framework for the demarcation and maintenance of boundaries of land, which would without any constraints, apply to the Palm Oil business. It is helpful to note that the Lands Commission has the express duty to minimize or eliminate the sources of protracted land boundary disputes, conflicts and litigations and to establish and maintain a comprehensive land information system.

3. The Courts

Under Ghana's legal system, three courts have jurisdiction to hear disputes relating to land at first instance, the High Court, Circuit Court and District Court.

The High Court is a court of record created by the 1992 Constitution. Article 140 gives the High court original jurisdiction in all matters civil, including land disputes. To enhance specialization, effectiveness and efficiency, the Lands Division of the High Court has been established. Currently, there are over 95 branches of the High Court in the country. According to the High Court Civil Procedure rules, 2004 (C.I 47) an action in court concerning a landed property must be commenced in the region where the property is located. In such disputes before the court, it has the authority to make declarations as to title, award damages and grant equitable reliefs such as specific performance, restitution and Injunction.

The Circuit Court and District court are lower courts created by the Courts Act, 1993 (Act 459). The Circuit court has jurisdiction to hear matters involving the ownership, possession, occupation of or title to land. However, the District Court has, within the area of its jurisdiction, civil jurisdiction to hear actions relating to ownership, possession or occupation of land, where the value of the land does not exceed five thousand Ghana Cedis.

Like the High Court, the Circuit and District courts have the power to make declarations as to title, award damages and grant equitable reliefs such as specific performance and injunction.

Principle 2. Tenure and Use Rights and Responsibilities

1. The second Principle of the FSC focused on rights to the use of forests and the responsibilities persons incur in the exercise of these exploitation rights. All criteria within the principle were found to be addressed within the law, although most spanned between partially and adequately addressed. Only the indicator on processes to identify and address suggestions and complaints from stakeholders within the management system was marked as being fully addressed.

2. A responsibility on Forest Managers to maintain records detailing the ownership of the land comprising the DFA was found partially provided for in the law. The 1992 constitution and the Timber Resource Management Act, were said to illustrate the varying types of user rights to land and their distinct characteristics. There was a general thinking that, although no obligations truly exist under law to maintain the documents to a DFA, a forest manager not having documents to serve as evidence of his rights, would constitute a very unsound administrative practice.
3. Documentation of the needs of local communities and the traditional uses, rights and customs of the local communities within the area of operation was found to be addressed by law. The 1992 constitution, Forests Act, Land Planning and Conservation Act, 1953 (No.32) were found to all speak to the end that, land users/owners have a controlling say when the land is being alienated or transformed. This partially meets the requirement.
4. In addition, one of the objectives of the 2012 Ghana Forest and Wildlife Policy is Promoting and Developing Mechanisms for Transparent Governance, Equity Sharing and Peoples Participation in Forest and Wildlife Resource Management. Again, the Wildlife Resource Management Bill when it comes into force will establish Community Resource Management Areas (CREMA) to further allow local communities to control and protect their resources.
5. There are also consultancy reports detailing a new regime for benefit sharing and tree tenure in the country, as well as a bill titled Land User and Spatial Planning, which is currently under consideration in the parliament of Ghana. The Bill is expected to address the general framework for land use in the country including community land use. There is also the National Land Policy of 1999 which provides the framework and direction for dealing with land ownership, security of tenure, land use and development and environmental conservation on sustainable basis. The company as a manager is also under law to address this indicator within the framework of the SRA. **This analysis was stated as applying to indicators 2.2.1 through to 5.**
6. The indicator that processes should exist within which management systems can identify and address suggestions and complaints from stakeholders was found fully addressed within the 1992 constitution, the Forests Act, the Land Planning and Conservation Act, and the Timber Resources (Legality Licensing) Regulation, 2012 (L.I.2184). These laws provide an avenue for stakeholders to bring forward concerns, at which stage complaints can be addressed. As part of managing the forest there are process and avenues for stakeholders to input into the system i.e during the preparation of management plans.
7. Again, as part of the principle under discussion, was the requirement that systems and procedures be formulated to resolve grievances and ensure compensation in the case of loss or damage arising from management activities within the DFA that affect customary or traditional rights, property, resources or livelihoods of local people. An

analysis of the Alternative Dispute Resolution Act, the land Title Registration Act, the Timber Resource Management Act, the Mining and Mineral Rights Act showed this principle to be aptly addressed in law. The enactments were found to contemplate instances where subject matter lands were found to be in conflict, and consequently, adequately provide a means for resolution. The Alternative Dispute Resolution technique was found by consultants to be the most favored conflict resolution method, over and above litigation.

8. Additionally, a system has been put in place by the judiciary to address conflicts arising out of land ownership: the establishment of a Land Court Division in the High Court. Although not explicitly stated in law, the Logging Manual (Paragraph 4.2) stipulates that destroyed crops during logging be compensated, failure to do so constituting a forest offense. Consultants noted that the requirement of a compulsory SRA, also addresses the principle.

INSTITUTIONAL ASSESSMENT

Environmental Protection Agency (EPA)

The EPA has the power under law to, require a person responsible for an undertaking which is likely to have adverse effect on the environment to submit within a period an environmental impact assessment. Upon such a request, the agency informs the organ or the department of government that has responsibility for the issue of a license, permit, an approval or a consent in connection with the undertaking that a notice has been issued, and that organ or department cannot grant the license, permit, approval or consent unless with the prior approval in writing of the Agency after compliance with the notice.

The EPA also has the duty to ensure compliance with the laid down environmental impact assessment procedures in the planning and execution of development projects, including compliance in respect of existing projects. In addition, the Act gives the EPA the duty to develop a comprehensive database on the environment and environmental protection for the information of the public. And to co-ordinate the activities of the relevant bodies for the purposes of controlling the generation, treatment, storage, transportation and disposal of industrial waste.

Also, the EPA has the mandate to ensure that Environmental Assessments are undertaken so that plans are put in place by the undertakers to mitigate their negative impacts to both the environment and individuals affected, while promoting the positive. The EPA supervises the conduct, documentation and implementation of social impact assessments and enforces the requirement of evidence to the fact that the said social impact assessments have been done with due participation of the affected parties. The EPA is required to hold public hearings where a proposed undertaking is likely to have an effect or impact the lives of a certain class of persons usually within a specific area

1. Lands Commission

As mentioned earlier, the functions of the Lands Commission include the registering of deeds and instruments (including documents provided for through the Land Registry Act and the Land Title Registration Act) that affect land throughout the country. The commission has a specialized unit specific to the supervision, regulation and control of survey and demarcation of land for the purposes of land use and land registration, known as the Survey and Mapping division. It also has a Land Registration Division which is responsible for the publication of notices of registration, registration of instruments and title to land and the maintenance of land registers that contain records of land and other interests in land.

The registration and documentation of interests in land by the commission thus provide substantially for an adequate framework for the demarcation and maintenance of boundaries of land.

Principle 3. Indigenous People's Rights

1. This principle was not addressed in the legal benchmarking document. It is also not addressed in the national interpretation. This is primarily because Ghanaian law does not have within its framework the concept of indigenous people.
2. The concept of indigenous people is however defined under international law; The FSC adopted the definition of 'Indigenous People' as contained in the United Nations Declaration on the Rights of Indigenous Peoples. Per the definition, the FSC National Interpretation for Ghana concluded that Indigenous Peoples are not present in Ghana, thus FSC Principle 3 is not applicable in Ghana. Consequently, this document does not discuss the principle.

INSTITUTIONAL ASSESSMENT

1. Environmental Protection Agency (EPA)

The mandate on the Environmental Protection Agency to ensure that Environmental Assessments are undertaken, in order to prevent adverse effects to both the land and individuals that may be affected finds meaning here as well. The EPA supervises the conduct, documentation and implementation of social impact assessments and enforces the requirement of evidence to the fact that the said social impact assessments have been done with due participation of the affected parties. The EPA is required to hold public hearings where a proposed undertaking is likely to have an effect or impact the lives of a certain class of persons usually within a specific area

Principle 4. Community Relations and Worker's Rights

1. In the fourth principle, consultants were required to consider criteria concerning the relationship between Forest Managers and the communities affected by their activities, also, the rights of its workers, in line with Ghanaian law. With the exception

of efforts to employ workers from local communities before workers are sought from further afield, and that for enterprises to demonstrate how it incorporates results of its evaluation on social impacts into its management planning and operations, all other indicators were found to be addressed in law: mostly to an adequate or a full extent.

2. As already stated, the requirement that all efforts be made to employ workers from local communities before being sought from elsewhere was found to be absent in law. No laws were found, that mandate the creation of employment opportunities and training for communities within and adjacent forest management areas. Although the 1992 constitution and other legislations were found to, however, give communities royalties and dividends for the exploitation of their resources.
3. The provision of training for workers within local communities however, was found by some stretch to be partially addressed. Using the Labour Regulation 2007 (L.I. 1833), consultants found that generally, the obligations an employer owes an employee under the Labour Act, 2003 include that for the provision of adequate training.
4. Under the principles, there was an expectation that health and safety measures provided for by the forest management comply with national minimum requirements. Using provisions found within the 1992 constitution, the Labour Act, and the Labour Regulation, the principle was placed in the category of fully addressed. It was noted that although the specified laws do not specifically refer to forest management, they did form an existing framework on employers' obligations as regards the health and safety of employees (the forestry industry just like any other industry being one regulated by the labour laws of the country).
5. That managers assess risks to workers of particular tasks and equipment, and take all measures to reduce or eliminate such risks was found to be adequately provided for in the law. The reasoning behind this was on a collative assessment of the 1992 constitution, the Labour Act, Labour Regulations and the Factories, Offices and Shops Act. It was stated that although the laws cited did not specifically refer to forest management, they did form the existing framework for employers' obligations towards the health of employees.
6. Again, the requirement that workers and contractors know the health and safety guidelines that are relevant to them was found adequately addressed. A worker as stated in the 1992 constitution, the Labour Act and the Factories, offices and shops Act, has the right to safe working conditions and is in addition, required to receive the necessary training and tools to perform on his or her obligations. As with the principle prior, a cumulative reading of the laws was needed to mark it as addressed.
7. On managers/contractors ensuring that workers use safety gears and equipment, consultants strained to use provisions within the 1992 constitution and the labour Act to deem it provided in law, albeit to a less than impressive extent. This, as a result of findings made to the effect that the law did not directly place a duty on managers to

do as such. Managers in this instance appeared to only have some consequential duty as a result of their operations within the jurisdiction.

8. The record keeping of all work-related accidents, deaths of employees and their causes, and actions taken to prevent similar accidents in future was marked as addressed by consultants. It was stated that, the Factories Offices and Shops Act, and the Labour Act, mandate the keeping of such a register on accidents at the workplace.
9. Again, on the criterion of health and safety, the principle of access to appropriate health facilities was found to be only partially addressed. The National Health Insurance Act, 2012, Act 852 presents the opportunity for all persons including workers, to become part of a national insurance scheme. This guarantees access to appropriate health facilities in situations where the worker is registered. It is also expected that under the conditions of service for workers, issues of healthcare be addressed.
10. The consultants relying on provisions made for in the Labour Act marked the requirement of compensation in case of accidents as fully addressed. Under the Labour Act, it is mandatory that a worker involved in an accident while in the course of duty be aptly compensated.
11. In line with Conventions 87 and 98 of the International Labour Organisation, the 1992 Constitution and the Labour Act were found to fully address the right of workers to organize and voluntarily negotiate with employers. This as through its guarantee of the freedom to organize and form Trade Unions (to represent the needs of workers), and to the provision of benefits commensurate with work done – equal pay for equal work.
12. Forest managers putting in place systems to monitor the social impacts of harvesting and other operations was found to be adequately addressed in the Timber Resource Management Regulations. Again, the SRA was stated as having 2 parts, one of which (social obligation) dealt with the monitoring of the social impact of forest activities. This same provision was said to enjoin forest managers to enter into binding social contracts with communities. This is part of the TUC area plan under paragraph 1.6 of the 2003 revised Logging Manual of the Forestry Commission.
13. On TUCs, the requirement of Social Responsibility Agreements with appropriate and relevant conditions for the DFA/FMU, and the laying down of clear and unambiguous conditions and technical specifications by Timber Operational Specifications (TOS), were both found to be fully addressed by the Timber Resource Management (amendment) Regulations. It was noted that, Instruction Sheet C3.2 of MOP C (section 3) spells out all the relevant conditions for SRA.
14. There is also an SRA Guideline that breaks down the appropriate and relevant conditions as well as processes of ensuring that the SRA addresses the concerns of the forest fringe communities. This, while the MOP B - Operational planning; compels the Forestry Commission to prepare Timber Operational Specification for the area, to

- be given out on TUC. The TOS stipulates the technical specifications of the area and detail the characteristic of the TUC area with facts and figures. The Timber Resource Management (amendment) Regulations again was found to fully address the TOS and SRAs covering operations in the DFA/FMU. Instruction Sheet C3.2 of MOP C (section 2 & 3) provides guidelines and specifications for preparation of TOS and SRA
15. Again fully addressed was, the obligation that Within a DFA/FMU, local communities, both men and women be consulted during the development of the Forest Reserve Management Plans, the Timber Utilisation Contract, and in the identification of and planning for the maintenance of High Conservation Value Forest areas. A combined effect of the 1992 constitution, Minerals and Mining Act, Lands Commission Act, Timber Resource Management (amendment) Regulations, and Article 19 of the United Nations Guiding Principles on Business and Human Rights was found to be that, people directly affected have information on the evaluations of the social impact of the management plan.
 16. A guiding principle of the 2012 Ghana Forest and Wildlife Policy was the mainstreaming of gender and vulnerability issues into forestry development planning and management. This in the opinion of consultants could be considered indicative of the governments' intention to include women in forest management issues. **This analysis was stated as applying to the criterion - including processes for ensuring ongoing consultation with stakeholders (both men and women) during the implementation of the management plan, and was marked as adequately addressed.** Notice was taken of the fact that stakeholder consultation is one of the critical requirements of Forest Reserve Management Plan preparation. Deliberate effort is made to ensure that all sections of the society are duly represented, as stipulated by MOP A.
 17. The 1992 constitution, Minerals and Mining Act, Lands Commission Act, and the United Nations Guiding Principles on Business and Human Rights were found to require that stakeholders be duly informed of the key elements of policy and management of the forest resource, including the management of High Conservation Value Forest areas, however there was found no express mention of an awareness Programme. However, the SRAs may provide some processes as awareness especially relating to Sacred groves. Also, MOP A 2.6 does provide for protected zones. For these reasons, the principle was marked as satisfied, but only in a small way.
 18. The 1992 Constitution and the Timber Resource Management (amendment) Regulations create a framework for the realization of the requirement to minimize Health and safety risks to local communities as a result of their forest activities. Instruction Sheet C3.2 of MOP C (section 3) also spell out all the relevant conditions for SRA. There is also an SRA Guideline that breaks down the appropriate and relevant conditions as well as processes of ensuring that the SRA addresses the concerns of the forest fringe communities. All this notwithstanding however,

Consultants found that a true provision that went to the extent of dealing with the core of the requirement was not present. Hence, it being marked as partially addressed.

19. A legal provision requiring demonstrations on how the results of evaluations of social impacts are incorporated into management planning and operations was not found to exist under the law. However, MOP A appears to suggest that enterprises undertake continuous socioeconomic investigations.
20. On the obligation on forest managers to make all efforts to avoid losses or damages affecting local peoples, and in resolving grievances related to legal rights and damage compensation, consultants found the 1992 constitution, the ADR Act and the Timber Resource Management (amendment) Regulations create a legislative framework for resolving disputes through arbitration: at the end of which compensation may be awarded. Paragraph 4.2 of the Logging Manual makes provisions for contractors to promptly and adequately compensate farmers/landowners for destroyed crops, failure to do so of which will result in the suspension of operations. The principle was found, adequately addressed.
21. Found to be fully addressed in law, was the requirement that where damages occurred to the forest or local facilities as a result of forest management practices, the local communities be compensated in a fair and prompt manner. The 1992 constitution provides a general position that any land that is lost should be compensated for, this would include damage to forests. In addition, the Environmental Protection Agency Act requires a reclamation bond as part of an impact assessment. The essence of the bond being to compensate for the destruction of the environment from any undertaking. On the question of damages to local facilities this is addressed through the law of torts.
22. The documentation of procedures for the resolution of disputes or grievances raised in relation to the activities of the forest enterprise was marked partially addressed. Indicated within the 1992 constitution is the role-played by the National House of Chiefs in, to some extent, the codification of customary law. This sets-up a framework for the criterion to be satisfied because when disputes arise concerning legal or customary rights reference can be made to the National house of chiefs for the appropriate customary mechanism. In addition, the ADR Act allows for legal disputes to be settled by arbitration, also contributing to satisfying the indicator.

INSTITUTIONAL ASSESSMENT

The National Labour Commission

The National Labour Commission provides a framework to ensure the realization of the right to work and the equal pay and for equal work. The Labour Act, 2003 in section 10 states the rights of a worker and the Commission has the mandate to receive and investigate complaints from workers, trade unions, and employers, or employers' organizations on

industrial disputes and allegations of infringement of any requirements of the Labour Act, 2003 and its implementing regulations.

The Commission also has the power to notify employers and employers' organisations or workers and trade unions in cases of contravention of this Act and the Regulations and direct them to rectify any default or irregularities.

Environmental Protection Agency (EPA)

The Environmental Protection Act places a duty on the Agency to develop a comprehensive database on the Environment and means or modes of protection for the information of the public.

It has the mandate to ensure that Environmental Assessments are undertaken and plans, put in place to mitigate the negative impacts of exploitation - to both the environment and individuals affected. The EPA is required to hold public hearings where a proposed undertaking is likely to have an effect or impact the lives of a certain class of persons usually within a specific area

Principle 5. Benefit from Forest

1. This principle basically dwells on the tailoring of forest management practices to better mitigate the balance between profit making methods and sustenance of the forest environment. Most of its criteria were found to be adequately addressed by the laws of Ghana, only suffering three absences: the obligation to ensure benefits and costs are consistent with predictions used to justify the initial investment, and the commercial utilisation and local processing of Lesser Used Species (LUS).
2. The first criterion under the principle, that forest managers' budgets shall include provision for environmental and social as well as operational costs necessary to maintain certifiable status, was found to be partially addressed in law. It was noted that a broad interpretation of the 1992 constitution, the Environmental Impact Assessment Regulations, and the Environmental Protection Agency Act which requires an impact assessment, create a framework for the minimization of waste and avoidance of destruction of forest resources.
3. As stated in the introductory paragraph, ensuring a consistency between benefits and costs and the predictions used to justify initial investments was found to be completely absent in law.
4. An obligation in Ghana's laws towards the provision of mechanisms for sustained and adequate funding of the management of forests was found to exist within the Forest

Plantations Development Act, 2000, Act 547 and the Timber Resource Management Regulations. The Forest Plantation Development Act was said to establish a fund for the development of forest plantations. This would address the criteria if the forest manager was in the person of the Commission, however, the forest manager for the purposes of this principle was the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a FG74+H74. For this reason, the principle was marked as being only partially addressed.

5. Forest managers within this principle were to have the responsibility of ensuring the best possible and optimum use of individual timber species, this was found to be adequately present within Ghana's laws. The 1992 constitution speaks to a mandate on the state, and a responsibility on every citizen to take appropriate measures needed to protect and safeguard the natural environment for posterity. It was the opinion of consultants that this broad constitutional provision could be interpreted to cover the principle on ensuring best use of timber species. Consultants again pointed out that, the policy of 100% yield removal could also ensure that this principle was addressed somewhat. This policy is in the operational guidelines of the FSD and also the Logging Manual requires the contractor to remove all trees in the yield.
6. The dual criteria of an obligation to ensure commercial utilisation and local processing of Lesser Used Species (LUS) were both found to be absent in law. However, it was pointed out on the first that, there appears to be an internal policy within the Forestry Commission that requires the optimization of all lesser used species. Also under MOP D on Stock survey and yield allocation, there is a requirement to conduct stock survey to provide necessary information on all FIP class one species. On the second, there is an administrative policy by the FC that enjoins the Timber companies to remove and mill the LUSs for the domestic markets. This is the Domestic Market policy which also puts together Mobile recovery teams to monitor unharvested residual yields and harvest same for the domestic market.
7. Relying on the Forest Act, consultants found the criterion, which mandates that the collection of non-timber forest products be assured provided that harvesting, does not exceed levels that are sustainable in the long term to be fully addressed. This obligation was found to be guaranteed in both practice and law. The Management plan and reserve settlement commissioners report explicitly guarantee it, while the MOP -A also deals with the issue of zonation and admitted rights.
8. Non-timber forest products (NTFPs) per the FSC principles have been considered during forest use and processing. Within forest reserves appropriate areas should be set aside specifically for collection of NTFPs by local communities. This principle was tagged as being averagely provided for in Ghanaian law. Ghana's Forests Act states that, in a forest reserve the rights and interests of local communities are not to be affected. In essence, what this means is that consideration should be given to NTFP's as well. Like the criterion prior, this criterion was found to be one guaranteed in both practice and law. The Management plan and reserve settlement commissioners

report explicitly guarantees it as well and the MOP A - paragraph 5.2 ensures that zone areas address the issue of admitted rights, these rights depending on the zone-whether production or protection may be restricted.

9. The obligation that harvesters take into account the need to minimize timber waste was found adequately provided for within Ghanaian law. A broad appreciation of the 1992 constitution as well as the provisions of the EPA requiring an impact assessment create a framework for the minimization of waste and avoidance of destruction of forest resources. **This was found to apply to the requirement that Waste and collateral damage resulting from harvesting ought to be minimized as well.** The Logging manual provides standards to be followed to minimize waste during logging. Compartment closure certificate that attest to fulfilment of environmental and operational standards including removal of all waste from the forest is needed before a contractor can vacate a completed compartment.
10. Again on timber, the indicator that its extraction and processing be done promptly after felling was also found to be addressed. This, as provided for under the Timber Resource Management Regulations and Paragraph 4.1 of the Logging Manual. Researchers found again that, in practice, the MOP -C on Sustainable Timber Production in Reserves addresses similar issues.
11. To better enable Forest Management to strengthen and diversify the local economy, the FSC as part of its principles specifies that landowners and stakeholders should benefit directly from forest operations. This is found to be provided for within the 1992 constitution, the Administrator of lands Act and the Timber Resource Management Regulations. A conclusion was reached that, the cited laws adequately indicate how proceeds from forest products should be distributed. Again, the SRA as part of its' functions is supposed to ensure that fringe communities benefit directly from the forest operation.
12. Again, is the requirement on Forest Management to support local value-added processing. This was found to be fully addressed by the Tree and Timber (Amendment) Act, 1994, Act 493. It came to the attention of researchers that there has been a ban on the export of unprocessed round logs in Ghana. This means that logs should be processed before export from within the country.
13. Found to be equally addressed in its totality was the principle, forest managers should meet their obligation to provide amenities to the communities within the fringes of the DFA, to a value of not less than 5% of the annual stumpage accruing from the operations under the TUC. Relying on the Timber Resource Management (Amendment) Regulations, the consultants noted that although currently not provided for under the current legal regime, the Tree and timber law on supporting local value processes makes substantial provisions on the principle.
14. On the matter of the full range of forest services and resources being identified in the forest management plan, it was found that the Forestry Commission Act and parts A to D of the MOPS deal with, and, fully.

15. Found to be adequately addressed, and on the same matter of forest managers recognizing, maintaining, and, where appropriate, enhancing the value of forest services and resources, were the three indicators: the management plan shall specify appropriate measures to maintain the value of each identified forest service or resource, that forest managers shall protect the full range of forest services associated with the DFA where appropriate to include watersheds, biodiversity, recreation and tourism, and lastly that forest managers shall protect riparian zones along all watercourses, streams, pools, springs and lakes/ponds, in accordance with Ghana's Logging Manual. Consultants found that the TUC area plans and Forest Reserve Management plans (MOP A) comprehensively addressed the matter of management plans providing methods of enhancement. Again, a broad interpretation of the 1992 constitution, points to a mandate to protect the full range of forest services. It was noted that, the logging manual spells out all the environmental standards that contractors need to meet during their operations. Same was found to apply to the protection of riparian zones.
16. The FSC in its attempts to permanently sustain forest products stated as one of its criteria that, the rates of forest product harvesting should be established prior to permitting harvesting for each resource type within each compartment. This finds meaning within Ghanaian law, under the 1992 constitution and the Timber Resource Management Act. Both laws set-up a framework, such that the exploitation of the resources are done rationally.
17. The Harvesting schedule establishes rates of harvesting as well as the time duration. Yield allocation during stock survey which is captured in MOP C also sets the limits of species to be harvested as well as the mechanism for doing it. Two distinct formulae are used in selecting species and numbers to be removed.
18. Another indicator aimed at sustaining the forest, that the rates of forest product harvesting should be based on current inventory, growth and yield data was found averagely provided for in law. It was noted that, a felling cycle has been established (MOP A) which takes into consideration inventory from RMSC to determine the number of years for the compartment to recuperate. Yield allocation during stock survey which is captured in MOP C also sets the limits of species to be harvested as well as the mechanism for doing it.
19. On demonstrating that the rate of forest products harvesting are within the capacity of the DFA to sustain in the long term, consultants found it only present in Ghanaian law, by some stretch. Found to be partially provided for per a comprehensive reading of the Timber Resource Management Act, the Mining and Minerals Act, and the Timber Resource Management Regulations, it was noted here also, that a felling cycle has been established (MOP A) which takes into consideration inventory from RMSC to determine the number of years for the compartment to recuperate.
20. The provision of a rational and scientifically based yield calculation method was found to be a mandate squarely stipulated within the Timber Resource Management

Regulations. The harvesting schedules establish a rate of harvesting as well as a time duration. Again, it was mentioned that yield allocation during stock survey which is captured in MOP C also sets the limits of species to be harvested as well as the mechanism for doing it. Same was said to apply to yield selection methods and limits on harvesting being clearly stated in one or more of the management documents available to forest managers. The Timber Resource Management Act, its Regulations and the Mining and Minerals Act considered as a whole, place limits on the mode and method of harvesting timber. A reiteration, same as mentioned in the paragraphs prior was made that, the Harvesting schedule establishes a rate of harvesting as well as the time duration. Yield allocation during stock survey which is captured in MOP C also sets the limits of species to be harvested as well as the mechanism for doing it. Two distinct formula are used in selecting species and numbers to be removed.

21. Consultants found the obligation to conduct harvesting according to stipulated regulations and guidelines which ensure that harvesting does not exceed stipulated levels to be completely addressed by the Timber Resource Management Regulations and the Timber Resource Management Act. Both laws place limits on the modes and methods of harvesting timber.
22. The last on the issue of forest enhancement methods, that forest managers should respect controls on logging and harvesting practices in order to prevent over-exploitation, was upon a reading of the 1992 constitution in line with the Timber Resource Management Regulations found to be sufficiently addressed. Also, the logging Manual as contemplated in Regulation 16, provides for forest managers to control logging and harvesting. This is supported by the principles and criteria in the VPA.

INSTITUTIONAL ASSESSMENTS

Office of the Administrator of Stool Lands

The Office of the Administrator of Stool Lands is established by clause (2) of article 267 of the 1992 Constitution. It is responsible for the establishment of a stool land account for each stool into which shall be paid rents, dues, royalties, revenue and any other payments whether in the nature of income or capital from the stool lands and the collection of those rents, dues, royalties, revenues or the other payments whether in the nature of income or capital and to account for them to the beneficiaries. It is also responsible for disbursement of the revenue.

The office of the Administrator of stool lands provides a mechanism for the distributing of fair compensation to stools where stool lands fall in the way of environmentally sensitive activities. The office forms part of the Lands Commission.

Principle 6: Environmental Impact

1. In the sixth principle of the FSC Report, consultants considered issues concerning the assessment and regulation of forest management activities and their impacts on the environment. It involved methods to reduce the negative impact of forest activities including;3 criterion aimed at the protection and sustenance of wildlife within the eco-environment. Looked at as a whole, the principle found most of its incidents addressed in law, even though in some few situations, to a small extent. Only 3 criteria were found to be completely absent in law: that the use of exotic species should be carefully controlled and actively monitored to avoid adverse ecological impacts, that representative samples of existing ecosystems within the landscape should be protected in their natural state and recorded on maps, appropriate to the scale and intensity of operations, that, while respecting the confidentiality of information, forest managers should make publicly available a summary of the primary elements of the management plan, and lastly, that, forest managers find a balance between respecting the confidentiality of information and making publicly available a summary of the results of monitoring indicators.
2. The first under Principle 6, a mandate that the variety and distribution of biological communities and forest eco-systems comprising the regional landscape of the DFA/FMU should be identified and described, was found only partially provided for within Ghana's laws. Flowing from an analysis of the Timber Resource Management Regulations, consultants found that the management regulations do not address the principle completely, it only enjoins managers of the forest to identify and categorize the FMU into working circles such as convalescence area, protection area, GSBA area, production area etc. It was again noted that although the MOP A - Strategic Planning covers the principle, the management plans are not law properly so-called.
3. A comprehensive reading of the 1992 constitution, the Environmental Protection Agency Act and the Environmental Impact Assessment Regulations was found to fully cover the obligation on forest managers to not only be aware of and demonstrate a knowledge on the possible negative impacts of their activities, but also take practical steps to avoid or reduce such occurrences (applicable to SLIMF (1) DFA's only). The principles in practice were also incorporated in the designing of the MOPs and Logging Manuals of the Commission.
4. Specific to large enterprises only, 6 indicators were found to be adequately provided for within the laws of Ghana. All 6 applying similar legislation. The first, that large enterprise shall complete and document an assessment of the environmental impacts of its management activities at the level of the landscape in which it is situated. Consultants were guided by the 1992 constitution, the Environmental Protection Agency Act and the Environmental Assessment Regulations. The law cited create a general obligation for assessment of all undertakings that affect the environment, it does not limit it to just big enterprises.
5. TUC area plan of Timber companies enjoin them to include environmental impact of their activities in the plans, whether a small or large enterprise. The second, an

obligation on large enterprise to do same on forest management activities within the FMU under assessment, was said to be guided by the same provisions, minus that of the 1992 constitution. Although it covers the principle, it was noted that there is no restriction to the FMU under assessment.

6. TUC area plan of Timber companies enjoin them to include environmental impact of their activities in the plans. The same justification was provided on the requirements on enterprises to complete and document an assessment of the environmental impacts of its forest management activities within the FMU under assessment and to any processing facilities within it. As part of the mandate on large enterprises, the last two indicators, that the requirements prior should include in their application potential impacts of management infrastructure, logging camps, workers; activities and also, potential impacts relating to the extraction of forest products, were found to be absolutely present within the law. It is worth noting that although there is a dearth of forest laws covering the two indicators, the general rules on reduced impact logging as demonstrated in the logging manual addresses this. This as further supported by the environmental impact rules provided under the legal regime on Environmental protection.
7. Away from the six, the indicator on the management of large enterprises clearly specifying measures to reduce the impact of their activities was found to have complete meaning within the law. Using again the 1992 constitution, the Environmental Protection Agency and the Environmental Impact Assessment Regulations, it was noted that under the Impact Assessment Regulations, management plans mandatorily address the requirement completely. It makes provision for addressing the environmental challenges in the FMU. MOP A - Strategic Planning was stated as also making provisions towards the principle.
8. Also found within Ghanaian law was the provision that enterprises (here being large) should provide procedures to review and evaluate potential environmental impacts and to record the specific actions taken to mitigate the impacts identified, on a site-by-site basis, prior to the commencement of its operations. Using the same laws as before, it was mentioned that Post-exploitation checks and compartment closure assessments are also contained in the MOP C and adequately address the requirement.
9. In order to provide a safeguard for the protection of endangered species and their habitats, forest management as part of the FSC principles, have a mandate to provide management plans which contain clear and unambiguous objectives for the protection and conservation of flora and fauna within forest reserves. This principle was found to be fully addressed by the 1992 constitution, the Timber Resource Management Act, and Ghana's international obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973 (CEPS).
10. The laws, per the reasoning of consultants, evidence a guaranteed protection and conservation of flora and fauna. The Timber Resource Management Act, addresses

the stipulation completely, clearly defining management objectives for each working circle in the forest reserve. The MOP A - Strategic Planning covers the requirement as well.

11. As part of the same policy consideration, another principle stated was that the DFA/FMU should be covered by clearly defined strategies to ensure the conservation of existing flora and fauna, including the identification of conservation zones to protect endangered species and their habitats. This was stated as being completely provided for in the law.
12. Aside the 1992 constitution, the Timber Resource Management Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Wildlife Resource Management Bill 2014 was noted as currently being on the floor of parliament. When passed, it will implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) municipally. The bill also offers a better scope of protection for wildlife both endangered and non-endangered. Cumulatively, the laws establish a framework to meet the criterion of safeguarding rare, threatened and endangered species.
13. The management plans of the Forestry Commission addresses this indicator completely, it clearly defines management objectives for each working circle in the forest reserve. The MOP A – Strategic Planning covers this principle as well. The Timber Resource Management Act addresses the indicator completely. It clearly defines the various working circles in the forest reserve and provides strategies for managing each working circle in the forest reserve.
14. A specific obligation on forest managers to identify areas of semi-protection within the DFA/FMU, was found to be absent within the existing legal framework. However, the preparation of TOS and Management plans make provision for putting environmentally sensitive areas under special management regime such as convalescence and development working circles. The forest manager for the purposes of the exercise is the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit.
15. However, under the laws of Ghana this may not be entirely accurate as the role of forest management is shared between the Commission and Timber Rights holder. For this reason, the principle was marked as adequately provided for in law.
16. The adoption of a genetic heat index and star colour coding for the calculation of yield and the selection of trees to be felled was marked to be covered in law, but only partially. Although the Timber Resource Management (amendment) Regulation has provisions that seemingly point towards the submission of a notice for the grant of timber rights, one which mandates the specification of activity plans, before the right can be granted, it is the MOP D which goes to satisfy the requirement more. The MOP D addresses the requirement completely.
17. During stock survey and yield allocation the star colour ratings are applied. The genetic heat index is also applied in giving condition scores and also deciding how

many trees can be taken from a particular hectare of forest reserve. The forest manager for the purposes of the exercise is the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit. However, it was noted that, under the laws of Ghana, this may not be entirely accurate as the role of forest management is shared between the Commission and Timber Rights holder.

18. Found partially addressed as well was the mandate on management to adopt appropriate precautionary measures. Relying on the 1992 constitution and the Rio Declaration on Environment and Development, the conclusion was reached based on the fact that although there is no express mention of a management plan, the laws still point to a requirement of precautionary measures to be taken when dealing with the natural environment.
19. On forest managers demonstrating a commitment towards the adoption of protection measures and the spirit of the protection strategy, it was reemphasized that the forest manager for the purposes of the report was to be construed as the company, acting as the Timber Rights Holder. It was noted that the Logging Manual of the Forestry Commission makes provision for a strict adherence to environmental standards, which translate in the preparation of logging plans, by timber contractors. On this basis, and in reliance on the constitutional provisions on the duty of the state and the responsibility on citizens to ensure the protection of the forest, the requirement was marked yellow for adequately addressed.
20. Similarly, the principle on ensuring the control of inappropriate hunting, fishing, trapping and collection exercises were colour marked as yellow. The Forests Act and the Forest Protection Act proscribe the necessary incidents surrounding the hunting, fishing or trapping of wildlife within a forest reserve without permission. The provisions were found to satisfy the indicator. It was noted however, under law, there is not just an existence of provisions towards control but a duty on the state as well, to enforce the legal provisions and adherence to.
21. Concerning the maintenance of ecological functions and values, the requirement to adopt silvicultural systems to ensure the successful regeneration of tree species was stated. An obligation similar to this one was found to be absent in law, although done in practice. Indeed, it was towards this practice that a 40 years felling cycle was adopted, so that the FMU could recuperate. Again, Forest Managers under law are required to have professional foresters, to ensure that the successful regeneration of tree species is achieved.
22. On the same matter, forest management as part of their obligations within the principles, are to adopt coarse grained protection measures where appropriate in the planning and management of resources. Relying on the broad constitutional provisions on duties of the state and the individual, and the Timber Resource Management Regulations, the framework for the realization of the principle was found to on the average, have some meaning in law. The same applying to the

adoption of fine grained protection measures in forest management by managers. The logging manual defines coarse grain and fine grain protection measures.

23. Considering the Timber Resource Management Regulations and the Land Planning and Conservations Act, the principle on forest managers designating certain areas of unlogged forest as local refugia was found to be addressed. This, although the respective provisions covering the principle in both laws were thought to be woefully inadequate. Looking outside legislation so called however, consultants found that the 2012 Ghana Forest and Wildlife Policy provides in Policy strategy 1.3.1 of Section 5 that the harvesting and production of woodfuels and other nontimber forest products (NTFP) would be done within sustainable limits on both reserve and o-reserve production areas. This, achieved through the following:
 - a. Enact the necessary legislation to support and ensure that forests, trees, wildlife and NTFPs on private and communal lands are managed according to the national forestry development objectives and resource owner's priorities.
 - b. Develop Criteria and Indicators and a chain of custody to ensure that commercial production of wood fuels in all types of forests are sustainable.
 - c. Promote the establishment of commercial and small holder wood fuel plantations both on and o forest reserves.
 - d. Develop a national regulatory framework for the commercial exploitation of de ned NTFPs at district levels.
 - e. Promote research and development programmes for commercially viable NTFPs.
24. Consultants concluded with a finding that, Management plans make provision for protected areas in forest reserves which are unlogged and also serve as seed banks. This reasoning was expanded to cover the provision of systems capable of identifying degraded areas, marked as partially addressed, and the provision of appropriate mechanisms of on-site amelioration, marked, absent in law. For the first, during management plan preparations, past and current records of the forest are reviewed and degraded areas put under development. This being found in MOP A (2.2), whereas on the second concerning mechanisms for on-site amelioration, although no laws exist concerning amelioration, an argument can be made for Logging Manual requiring at the least to adhere to some environmental standards set by the Forest Manager. As found in paragraph 6.2 of the Manual.
25. Concerning the obligation to identify and provide restorative treatment for degraded areas, paragraph 1.1.2 of section 4.2 of the 2012 Ghana Forest and Wildlife Policy provides one of the objectives of the policy as being: to promote the rehabilitation and restoration of degraded landscapes through forest plantation development, enrichment planting, and community forestry, informed by appropriate land-use practices. Here too, it was noted that during Management plans preparation, past and current records of the forest are reviewed and degraded areas put under development . Also in Paragraph 11 of MOP A, areas are left to regenerate until

commercially sized timber become available for felling. The principle was hence marked as addressed, albeit to a not too significant extent.

26. No law was found unfortunately, to cover the protection of representative samples of eco-systems within their natural state and its recording on maps appropriate to the uniqueness of resources. In Practice, the existence of admitted communities and farms are allowed in the Forest reserve during management plans preparation. Again, areas of cultural and traditional significance are set aside as protected areas. Following from the reserve settlement Commissioners report, the practice is that existing forest communities retain their rights within the FMU with no limitation on percentages. All this notwithstanding however, no law expressly permits the existence or mandates the protection of representative samples of eco-systems.
27. Again, areas of cultural and traditional significance are set aside as protected areas. Also, following from the Reserve Settlement Commissioners Report, the practice is that existing forest communities retain their rights within the FMU with no limitation on percentages. It qualifies as some form of practice and not law.
28. As part of a general principle aimed towards the preparation and implementation of guidelines, forest managers were stated as having as part of their obligations being that to provide written guidelines to cover all aspects of management that have some impact on the environment. A mandate expressed within the Logging Manuals which the Timber Resource Management Regulations which points to, particularly as supported by Paragraph 1.6 of the Logging Manual. Also provided for by the Logging Manual, the statement of specific provisions within guidelines to combat erosion.
29. Specific to SLIMF (1) DFAs only, a demonstration of knowledge on aspects of management that affect the environment, and the taking of steps to minimize negative impacts was found to exist in law (Environmental Protection Agency Act, Timber Resource Management Regulations, and the Timber Resource (amendment) Regulations), although not specifically to a particular group. It was noted that, the Logging Manual requires the forest manager to have professional foresters who it is expected can and should ensure the minimization of negative environmental practices.
30. The construction of roads was found to primarily be a part of the function of the government, enshrined in the constitution. Although, roads as relates to exploitation sites, have legislative backing as well within the Environmental Protection Agency Act and Paragraph 3.1 of the Logging Manual. On this basis, the principle was marked fully provided for in law.
31. As part of terms and conditions for the grant of a timber utilisation contract, the Timber Resource Management Act, was found to restrict the felling and extraction of timber to areas agreed in the TUC only. This satisfies the principle on forest managers to execute felling and extraction according to the logging plan. Stipulations within the Logging Manual and the MOP C were found to provide for the principle completely.

32. Reducing impact logging and harvesting was found to exist within Ghanaian law, with some stress. The conclusion was reached upon a purposive interpretation of the 1992 constitution and the Environmental Protection Agency Act.
33. Ghanaian law was found to contain to an appreciable degree, provisions aimed towards ensuring persons looking to exploit the forest provide detailed instructions and minimum standards for the construction of roads and extraction tracks, in aid of their activities. Although the Timber Resource Management Regulations so stated does not expressly provide for the principle, it does point and give validity to the Logging Manual which does. Paragraph 3.1 of the manuals discuss the construction of roads and provides detailed maps and diagrams in aid of the purpose.
34. Again, the Logging Manuals and the MOP C were found to address the obligation to detail trees marked for harvesting and their felling direction or extraction routes on maps. The manual makes provisions for maps, the yield map and the stock Map; The yield map being the more important, for the detailing of trees for harvesting. In Para 3.1(9) of the Manual clear indication on direction on felling of trees are provided. It is a requirement that forest management are obliged to follow. Both were marked as adequately addressed.
35. As part of the principles, felling and extraction equipment are to be selected specifically with an eye on minimizing impact on the environment. This was found addressed to a small degree, upon a purposive interpretation of the 1992 constitution on the duties and responsibilities of both state and citizen, and the Environmental Protection Agency Act – the three provide a framework for its achievement. A broad understanding of the Logging Manual on felling was also used.
36. Found to be provided for completely within the Labour Act was the principle on a provision of staff training on written guideline aimed at minimizing the impact of operations. The labour Act requires employers to train workers adequately to perform their duties. This in addition to section 14 of the LI 1649, which requires the appointment of a professional forester, properly trained.
37. Under the broad principle of promoting an adaptation of non-chemical methods in pest management, making available a documented pest, disease and weed control strategy was found to be to a large extent absent in law. Although the 1992 constitution and the Environmental Protection Agency Act do point towards a framework covering disease and weed control strategies.
38. Although as part of the principles, measures are to be put in place to ensure a total eradication of the use of all pesticides, the law in Ghana, that is the constitution and the Environmental Protection Agency Act, only make provisions towards its reasonable use in correlation with the obligation to protect the environment. The constitutional provisions create a general obligation to act in the best interest of the natural environment. This would, in the view of the consultants include the use of environmentally friendly non-chemical methods of pest management, and not a complete ban in pesticide use per se.

39. The provisions from the EPA Act also point to the promotion of environmentally friendly pesticides. The same was noted as applicable to the next principle, which is the use of chemicals only where there is no known chemical alternative or what is known, entails an excessive, unrealistic cost. Both principles were marked averagely addressed.
40. No provision was found in the law, which specifically bars the use of chemicals prohibited by FSC (FSC-POL30-601), World Health Organisation Type 1A and 1B and chlorinated hydrocarbon pesticides; or any highly hazardous pesticides banned by international agreement, unless a FSC derogation has been obtained for their use in certified forests in Ghana. From a broad interpretation of the Environmental Protection Agency Act however, researchers concluded that its provisions on Pesticides deal with the restriction of pesticides that are harmful. It does not fully address the indicator because it does not mention the WHO standards as required by the indicator, but it does address the issue of pesticide use, hence it being placed under the category of partially provided for. It must be noted, however, that the EPA does have a register of approved pesticides which to a large extent takes into consideration chemicals banned by the WHO.
41. The Environmental Protection Agency Act as part of its provisions mandate a training process for all persons who operate pesticides, an obligation placed especially on employers. In that vane, the Labour Act also places a requirement on employers to ensure employees get the proper training needed to carry out their responsibilities. Relying on these provisions, the principle on a proper provision of equipment and training to minimize health and environmental risks in the handling of pesticides, was considered addressed.
42. On the matter of waste disposal, the law was found to be absent of provisions concerning the maintenance of equipment so as to prevent spillage and pollution, and the adoption of appropriate forms of chemical waste disposal. Although the constitution in Article 36(9) mandates the state to take appropriate measures needed to protect and safeguard the natural environment for posterity and Article 41(k) states the exercise and enjoyment of rights and freedoms as being inseparable from the performance of duties and obligations of citizens, consultants found that practically, this in terms of waste disposal involving forest activities, is not addressed. This notwithstanding, it was noted that the MOP C on sustainable timber production on reserve says that the type of equipment to be used shall be specified during the TOS preparation. Perhaps, this as some regulation method.
43. Relying on the Environmental Protection Agency Act, the mandate on enterprises to keep up to date lists in identifying offsite locations for waste disposal was found to be partially addressed. This, on a stretched understanding of the functions of the EPA and their mandate to set up a hazardous chemicals committee who have finding appropriate dumping sites, a part of their obligations.

44. As part of the principle on proper use of biological control agents to meet with sustenance standards, a bar on the use of genetically modified organisms was determined as absent in law. Researchers found that although there was at one time, a bill before Parliament on genetically modified organisms in Ghana, it was not passed and thus no legal regime exists on the issue. However, the documentation and efficient management of biological control agents was found to have some parts of its total incident made for, upon a purposive interpretation of the Plant and Fertilizer Act 2010 and the Environmental Protection Act. The provisions point to the Minister and the Agency, having powers to designate certain biological species for regulation and to ensure the protection of biological species where endangered by a proposed activity respectively. It is worth noting that though GMOs are not necessarily biological control agents the indicator expressly mentioned “genetically modified organism” as seen in indicator 6.8.1.
45. The use and control of exotic species was found to be completely absent, having no legal regulations or ramifications within Ghanaian law.

INSTITUTIONAL ASSESSMENT

The Environmental Protection Agency

As noted prior, it is within the remit of authority of the EPA, that it requires a person responsible for an undertaking which is likely to have adverse effect on the environment to submit an environmental impact assessment. Upon such a request, the agency informs the organ or the department of government that has responsibility for the issue of a license, permit, an approval or a consent in connection with the undertaking that a notice has been issued, and that organ or department cannot grant the license, permit, approval or consent unless with the prior approval in writing of the Agency after compliance with the notice.

The EPA has a duty to ensure compliance with the laid down environmental impact assessment procedures during the planning and execution of development projects, including compliance in respect of existing projects. In addition, the Act gives the EPA the duty to develop a comprehensive database on the environment and environmental protection and to co-ordinate the activities of the relevant bodies for the purposes of controlling the generation, treatment, storage, transportation and disposal of industrial waste.

The EPA is mandated to regulate the import, export, manufacture, distribution, sale and use of pesticides. The Act provides that a person who intends to import, export, manufacture, distribute, advertise, sell or use a pesticide must register with the EPA. Furthermore, the Act provides some safety considerations to be borne by the EPA when making considerations whether or not to approve the registration of a pesticide and the classification of a registered pesticide. The Agency may approve and register the pesticide where it is satisfied that the pesticide is safe and effective for the use for which it is intended, and that the

pesticide has been tested for efficacy and safety under local conditions. The Agency has the power to suspend or ban a pesticide or cancel its registration at any time if it is satisfied that the pesticide under the existing conditions is not effective or may cause hazard to people, animals, crops or the environment.

It is also required to maintain a register of pesticides in which the Agency shall record the names and particulars of registered and provisionally cleared pesticides. And this is to be reviewed periodically.

Honorary Game Officers

The Wild Animals Preservation Act, 1961 (Act 43), places a power on the Minister of Lands and Natural Resources to appoint Honorary Game Officers. The Honorary Game Officers have a duty under the Act to carry out its purposes. That is, to regulate human activity likely to affect animal life especially rare and endangered species. The Act has offence creating sections and gives Honorary Game Offices the authority to arrest without a warrant a person reasonably suspected to have been concerned in an offence punishable under the Act where that person refuses to give the name and address of that person, or gives a name and address which the game officer reasonably believes to be false, or where the game officer has reason to believe that that person will abscond.

Planning Committees

The Land Planning and Soil Fertilization Act provide for the setting up of Planning Committees for a Planning Area. According to the Act, the Minister for Agriculture may designate an area to be a Planning area for the purposes of preserving the land, reclaiming the land and protecting water resources. The act provides that a Planning committee shall be a body corporate and the executive instrument that creates it must state in detail the functions of the committee. The Minister may also establish a coordinating committee to co-ordinate the work and policy of two or more planning committees.

Water Resources Commission

The Water Resources Commission is responsible for the regulation and management of the utilization of water resources, and for the co-ordination of any policy in relation to them. Its specific functions include proposing comprehensive plans for the utilization, conservation, development and improvement of water resources, granting water rights, gathering and disseminating data or information on water resources in Ghana, make requests for water user agencies to undertake scientific investigations, experiments or research into water resources in Ghana. It is also has the mandate to monitor and evaluate programmes for the operation and maintenance of water resources, advise the Government on any matter likely to have an adverse effect on the water resources of Ghana and advise pollution control

agencies in Ghana on matters concerning the management and control of pollution of water resources.

The commission has the power to issue enforcement notices where the use of water resources for a purpose at a place poses a serious threat to the environment or to public health. The enforcement notice may either require the user to take the necessary steps to prevent or stop the activities or direct the immediate cessation of the offending activity where it considers that the circumstances so demand. The Act make it an offence not to comply with the directives of an enforcement.

The Commission is also required to make necessary investigations, after an application, including consultations with the inhabitants of the area of the water resources concerned before granting water right. The grant is however subject to ratification by parliament. A water right granted cannot be transferred without a prior written consent by the Commission.

Irrigation Development Authority (IDA)

The functions of the IDA includes formulating plans for the development of irrigation, developing the water resources of the country for irrigated farming, livestock improvement and fish culture, executing comprehensive programmes for the effective use of irrigated lands in co-operation with any other agencies involved in providing extension services to farmers. Other functions include to carry out land-use planning in areas earmarked for development in order to conserve the

soil and water resources in those areas, to lay out the environs of each project area for housing purposes and for the provision of any other social amenities and to co-operate with any other agencies for safeguarding the health and safety of the population living within and around irrigation project areas.

Principle 7: Management Plan

1. Comprising only four criteria, Principle 7 of the FSC Principles addresses issues surrounding management plans, and its' tailoring in a manner that mitigates the interest of both exploiters and the natural environment (its sustenance). On an average, its indicators were found mostly to tilt between adequately addressed and not addressed, with the preparation of a DFA/FMU compartment logging plan being the only requirement found to be extensively provided for in law.
2. The Criteria under the principle, an obligation to make for management plans that contain: management objectives, description of forest resource to be affected, descriptions of management systems based on ecology, a rational for rate of harvest, the monitoring of forest growths, environmental safeguards, identification and protection plans for endangered species, maps describing forest resource and a

description and justification for harvesting techniques and equipment, had the majority of Principle 7s yellow marked components.

3. Regulation 13 of the Timber Resource Management (amendment) Regulations was found to provide for all the requirements under the criteria especially as read together with the MOPs and the logging manual. MOP A, titled Strategic Planning was found to make provisions for the preparation of management plans and include within its stipulations, that provided under the criteria. MOP B, titled Operational planning, makes provision for clearly delineating TUCs in FMUs. The FSD fixes and maintains TUC boundary pillars. While the logging manual makes provision for a harvesting schedule, compartment inspection, stock survey and yield alienation within the management plans of forest managers.
4. Although falling under the Criteria discussed in the paragraph prior, the only exception to the application of regulation 13 was as concerns the preparation of a DFA/FMU compartment logging plan, again, the only requirement under the entire criteria thought to be completely addressed. Both section 3 of the Timber Resource Management Act and Regulation 17 of the Timber Resource Management Regulations were found to mandate its occurrence. Also, the logging Manual and the FC manual of procedures.
5. Away from the first, another indicator, that, Planning and management of forest resources should be based on up to date information, consistently reviewed, was highlighted as provided for in law, based on again, regulation 13 of the Timber Resource Management (amendment) regulation which specifies a mandate on the minister to issue a notice of grant of timber right which specifies activities to be complied with by the receiver. Consultants noted that, although the existing law does not currently provide for periodic review and implementation of the best forest practices, one of the functions of the Forestry Commission under the Forestry Commission Act is to undertake any functions that is incidental to good forestry practices or that the Minister directs.
6. This function in the opinion of researchers could be construed as an opportunity for the implementation of the requirement. The MOP A on strategic planning also makes provisions for preparation of Forest Reserve Management plans. Management plans preparation include gathering up-to-date data through inventories. The management prescriptions are to be based on current information.
7. The requirement to rely on up to date information was considered present within the Ghanaian situation, however, the obligation to upgrade and improve the forest management system in light of this “new information”? No provision within any law was found to put in place an obligation of the nature.
8. As part of a criteria which stated that forest workers should receive adequate training and supervision to ensure proper implementation of the management plan, an indicator that Forest Managers assign responsibilities to employees and delegate

authority to them so as to enable them fulfil their responsibilities was found to be absent of any Ghanaian provision, even to a purposively appreciable degree.

9. The requirement to provide regular training assessment and to make for the educational needs of employees and contractors was however, marked as partially addressed. The Labour Act requires generally that employers should provide avenues for retraining of employees, however its provisions are not as specific to management plans or to environmental precautions, also the question arose during deliberations by the consultants as to whether contractors, here, fit as employees pointed to the fact that, the only mandate that can be ascribed to the requirement was the labour act, which deals with only the employer-employee dynamic.
10. The same for, the assessment of the performance of employees and contractors. The labour Act as part of the rights of the employer includes the right to based on an assessment of the performance of an employee, make changes as he or she dims fit for the success of his or her business. A broad interpretation of this, and the fact that the work of contractors is monitored by FSD staff at the District level, led to its designation as partially addressed. Note was taken of the fact that, the RMSC also conduct routine post-exploitation checks, and also, before a compartment can be closed there is an assessment of the contractors' performance. These processes being clearly outlined in the MOPs.
11. The obligation on forest managers to employ workers with an appreciable level of skill to execute work required by the management system was found provided for within the Timber Resource Management Regulations: although it could be ascribed to employers also, as one of their responsibilities within the labour Act. The principle was hence marked, adequately provided for.
12. Pargaraphs 4.1 and 4.2 of the logging manuals were found to be good authority for the requirement on recording any changes in the operational procedures laid down by the FMS or arising from preventive actions, and that for the periodic review and evaluation of forest managers' procedures. Under the logging manual, when the district manager conducts an assessment, the enterprise is required to comply with all suggested corrective measures. In addition, under the VPA, the verification framework for the grant of a FLEGT license also ensures compliance with the requirement. There is not duty, however, for the enterprise to record the changes or corrective measures, hence consultants highlighting both as partially addressed. In addition, under the VPA, the verification framework for the grant of a FLEGT license also ensures compliance with the requirement.
13. No stipulation within the law was found to require the maintenance of management manuals and standard operation procedures, or the mandate that good internal communication and transparency be ensured.
14. Absent also, was a provision aimed at making a summary of the primary elements of the management plan, publicly available while still maintaining a respect for the confidentiality of information.

INSTITUTIONAL ASSESSMENT

Forestry Commission

Section 3 of the Timber Resource Management Act dictates that an application ought to be made to the forestry commission before a timber right can be granted. Established under the Forestry Commission Act, the Commission has as part of its functions, the obligation to regulate the utilization of forest and timber resources by vetting and registering contracts to market timber and any other forest and wildlife product determined by the Commission. It again, aims at promoting the development and dissemination of appropriate industrial standards and trade guidelines for timber, wood and wildlife products.

It, as part of its mandate, looks to manage the nation's forest reserves and protected areas through proper planning for the protection, harvesting and development of forest and wildlife resources in a sustainable manner.

Working with the private sector, the commission assists with the implementation of forest and wildlife policies through the provision of advice and technical services with regard to matters of resource protection, management and development and of market intelligence pertaining to the timber and wildlife industries.

The National Labour Commission

The National Labour Commission provides a framework to ensure the realization of the right to work and to equal pay for equal work. The Labour Act, 2003 in section 10 states the rights of a worker as including that to be trained and retrained for the development of skills; and to receive information relevant to work.

The Commission has the mandate to receive and investigate complaints from workers, trade unions, and employers, or employers' organisations on industrial disputes and allegations of infringement of any requirements of the Labour Act, 2003 and its implementing regulations.

The Commission also has the power to notify employers and employers' organisations or workers and trade unions in cases of contravention of this Act and the Regulations and direct them to rectify any default or irregularities.

Principle 8: Monitoring and Assessment.

1. The eighth Principle of the FSC Principles, on the monitoring and assessment methods applied by forest managers in the execution of their activities was in a whole, found to have a majority of its incidents absent in law, or partially addressed. Though some indicators had certain requirement, albeit small in number, showing to be adequately provided for.

2. The first indicator, that forest management should include systems for periodic monitoring and reporting of key elements of forest management and their impacts was stated as being found within the provisions of the Environmental Protection Agency Act. The law mandates the conducting of impact assessments on undertakings that may negatively affect the environment. Researchers however, on the basis of an absence of a specific reference to periodic assessments, found the requirement partially addressed.
3. A stipulation aimed at basing the frequency and intensity of monitoring, on the size, and complexity of an operation and its resources was not found to exist within any piece of legislation.
4. Specific to SLIMF (1) DFA's only, the third indicator provided under the first principle goes to DFA managers conducting regular and consistent monitoring in connection with harvesting operations. This was found to have some elements addressed by the Timber Resource Management Regulations and the impact requirement provided for in the Environmental Protection Agency Act. The contractors work is monitored by FSD staff at the District level. RMSC also conduct routine post-exploitation checks. Again, before a compartment can be closed there is an assessment of the contractors' performance, all outlined in the MOPs.
5. As concerns the collection of research and data necessary for effective monitoring, the inclusion of systems to monitor growth rates, regeneration and conditions of commercially exploitable tree crops was on a somewhat broad interpretation of the Forestry Commissions Act placed within the category of partially addressed. The functions of the Forestry Commission include managing and conserving the forest resources of the country. Underlying Also, the Forest Policy 2012 is the requirement for sustainability which the requirement impliedly addresses. The requirement was not captured as addressed because the forest manager and by extension forest management for the purposes of such exercises is the company (Timber Rights Holder) in charge of the running of the Defined Management Area or Forest Management Unit.
6. Again, the inclusion of systems to monitor changes in the structure of the forest ecosystem was found to be partially addressed. The cumulative effect of the Wetland Management (Ramsar Sites) Regulations 1999 (L11659) and the Environmental Protection Agency Act point towards a purposive recognition of the requirement within the law. Also, the MOP A on Strategic Planning clearly makes provisions for the preparation of Forest Reserve Management plans. Management plans preparation include gathering up-to-date data through inventories while management prescriptions are also based on current information.
7. On forest managers including systems to monitor the effectiveness of measures employed to maintain or enhance the high conservation value attributes, the Environmental Protection Agency Act and the Environmental Impact Assessment Regulations was found to require reports from the outcome of impact assessments.

This addresses the requirement concerning the monitoring of measures implemented, although not to a large extent. The requirement was fit within a partially addressed category. Same was found on the mandate on provision of monitoring structures towards the cost, productivity, and efficiency of forest management operations. The Timber Resource Management Act partially does this. It aims at ensuring applicants for timber rights have the requisite resources for the appropriate utilisation of the timber. Also, the MOP A on Strategic Planning clearly makes provisions for preparation of Forest Reserve Management plans. Management plans preparation include doing cost analysis of management prescriptions.

8. The provision and maintenance of adequate compartment registers was found to have no legal backing within the Ghanaian legal system.
9. Specific to SLIMF (1) DFAs, the monitoring and recording of information on: amount of harvested products, Fire threats, Forest growth and regeneration, Post-harvest inspection for erosion and stream flow, and, Periodic inventory was found to be adequately addressed. Relying on a purposive interpretation of the Timber Resource Management Act and MOP A on strategic planning, consultants found the requirement adequately satisfied.
10. As concerns forest managers providing documentation so monitoring and certification organizations are able to trace forest products from their origin, Section 2 of the Trees and Timber Decree 1974 (NRC 273) was found to sufficiently cover the requirement on managers to provide systems for identifying and marking the identity of timber or other commercial forest products and their point of origin, and that to, include systems for tracking timber or other commercial forest products from the point of origin to the point of sale or point of conversion. The Decree requires timber that is logged to be marked and immediately, after logging till after exploitation.
11. No provision was found in law to aim towards the maintenance and control of the chain of custody of commercial forest products up to the point of sale. This notwithstanding, it was noted that under section 11 of the Tree and Timber Decree, the FC has authority to give property mark and addresses issue of Chain of custody. This is gleaned from sections 1 to 8 of the Decree. Also in the VPA, the FC is required to address issues of Chain of Custody.
12. A purposive interpretation of the function of the minister in the Timber Resource Management (amendment) Regulations, to issue a notice of grant of timber right which specifies activities that shall be completed by a winner to the satisfaction of the Chief Executive of the Commission before the right is granted was found to satisfy the requirement to include the incorporation of monitoring results into the implementation and revision, of management plans. However, the Regulation provides just a purposive interpretation and nothing else. On this basis, it was marked as partially addressed. The MOP A on Strategic Planning does however make provision for the preparation of Forest Reserve Management plans.

13. An obligation to make available a summary of the results of monitoring requirement was not found to exist within any Ghanaian legal provision.

INSTITUTIONAL ASSESSMENTS

The Environmental Protection Agency

As part of the functions of the EPA is that to co-ordinate the activities of bodies concerned with the technical or practical aspects of the environment. It has the power to issue environmental permits and pollution abatement notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits or any other source of pollutants and of substances which are hazardous or potentially dangerous to the quality of the environment or a segment of the environment. Finally, the EPA has the monitory function of ensuring compliance with laid down environmental impact assessment procedures in the planning and execution of development projects, including compliance in respect of existing projects.

The Forestry Commission

As mentioned earlier, the Forestry Commission looks to make do on its obligation to regulate the utilization of forest and timber resources by vetting and registering contracts to market timber and any other forest and wildlife product determined by the Commission. It again, aims at promoting the development and dissemination of appropriate industrial standards and trade guidelines for timber, wood and wildlife products.

As part of its mandate, the commission is responsible for the management of the nation's forest reserves and protected areas through proper planning for the protection, harvesting and development of forest and wildlife resources in a sustainable manner.

Principle 9: Maintenance of High Conservation Value Forests

1. The ninth principle within the FSC Principles makes for management requirements, aimed at enforcing maintenance practices for the conservation of high value forests. On the average, the incidents of the principle were found to be primarily absent in Ghanaian law, having only one indicator marked as addressed and another, as partially addressed.
2. To allow for a completion of assessments in determining the presence of attributes consistent with High Conservation Value Forests, the requirement to analyse their presence as defined in the FSC Glossary was not found to exist within the law.
3. A reading of the functions of the minister in granting timber rights, read in line with MOP A on making provisions for management plans, was found to adequately address the mandate of identifying sites within the DFA of a special significance to local communities. The management plans categorize the forest reserve into working circles. Areas of cultural, ecological and religious significance are put under protection and strictly protected.

4. Again absent, was the requirement that the certification process place emphasis on identified conservation attributes and options for their maintenance. It was noted however that, Stakeholder consultation is one of the critical requirements of Forest Reserve Management Plan preparation. Deliberate effort is made to ensure that all sections of the society are duly represented as stipulated by MOP A. The forest manager for the purposes of this exercise is the company (Timber Rights Holder) in charge of the running of a Defined Management Area or a Forest Management Unit. However, under the laws of Ghana this may not be entirely accurate as the role of forest management is shared between the Commission and Timber Rights holder.
5. The inclusion of specific measures to ensure the maintenance and enhancement of applicable conservation attributes consistent with the precautionary approach was found provided for per a cumulative reading of the 1992 constitution, the Rio Declaration on Environment and Development, and the Timber Resource Management Regulations. The MOP A on Strategic Planning was again noted as making provisions for management plans.
6. Concerning annual monitoring activities to assess the effectiveness of measures applied to enhance conservation, a reference was made to requirement 8.2.3 which concerned the inclusion of systems to monitor the effectiveness of the measures employed to maintain or enhance the high conservation value attributes identified, inside of forest management systems. This requirement was marked as partially addressed based on provisions within the Environmental Protection Agency Act which require reports from the outcome of impact assessments.

INSTITUTIONAL ASSESSMENTS

The functioning of the Environmental Protection Agency and the Forestry commission as mentioned under Principle 8 were found to apply here as well.

Principle 10: Plantations

1. The final principle dealt with under the FSC, the topic of plantations, was found to dwell on the issues and various incidents surrounding the management, planning and maintenance of plantations. Looked at as a whole, the pendulum swung between partially addressed and a complete absence in law, with its absences being more prevalent.
2. As part of issues surrounding the transcription of management objectives into management plans, statement of the objectives of plantation within the plan to include: Conservation and restoration of the nature forest, social acceptability and environmental appropriateness, was placed in the category of partially addressed. This, on the basis of the timber right function of ministers within the Timber Resource Management (amendment) Regulation and MOP A which states that the areas to be used for plantation should be clearly indicated in the management plans and objective clearly stated.

3. The documentation of the means of achieving plantation management objectives in the management plan was also marked as partially provided for. Although a stretched understanding of the functions of the forestry commission within the Forestry Commissions Act and MOP A point towards such a documentation, consultants found the provisions lacking in a proper appreciation of the requirement.
4. A demonstration of management objectives in forest management activities was not found to be mandated in any legal stipulation.
5. Also, found to be absent in law were:
 - The designing and laying out of plantations to promote the protection, restoration and conservation of natural forests, and not increase pressures on natural forests.
 - Creation of diversity in the composition of plantations so as to enhance economic, ecological and social stability.
 - The basing of species selection for plantations on their overall suitability for the site and their appropriateness to management objectives
 - The management of a proportion of the overall forest management area, appropriate to the scale of the plantation and the determination of regional standards, so as to restore the site to a natural forest cover.
 - The taking of measures to maintain or improve soil structure, fertility, and biological activity
 - Taking of measures to prevent and minimize outbreaks of pests, diseases, fire and invasive plant introductions.
6. On including regular assessment of potential on-site and off-site ecological and social impacts appropriate to the scale and diversity of the operation and monitoring of plantations, the 1992 constitution, the Environmental Protection Agency Act and the Environmental Impact Assessment Regulations were found to require that environmental impact assessment be conducted on any undertaking that may affect the environment. This however was marked as partially satisfying the mandate that, monitoring should include an evaluation of potential on-site and off-site ecological and social impact of plantation activities. This because, it does not refer specifically to on-site or off-site reserves.
7. Partially addressed as well, was the indicator, specific to SLIMF (2), that Plantation management should document negative environmental and social impact and design and implement measures to address the impacts. A reading of the 1992 constitution, the EPA Act and the Assessment Regulations was used in the conclusion that generally, all projects that affect the environment have to undergo an environmental impact assessment. The requirement was marked hence was partially provided for.
8. That Plantation managers ensure that land acquisition for plantation establishment do not impact negatively on the communities and / or resource use by the local people was also not found within any legal stipulation.

9. The last criterion of the entire document, setting the mandate that plantations established in areas converted from natural forests after November 1994 do not qualify for certification was unfortunately again not found to exist within the law. The consultants noted however, that although there are no specific laws in place for compensation for conversion of forests into plantations, the constitution requires the state to compensate any person's whose land is compulsorily acquired.

INSTITUTIONAL ASSESSMENTS

The Environmental Protection Agency Act

The mandate of the EPA to require an impact assessment from persons whose activities are likely to negatively impact the forest was found to apply here as well. Also, its power to ensure compliance with laid down assessment procedures. The agency in carrying out these obligation were found to ultimately provide a regulation of sorts for Plantations and their surrounding issues, especially as relates to their activities and its direct effect on the environment

Chapter 4

Summary of Findings and Conclusions

1. The FSC has a total of Ten (10) principles and Two Hundred and Eleven indicators (211). For the purposes of this benchmarking assignment, the indicators were the basis for the analysis with Ghanaian Law. To breakdown the benchmarking the consultant provided a 4 –level criteria for the assessment. That is fully addressed; addressed; partially addressed and not addressed.
2. Where the consultants designates that an indicator is fully addressed, the consultant means to suggest that from their assessment there are specific and clear Legal provisions in Ghana Law addressing the indicator. Where the designation in the benchmark document reads addressed, the consultant means to suggest that there exist some specific legal text address the issues although these may not be sufficient.
3. The other 2 levels were partially addressed and not addressed. Where the consultants designates that an indicator is partially addressed, the consultant means to suggest that from their assessment a combined effect of some general legal provisions may be used to address the indicator. Where the designation in the benchmark document reads not addressed it means that in Ghanaian Law, there are no laws to address the indicator.
4. Taking the document as a whole, the consultant found that Fifty-Five per cent (55%) of the indicators were addressed in some form although it was only 20 % of these indicators that were fully addressed while 35% were just addressed. 20 % percent were partially addressed while 25% were not addressed at all within the legal framework in Ghana.

5. Breaking down the 10 principles provided for in the FSC and their various criteria and indicators, principle 1 has a total of 35 indicators, of which 39% of them were addressed and 61% were not addressed. Principle 2 gives a total of 8 indicators where 63% of these indicators were addressed and 37% were partially addressed
6. Principle 3 was generally not addressed because it deals with “indigenous people”. Under Ghanaian law, however, there is no concept of indigenous people within the working definition adopted by the UN working group on indigenous people. Rights of members of local communities are provided for under principle 2. Therefore no indicators are proposed in relation to this principle.
7. Community relations and workers right in principle 4 had 24 indicators of which approximately 37.5% were addressed fully 25% were partially addressed 8.3% were not addressed and 29 were addressed.
8. Using statistical methods we were able to determine that a total of 8% were not addressed and about 75% were addressed
9. In principle 6, approximately 60% of the indicators were addressed owing to the fact that the management plan addressed this indicator completely. However the management plan “are not law properly so called”. The other 40% were generally not addressed.
10. Principle 7 gives a total of 20 indicators where 75% of these indicators were addressed and 25% were not addressed. Principle 8 has a total of 14 indicators where 71% of these indicators were addressed and 29% were not addressed
11. Six indicators were listed in principle 9 where approximately 50% of these indicators were partially addressed and 50% were not addressed. In principle 10 a total of 27 indicators were listed. Generally all the indicators were not addressed.
12. Below are the graphical representation of the information above:

Table 1: Graphical presentation of the total number of principles and indicators:

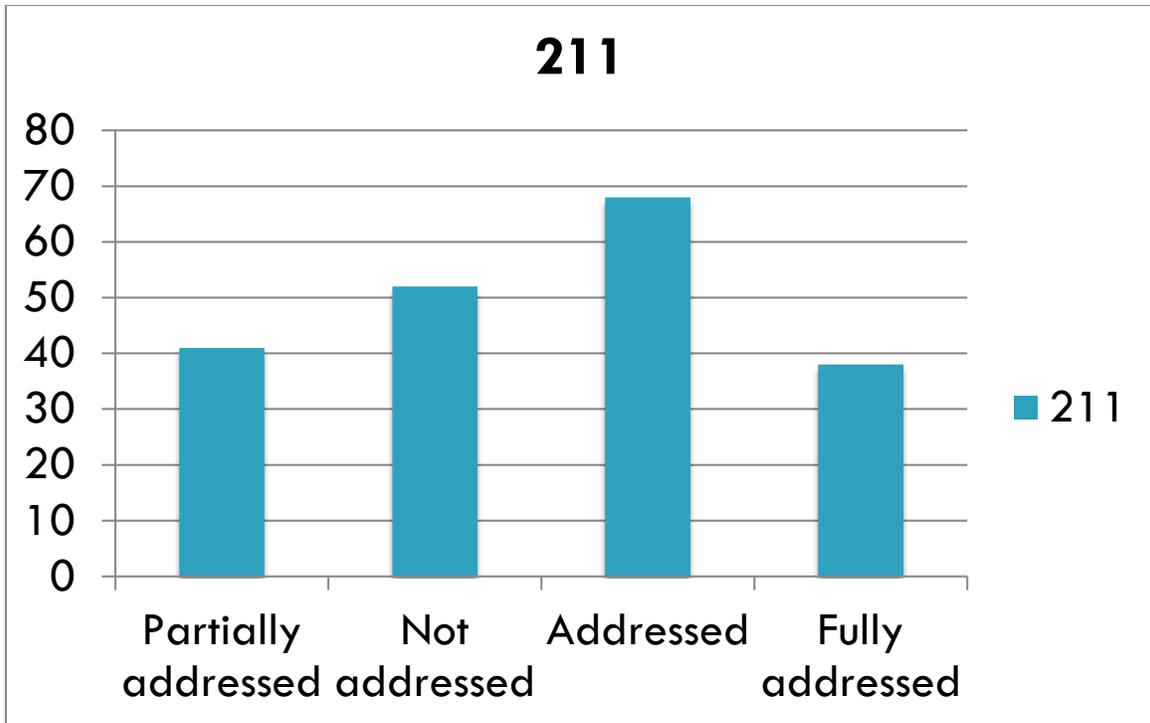


Table 2: Graphical presentation of indicators in principle 1

Table 2

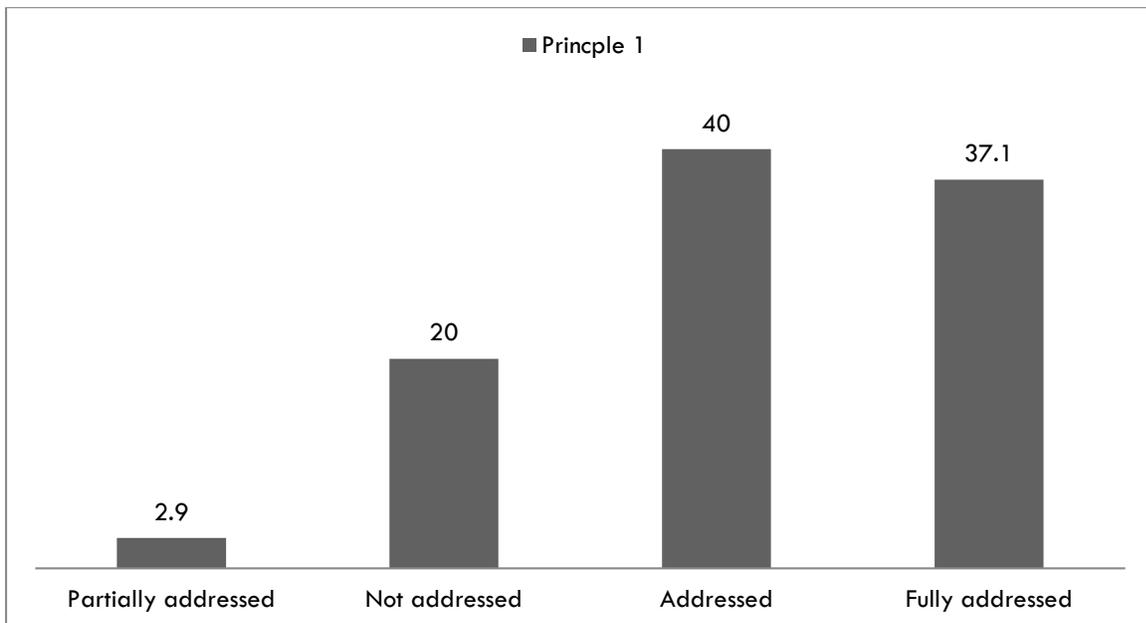


Table 3: Graphical presentation on tenure and use rights and responsibilities

Principle 2

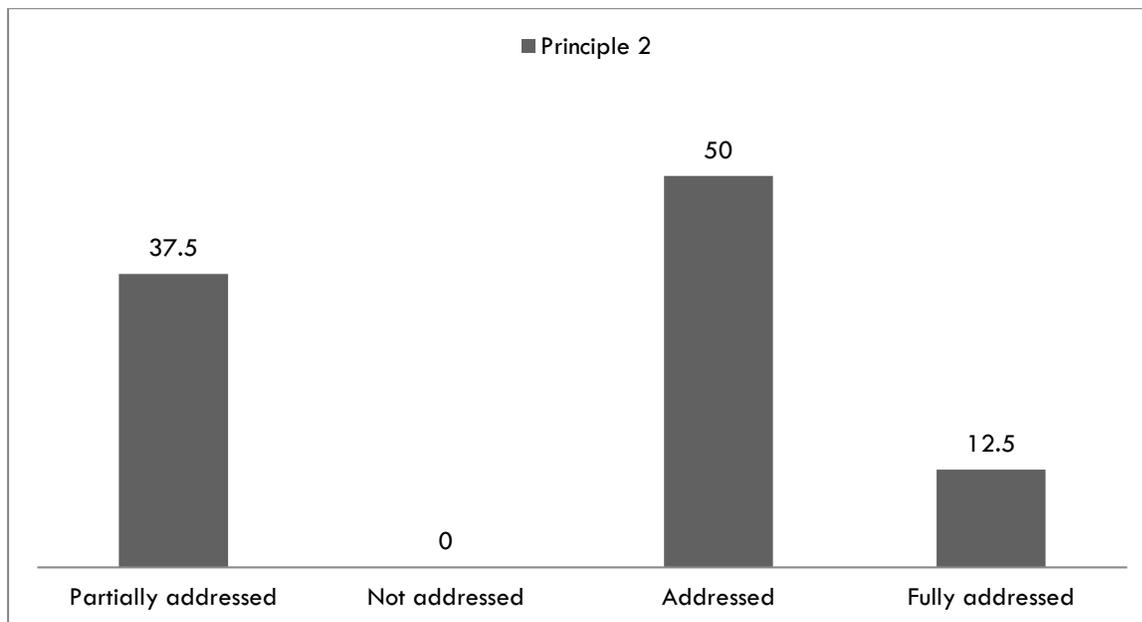


Table 4: graphical presentation on community relations and worker's rights

Principle 4

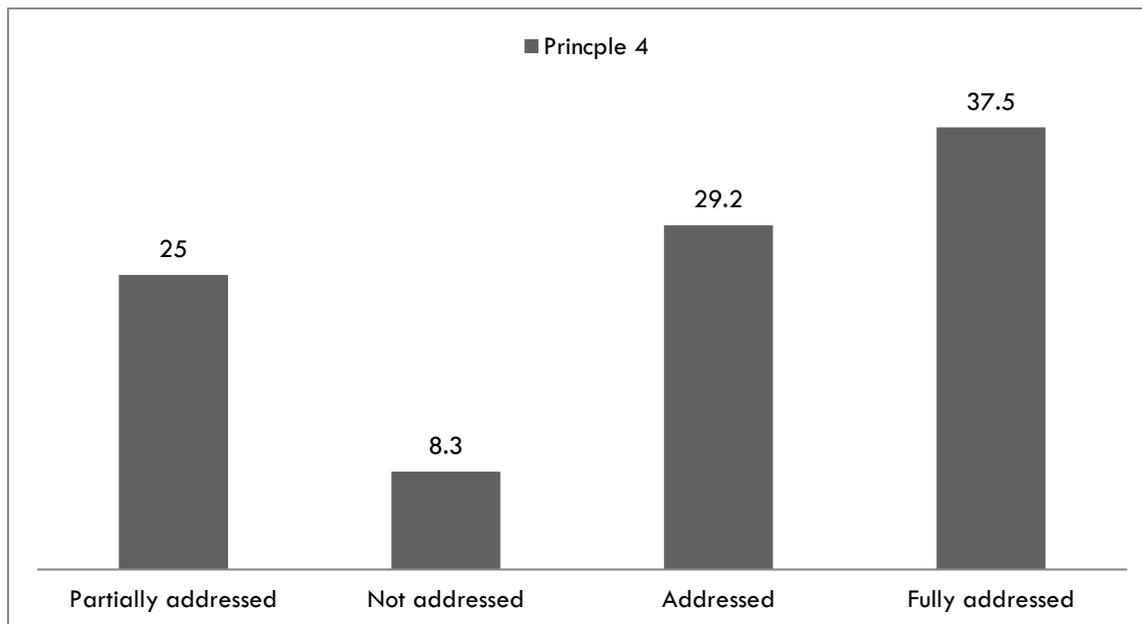


Table 5: Graphical presentation on benefit from forest

Principle 5

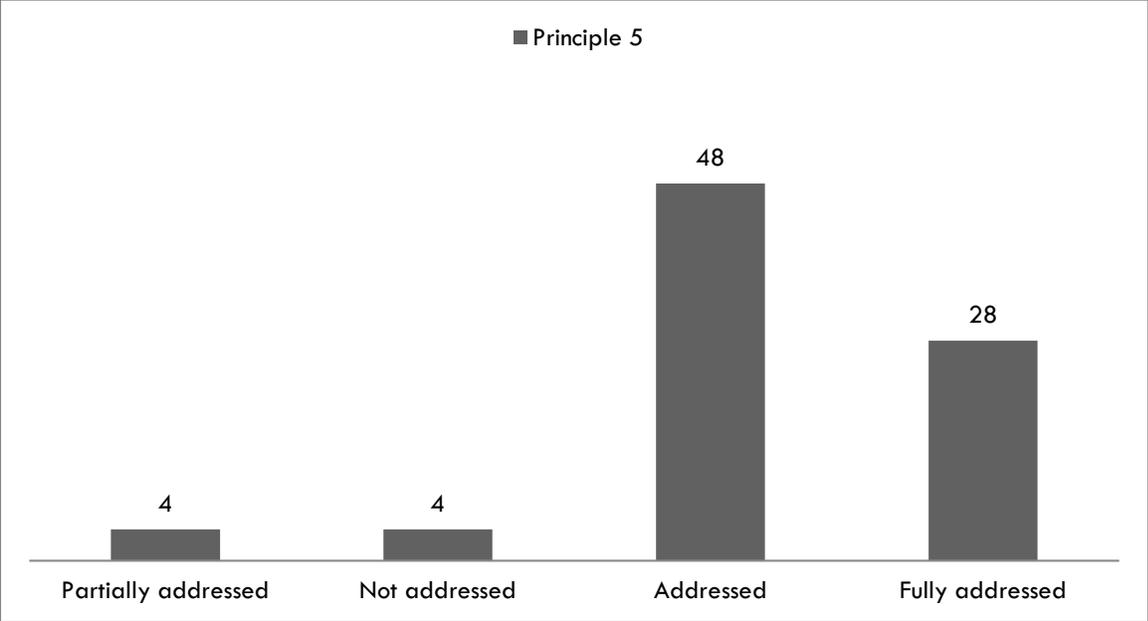


Table 6: graphical presentation on environmental impact

Principle 6

