
Building on legality to deliver responsible and deforestation-free commodity supply chains

Implementing 'no deforestation' commitments in West Africa:
summary guidance for international actors



About Proforest

Proforest is a unique non-profit group that supports companies, governments, civil society and other organisations to develop practical approaches to responsible sourcing and production that can help transform commodity sectors.

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Table of contents

1. Executive summary	4
2. Background	5
2.1 Objectives	5
2.2 Who is the target audience for this document?	6
3. Methodology	6
4. Summary findings	7
4.1 Legal reviews	7
4.2 Implementation	12
5. Opportunities and recommendations	20
5.1 Ghana	20
5.2 Liberia	21
5.3 Côte d'Ivoire	22

1. Executive summary

The Proforest Initiative has developed a programme of research and capacity building to support wider engagement with 'no deforestation' (ND) commitments in West Africa. The focal countries of this programme are Ghana, Côte d'Ivoire and Liberia, and it focuses on the palm, forestry and cocoa sectors.

Activities conducted:

1. Legal reviews to compare national legal requirements with those of the High Conservation Value (HCV) and High Carbon Stock (HCS) approaches,¹
2. Stakeholder interviews to assess awareness of 'no deforestation' (ND) commitments and the HCV and HCS approaches, and
3. A literature review to identify existing initiatives.

The primary objectives of this document are to communicate the challenges faced with implementing the HCV and HCS approaches on-the-ground to international stakeholders and promote collaboration between existing voluntary and legal initiatives to address these challenges.

Key findings from the three countries:

- There is strong support for the concept of ND in Ghana and Côte d'Ivoire, but less so in Liberia where the deforestation debate is polarised,
- In Ghana and Côte d'Ivoire, smallholders (across commodities and subsistence crops) present the greatest implementation challenge. In Liberia, a major difficulty is the absence of an HCSA High Forest Cover Landscape approach,
- There is frustration with the lack of an adapted HCSA tool for smallholders, and with inadequate provision for community decision-making (most land use decisions in Ghana and Côte d'Ivoire are customary). Cocoa stakeholders were interested in the Roundtable on Sustainable Palm Oil (RSPO)'s HCV tool for smallholders,
- Stakeholders see little value in sector-specific initiatives given the range of different deforestation drivers (including subsistence crops), and look for long-term solutions that build on REDD+ and legislation,
- Legal reviews reveal significant overlap between national laws and HCV and HCS requirements. With refinement and strong enforcement, legislation could support implementation of 'ND' in practice, and
- Stakeholders support the integration of HCV and HCS with existing field-level initiatives but call on international stakeholders to recognise a) the longer, more realistic timelines required in community and smallholder contexts, and b) need for some flexibility to also allow social and livelihood objectives to be met.

¹ The wider Africa Legality Programme covers other voluntary standards not covered in this briefing

2. Background

Timber and agricultural commodities are important economic drivers in West Africa, and sustainable production of these commodities can lead to social, economic and environmental benefits. As part of a growing shift towards more sustainable commodity production, many multinational consumer goods companies (CGCs), commodity traders and even producer companies have made commitments to eliminate deforestation from their global supply chains. These commitments cover wood products, oil palm, and other commodities such as cocoa, that are produced in West African countries.

Effective implementation of these commitments will require collaboration between different stakeholders, including government and private sector. And yet, most discussions about 'no deforestation' have so far been held with CGCs and downstream actors. It is vital that stakeholders in West African countries, including producer companies, governments and civil society organisations (CSOs), are engaged with these discussions to ensure that 'no deforestation' commitments are aligned with local and national priorities and to make sure they are alert to changing buyer expectations and market trends.

As part of its Africa Legality Programme, funded by DFID's Forest Governance, Markets and Climate (FGMC) Programme, the Proforest Initiative has developed a programme of research and capacity building to support wider discussion of 'no deforestation' commitments in West Africa. The programme has Ghana, Côte d'Ivoire and Liberia as focal countries and focuses on the palm, forestry and cocoa sectors.

2.1 Objectives

This document represents one of the outputs produced under the Africa Legality Programme (ALP). The objectives of this part of the programme are to (with the focal objectives of this document in **bold**):

- Improve understanding of synergies and gaps between legal requirements and private sector 'no deforestation' (ND) commitments,
- Raise awareness amongst producer companies, CSOs and governments about downstream companies' ND commitments, and of the High Conservation Value (HCV) and High Carbon Stock (HCS) approaches,
- Provide guidance to producer companies on how to 'go beyond' legality to comply with supply chain actors' commitments,
- Provide guidance to governments in producer countries on how to streamline legal requirements and voluntary commitments,
- **Communicate implementation challenges faced on-the-ground to international stakeholders,** and
- **Promote improved collaboration between existing voluntary and legal initiatives to address the implementation gap.**

2.2 Who is the target audience for this document?

This is a high-level summary primarily aimed at international actors interested in the responsible sourcing and production of West African cocoa, palm and timber. It is particularly relevant for participants in multi-stakeholder processes which focus on the implementation of 'no deforestation' commitments, such as international NGOs, consumer country governments, service providers and mid-downstream supply chain companies.

Readers wanting to read the more detailed outputs and to get a more complete picture *should refer to the [HCV-HCS in-depth technical report](#)*².

3. Methodology

To understand barriers and opportunities to implementing 'no deforestation' (ND) commitments in Ghana, Liberia and Côte d'Ivoire, the following activities were conducted:

1. **Legal reviews to compare legislative requirements with requirements of the HCV and HCS approaches,**
2. **Stakeholder interviews to assess awareness of 'no deforestation' commitments and the HCV and HCS approaches, and**
3. **A literature review to understand the context and identify existing initiatives in each country.**

Full methodologies are presented in the detailed legal reviews and the technical report.



² The technical report is available at: www.proforest.net/HCV-HCS-technical-report

4. Summary findings

Findings are presented in two sections:

1. **Results of legal reviews, and**
2. **Barriers to implementation, based on stakeholder interviews and review of literature.**

4.1 Legal reviews

Legal reviews were conducted in the three focal countries to better understand to what extent requirements related to HCV and HCS are already encapsulated in legislation. The key findings are summarised here, separated into themes of relevance to HCV and HCS.

The objectives were to help producers understand where existing legal requirements can support compliance with the HCV and HCS approaches, and to identify legal provisions that may be strengthened to align better with voluntary HCV and HCS requirements.

It is important to note that the reviews assessed the content of relevant laws, but not to what extent these laws are effectively implemented in practice.

4.1.1 Ghana

The general legal context and land allocation

There is clarity in the legal framework on the sources of law in Ghana and how to resolve conflicts between Statutory Law and Customary Law. Also, the legal framework identifies decision-making bodies and institutions responsible for land use and allocation. However, there is a lack of coordination between various agencies responsible for land allocation and management. It is expected that this will be clarified following the implementation of the New Land and Spatial Planning Act, 2016. In terms of HCV and HCS, there are strong statutory and customary laws and institutions (such as Customary Land Secretariats) to ensure community involvement in the allocation and management of customary land, which provides some protection for community rights and promotes Free, Prior and Informed Consent (FPIC). These provisions do not extend to public lands. Furthermore, with the exception of on- as opposed to off-reserve areas, there is no large-scale land use planning. Overall, these provisions in themselves do not fully address the identification and protection of HCV and HCS areas.

Species protection

Species protection in Ghana rests on the combined effect of the Wild Animals Preservation Act and the Wildlife Conservation Regulations. These address protection for wildlife both within and outside protected areas. Trees outside reserves and trees that lack timber value receive very little protection. Perhaps the strongest legal instrument for species protection is the definition of habitat of any endangered or threatened species of indigenous flora and fauna as

Environmentally Sensitive Areas (ESAs). *On the condition that these provisions are strongly enforced*, Species Protection may be considered **Fully Addressed** by legislation.

Ecosystem and habitat protection

The legal provisions for Ecosystems and Habitat Protection address a range of ESAs. There is, however, no strict definition of a habitat, and to be subject to protection, areas must be demarcated as sensitive. It is still too early to assess how effectively the new Land Use and Spatial Planning Act will regulate land zoning for various activities. As for species protection, the laws do not regulate all land use but provide for specified zones only. Again, the potentially most important piece of legislation is the definitions of ESAs, which, *on the condition that these definitions are refined and the provisions strongly enforced*, may help protect important habitats. Therefore, ecosystem and habitat protection are considered **Partially Addressed** by legal provisions.

Ecosystem services

There are general and sector specific requirements for the protection of slopes and vulnerable soils (although there is no direct burden on companies for enforcement). However, there are no legal provisions (only policy guidance) for protecting buffer zones around rivers, water bodies and wetlands. All in all, protection of areas providing ecosystem services is considered to be **Partially Addressed** by legislation.

Community land and resource use

There are broad provisions to ensure respect for identified community and customary user rights. However, although the Environmental Protection Agency requires consultations with the community and persons likely to be affected by concession activities of forestry and agriculture, the Environmental Protection Law does not stipulate in detail who is to be consulted. This creates a situation where chiefs and other elites may influence law implementation to their benefit. Therefore, protection of community land and resource use is considered **Partially Addressed** by legislation.

Cultural sites and values

There is legislation explicitly providing for the identification and protection of historical, cultural sites and sacred groves in agricultural and forestry concessions. The law further mandates concession managers to give full respect to and uphold the cultural rights of the communities. It is therefore considered that legislation **Fully Addresses** the protection of cultural sites and values.

Establishment of conservation management areas or 'set-asides'

A combination of legal provisions enables the private sector to establish voluntary set-asides and protected areas within their forestry concessions, and such initiatives may receive some government assistance in terms of monitoring. There is less support for such initiatives in agricultural settings, although there are no

legal barriers per se. Therefore, legal provisions for establishing and securing conservation set asides are considered **Partially Addressed**.

4.1.2 Liberia

The general legal context and land allocation

There are clear, specific laws on the ownership, acquisition process, jurisdictional institutions, and management rights for land and associated resources in Liberia. Apart from the Constitution and specific statutory laws enacted by the legislature, jurisdictional institutions have developed regulations, policies and guidelines to facilitate the observation of such laws. Some mechanisms exist to support companies in complying with HCV and HCS requirements, such as macro-level planning that prioritizes agricultural concession allocation in more degraded areas, and legal mechanisms to support community land registration and decision-making. However, these provisions in themselves do not fully address the identification and protection of HCV and HCS areas.

Species protection

Liberia has a strong legal framework for the protection of rare and threatened species that also includes protections for certain freshwater and high forest habitats. Individual species are also strongly protected in theory. Penalties for contravention of such laws include fines and/or terms of imprisonment. On this basis, species protection is considered **Fully Addressed** by a mixture of several legal provisions – although the extent to which these are implemented in practice was not assessed.

Ecosystem and habitat protection

There is a mix of general and specific provisions for the protection of ecosystems and habitats, and Liberia is incorporating numerous relevant international conventions into national law. A requirement to conduct environmental assessments prior to the commencement of development activities is intended to prevent/mitigate adverse impact on specified ecosystems and habitats. National zoning, which includes protection for 'High Forest Zones', Protected Areas and important forest corridors, poses some restrictions on where commercial agricultural and forestry activities can be developed. Legal provisions for ecosystem and habitat protection could, therefore, be considered to be **Partially Addressed**.

Ecosystem services

There are legal requirements for the protection of riparian buffers and steep slopes in forestry operations, as well as general provisions for the extraction and use of water. However, there are fewer provisions for agricultural development. Legislation to protect vulnerable soils is still underway. Environmental protection in agricultural developments hinges primarily on environmental impact assessments conducted by the Environment Protection Agency and based on the Environmental Protection and Management Law (EPML). Therefore, protection of ecosystem services by legislation in Liberia is considered only **Partially Addressed**.

Community land and resource use

From the Constitution of Liberia, through the EPML to the Community Rights Law, there are clear and specific legal provisions recognizing the rights of communities to land and associated resources, and requiring commodity companies to seek their free, Prior, informed Consent (FPIC) prior to development. Therefore, protection of community land and resource use is considered **Fully Addressed** by legislation.

Cultural sites and values

There are laws fully recognizing local people's rights to land and associated resources, which include protection of their cultural and archaeological sites. Therefore, protection of cultural sites and values is also considered **Fully Addressed** by Liberian legislation.

Establishment of conservation management areas or 'set-asides'

Guidelines in the National Wildlife Conservation and Protection Area Management Act encourage commodity companies to make provisions for the conservation of natural resources and wildlife management on private land, including the establishment of conservation areas. However, there are no legal obligations to set aside land, and no economic incentives for doing so. Therefore, legal provisions for establishing and securing conservation set asides are considered only **Partially Addressed**.

4.1.3 Côte d'Ivoire

The general legal context and land allocation

The legal framework identifies decision-making institutions responsible for the allocation of state land for forestry operations. For non-state land in rural areas (the "rural domain") there is a clear requirement for the land to be legally registered, a process that recognises customary land claims. However, implementation has been negligible with only about 2% of land registered to date. Furthermore, there is no national-level land-use planning for the rural domain.

In terms of HCV and HCS, there are some weak legal requirements for community consultation in order to allocate classified forest to companies, but these are not necessarily robust enough to fully protect community rights and promote FPIC. In the rural domain, where companies are not allowed to own land, communities have the right to decide on the use of their land. At present, as most land is not legally registered, family or community land holders follow customary processes to rent or share land. This provides a basis for community-based decision-making (assuming such processes are equitable).

Overall, these provisions do deliver some protection of community land rights in the rural domain, although largely customary rather than legal. However, there is no large-scale land-use planning within the rural domain to support identification of HCV and HCS areas.

Species protection

The legal framework provides good protection for rare and threatened species, and even for less rare species within on-reserve areas. However, legal mechanisms to identify and protect the habitats of species in the rural domain are relatively weak. Therefore, species protection is considered only **Partially Addressed** by legislation.

Ecosystem and habitat protection

Aspects of Ivorian law provide strong legal protection for certain ecosystems across all land types, namely gallery forest, humid zones, mangroves and sacred forests. Freshwater ecosystems receive additional protection. The challenge consists of applying the legislation in rural areas where most land properties are not legally registered.

These laws protect some but not all areas likely to be HCV ecosystems, and constitute a strong foundation to build on. However, the legislation does not currently address all HCS forests, and ecosystem and habitat protection is therefore considered **Partially Addressed**.

Ecosystem services

Protection of water bodies can be considered well addressed by legal instruments in Cote d'Ivoire. Steep slopes are legally protected, but effects are limited as the degree of slope requiring protection is not quantified. Overall, this theme is considered **Partially Addressed**.

Community land and resource use

Insecure land tenure in Côte d'Ivoire presents major challenges in terms of legal recognition of customary rights, although in practice most rural communities and families have customary rights and make decisions on how to use their land. This aspect is considered **Partially Addressed**.

Cultural sites and values

The Forest Code and legislation regulating Environmental Impact Assessments (EIAs) provide some protection for cultural sites, values and rights, but lack the detail necessary to enforce them in practice. Sacred forests are typically well protected through customary means. Overall, these aspects are considered **Partially Addressed**.

Establishment of conservation management areas or 'set-asides'

There are no formal legal barriers to the establishment of voluntary conservation areas, assuming land-owners and users agree, and existing contracts on state land are not breached. However, practical challenges exist, and companies or land-owners that set aside conservation areas currently receive no legal benefits or compensations (e.g. tax breaks). Therefore, this theme is also considered **Partially Addressed**.

4.2 Implementation

4.2.1 Ghana

Uptake and awareness of 'no deforestation' (ND) commitments

All interviewed stakeholders were aware, to a varied extent, of 'no deforestation' commitments, mainly through multi-stakeholder initiatives (e.g. REDD+). Exposure to HCV was through RSPO and FSC, and other trainings and related NGO activities. Most respondents were also familiar with the HCV approach, but barely aware of the HCS approach and its objectives.

HCV-HCS approaches were acknowledged to be good in principle for the long-term sustainability of forests, and attractive to commodity companies looking to expand their land base. However, there was general skepticism about the prospects for the success of company ND commitments and use of the HCV-HCS tools. ND commitments were considered likely to have little impact unless extended to cover all sectors and become legally required to ensure cohesiveness. Complex land and resource ownership/tenure also poses serious challenges to implementation of ND objectives and the application of HCV-HCS tools. Government agencies, notably the Forestry Commission, Ministry of Agriculture, Environmental Protection Authority and the Lands Commission, are considered vital to the success of ND commitments, but are also seen as ineffective due to under-resourcing and lack of collaboration.

Deforestation is seen as currently driven mainly by subsistence farming (when aggregated), infrastructural development, and mining (especially illegal small-scale alluvial gold mining, known locally as "galamsey") and charcoal production. Large-scale agricultural expansion (of cocoa and oil palm) is no longer considered a major driver. Clearance in recent years has shifted to degradation of shade cocoa areas (removing shade trees) and small forest patches in agricultural landscapes. There was a frustration that initiatives to tackle deforestation, such as the national REDD+ Strategy, seem to be still at the conceptual level, with too much piloting and little concrete action. A newly-enacted Land Use and Spatial Planning Act (2016) may bring order to land use across the country, but respondents were not sure if it would work.

Barriers faced pre-establishment of farms and concessions

The major barriers to implementation of 'no deforestation' in the pre-establishment/land allocation phase of commodity development were identified as:

- **Poor coordination** among key state institutions in concession allocation, management and monitoring, especially the Forestry commission (FC), Environmental Protection Agency (EPA) and the Ministry of Food and Agriculture (MoFA), Lands Commission, and the Ghana Investment Promotion Centre (GIPC),
- No **financial, technical or other relevant support** from government agencies to commodity companies,
- Scarcity of qualified and affordable **in-country HCV-HCS assessors**,
- **Legislation, policy frameworks and administrative processes are perceived as bureaucratic, uncoordinated or even conflicting**, which often delays the implementation of relevant policies,
- Environmental Impact Assessments (EIAs) and Social Impact Assessments (SIAs) are only needed for areas >40 ha, and therefore do not apply to smallholders, >80% of whom have landholdings of about 2.5 ha. Thus, the necessary environmental and social **checks-and-balances for the most significant actors in deforestation are absent**,
- It is uncertain **what really constitutes consent** under community consultation. Most Social Responsibility Agreements (SRAs) achieve community involvement rather than consent. Community representation is often not fair or inclusive,
- **The assumption that there is contiguous land for commodity development is flawed** because smallholdings are scattered,
- In the absence of government and/or private support for smallholders, **adoption of HCV-HCS approaches is prohibitive or simply not acceptable**.
- There is abundant degraded land, but this does not translate into **availability of land for commodity development** due to **community land tenure claims or other community-related issues**.
- **The national definition of forest makes it challenging** to define what constitutes deforestation and has little impact on concession allocation for the oil palm sector,
- There is **great potential for fallow areas to become HCS areas** if they surpass the carbon threshold, which will inevitably cause big problems for commodity development in the highly fragmented agricultural landscapes. If these areas are to be considered forest (a big question), then efforts to prevent deforestation should be cross-commodity to stop users simply switching crops. Farmers may also be expected to simply keep cutting fallow areas to avoid reaching the HCS threshold.
- **Fragmentation of forest concessions by the government** is a huge challenge. When a concession lease expires, there is a tendency to sub-divide it into smaller leases to multiple companies. The result is that management interventions are fragmented accordingly, and there is no long-term perspective to ensure financial and environmental sustainability.

Barriers faced post-establishment of farms and concessions

Stakeholders identified the main barriers to post-establishment concession set-asides as:

- **The extent of company compliance with procedures depend** on company action rather than effective government enforcement. Although government provides monitoring and regulatory roles in permit allocation and verification, it often lacks the necessary skills and workforce to undertake these effectively,
- **Government grievance mechanisms for community complaints are often poorly known amongst communities.** The REDD+ technical working group is currently developing a feedback and grievance mechanism to allow community-level disputes to be raised, and then channelled through district, regional and national levels,
- **Protection of HCV-HCS set-asides** are undertaken by companies (such as anti-poaching and encroachment prevention), with **little active support from relevant state institutions.** Company staff may even break the law due to poor understanding of national legislation,
- **Setting up voluntary set-asides within concessions is not actively encouraged by relevant state institutions;** only two cases exist of set-asides of significant scale, both in the Western Region,
- **It is challenging for companies to** identify, manage and monitor HCV-HCS areas, and
- **There are no effective, state-assisted mechanisms for** company/community mediations. Conflict is often simmering in the background with compensation invariably not going to communities but to elite chiefs.



4.2.2 Liberia

Uptake and awareness of ND commitments

All interviewed stakeholders were familiar with both the HCV and HCS approaches. Their exposure to HCV was greater and was due to their involvement in national post-conflict recovery processes, since the late 2000s, that had forest and agricultural resource governance reforms as focal development agendas. Stakeholders' experience of HCV-HCS issues related mainly to the agricultural and forestry sectors initiatives, such as FLEGT/VPA, RSPO, REDD+, other National Working Groups and the RSPO HCV National Interpretation process.

General challenges identified included that smaller companies will struggle with the financial and technical capacity to implement no deforestation effectively. For larger companies (especially multinationals), the difficulties are mostly linked to existing technical expertise. Some CSOs expressed concerns that companies are merely paying lip service to ND commitments: the rate at which the forest is being converted by commodity companies was perceived to not reflect such professed commitments.

In terms of government's role, the government has a legal target of setting aside 30% of its forest estate for conservation, but to date it has yet to reach 10%.

There appears to be an absence of trust and a lack of rational debate around deforestation in Liberia. One interviewee stated that a company had tried to support a local community to establish a small-scale legal logging operation to bring in income to the community, through a transparent process with the Forestry Development Authority (FDA) and a local NGO tackling illegal logging, only to be the subject of a campaign by an international NGO alleging illegal logging. Several companies expressed major concerns that HCSA was preventing any agricultural development in Liberia by being too strict, whilst forest degradation by shifting agriculture increases. The social justice and human side of deforestation has been completely missing from the debate. There was a call for a moderated discussion between companies and NGOs to try to find a way forward.

Funding for forest conservation is often prioritized for protecting the most intact forest in Liberia, but efforts are also needed to protect recovering forests near villages where appropriate, otherwise communities will continue degrading forest and the frontier will advance.

The key drivers of deforestation in Liberia were listed as:

- Shifting cultivation for subsistence agriculture, predominantly for rice,
- Plantation agriculture, led by rubber and, to a lesser extent, oil palm,
- Logging, dominated by concessions, but also illegal chain/pit-sawing,
- Mining (both alluvial and industrial),
- Infrastructure development (especially the destruction of mangrove forest for construction of houses along the coast).

Barriers faced pre-establishment of farms and concessions

Stakeholders identified the following challenges:

- According to some actors, there is good coordination amongst the lead state agencies in the forestry and agricultural sectors. This includes an MoU between the EPA, the FDA and Ministry of Agriculture, and other relevant land-linked ministries and agencies. However, most of these **state institutions are severely constrained by qualified personnel, budget and logistics**, thereby limiting their ability to effectively monitor the actions/activities of the companies to ensure compliance with legal and voluntary commitments,
- **FPIC is not legally required**, although companies are expected to engage with the communities by the Environmental Protection and Management Law (2002), and the Community Rights Law (2009). **International FPIC guidance (e.g. from RSPO, HCSA) needs to be locally adapted,**
- **Community land ownership and decision-making.** All land is owned by the State, but the Community Rights Law grants communities the right of access to forested land through a nine-step process. It ultimately guarantees communities the right to decide on the land use. Some communities have opted to sell timber rights, allow illegal chainsaw operations or allocate lands for slash-and-burn agriculture. This has resulted in deforestation, contrary to the expectation that land rights would safeguard forest land and biodiversity. At the same time, **HCSA has meant that companies have had to say to some communities that they cannot develop land** even if the community wants to,
- **Absence of a 'High Forest Cover' approach within HCSA** has prevented development of the palm sector in many parts of the country. There is an almost complete absence of large, contiguous non-HCS areas to develop. In practice, this has led some communities to decide to develop on their own (sometimes irresponsibly) to get value from their land,
- With the support of rights-based NGOs, processes to redress community grievances have been successfully adopted, and stakeholders are becoming increasingly assertive in expressing their grievances. There is, however, **a tendency for the stakeholder consultation process to be exploited by vested interests, thereby stalling FPIC processes needed for companies to proceed with development plans,**
- Companies have experienced problems where **local communities are unequally affected by application of the HCS approach**, e.g. with developable areas not equally distributed and communities feeling they miss out on development,
- **A very high cost of business in Liberia.** Companies report having to cover virtually all costs for establishing their operations, that would typically be covered by government (e.g. infrastructure, healthcare, etc). From an HCV-HCS perspective this also includes costs of having to fly in expert assessors from overseas.

Barriers faced post-establishment of farms and concessions

The main barriers post-establishment of concession set-asides were identified by stakeholders as:

- **There is often a purely cosmetic adherence to protection of habitats** (and associated species) by some companies. Sometimes an entire forest may be converted, leaving only a narrow riparian buffer for the appearance of keeping water bodies safe,
- There is **limited capacity of both companies and relevant government agencies to enforce forest habitat protection** across the country, even with a presence of state institutions (e.g. EPA, FDA),
- Companies face many **social barriers in managing set-asides**, including communities encroaching on buffer strips and other HCV set-asides for farming, chain saw logging in concession areas, hunting, and burning of charcoal in concession areas,
- Labour laws in Liberia require companies to primarily hire Liberians and providing jobs to members of local communities is prioritized. However, **in some cases this has limited companies' ability to hire suitably qualified HCV staff**, and
- Companies feel that the **government does not currently have enough capacity to help them to manage set-asides** or address encroachment.

4.2.3 Côte d'Ivoire

Uptake and awareness of ND commitments

All stakeholders interviewed were familiar with 'no deforestation' commitments, largely due to recent efforts of multi-stakeholder initiatives and capacity building efforts in country. All stakeholders interviewed were supportive of the concept of 'no deforestation', recognizing the urgent need for Côte d'Ivoire (CI) to protect its remaining forest.

Both the HCV and HCS approaches were known, but HCV far more so through its role in certification and there was some confusion over the function of HCS as a tool. Stakeholders highlighted that wider knowledge of the tools, particularly amongst producers and smallholders, was very weak. Given the dominance of smallholder agriculture in CI, there is an urgent need to raise awareness of deforestation at a village level.

In general, stakeholders feel that efforts to tackle deforestation in CI should focus on smallholder agriculture across commodities and ensure social inclusion. There is a sense that HCSA does not currently provide sufficient flexibility or any process for a stepwise roll-out which are both needed to address the social and smallholder drivers of deforestation.

Barriers faced pre-establishment of farms and concessions

Stakeholders identified numerous barriers to implementation of 'no deforestation' in the pre-establishment/land allocation phase, including:

- **Land insecurity** amongst smallholders (especially migrants), that gives little incentive to keep forest standing as there is no long-term stake in the land. This is further confounded by the high cost of land registration,
- **Land scarcity** leads to competition for land for agriculture and virtually no financial value to farmers of keeping forests standing. These problems have been exacerbated in places by government evictions of farmers from protected areas,
- Scarcity of affordable and qualified **Ivorian HCV and HCS assessors**,
- The **high costs faced by smallholders** to comply with HCV or HCS requirements. Furthermore, EIAs are not legally required for smallholders <1000 ha (except in some limited circumstances), which although socially just, means that there is no government oversight of most agricultural production in CI,
- **Poor suitability of current HCV and HCS tools** for the predominant smallholder context of CI – although cocoa stakeholders were interested to learn about RSPO's new HCV for smallholders' tool. It was suggested that HCV and HCS could benefit from being more flexible to integrate with the government's new forest classification and action plan – which is deemed by some to be more realistic and have more practical timelines,
- The **lack of a government land use plan** or zoning also greatly hinders efforts to tackle deforestation.
- Companies striving to comply with HCV and HCS requirements felt that they received **no financial support from government** (e.g. financial incentives or tax breaks),
- A lack of, and urgent need to develop, **alternative livelihoods and payments for ecosystem services** that can incentivise smallholders to reduce deforestation, and
- An urgent need to **raise awareness about deforestation at a community and smallholder level**, including through **wider dissemination of existing government guidance on best agricultural practices**.

Barriers faced post-establishment of farms and concessions

The main barriers to securing forest or environmental set-asides in farms or concessions once established were identified as:

- **Inadequate government monitoring of companies' compliance with EIA or social requirements**, leading to patchy implementation,
- Companies struggling to prevent **encroachment by community members or farmers into conservation areas**. It was argued by some that this is often the result of **companies not adequately involving communities in natural resource management decision-making** and implementation. Legal contradictions over ownership of trees versus property in CI are also contributing to this challenge.
- **Elite capture and mismanagement of royalty payments** to communities, and
- Companies pointed to **high costs of managing 'set-aside' conservation areas** and felt that some activities such as anti-poaching enforcement should be the government's responsibility.



5. Opportunities and recommendations

5.1 Ghana

Stakeholders gave the following specific recommendations:

- In the face of an integrated HCV-HCS, the **currently outdated HCV National Interpretation (2006) should be updated**, with sub-national jurisdictional definitions where possible. A critical consideration under this is the **definition of forest in Ghana**. A new interpretation must then be clearly communicated to all actors, to avoid any inadvertent counter-productive outcomes,
- Companies are making big announcements of their commitments, without mechanisms to implement sustainability on the ground. Process is important, and monitoring is crucial. **There is the need for a national forest monitoring system, such as used in other areas (e.g. Brazil). An ongoing system for Ghana under the FC, linked to the VPA process, may be operational by end of 2018. This will include an online system, a GIS-based inventory – and scope for carbon conservation,**

Other more general suggestions included:

- Securing acceptance of HCV-HCS practices at the local level has long term connotations that are hard to demonstrate. It is difficult to change practices that have been in existence for centuries, if not millennia. There is a need for persistent initial motivation and a positive case to support the desired changes,
- There is a need to adequately define / implement community user-rights in concessions,
- In the face of growing land scarcity for commodity development, **intensification must be adopted and actively promoted** (via best management practices) to get the optimum yield from remaining areas,
- Efforts to tackle deforestation must also consider 'galamsey' and illegal timber harvesting,
- There is a need for a broader **jurisdictional approach to land use planning**, as envisaged in the national Land use and spatial planning Act (2016). This will help secure the bulk of the dwindling forest cover in the country, and
- Any tools for no deforestation, HCV and HCS need to be very simple and practical for farmers.

5.2 Liberia

The recently adopted REDD+ Strategy and the TFA2020 Africa Palm Oil Initiative Marrakesh Declaration may offer some practical mechanisms to implement a ND regime in Liberia, if they can be converted from policies/strategies into enabling legislation. This is needed to ensure a level playing ground for all companies, otherwise leading companies feel that they are at a disadvantage in implementing an ND commitment, whilst others rush to cut down as much forest as they can before legislation is passed. This is partly achieved by the government's existing policy on oil palm development making RSPO certification a requirement of all concession lease agreements.

There is a strong sense from the private sector in Liberia that they are trying to find solutions for both deforestation and community development that are not being supported by the international community. For example, by trying to develop *produce-protect-include* models as viable compromises to provide rural development and ensure forest protection by stabilising deforestation and degradation. The idea is to do this with support from the FDA in managing the protection areas.

Specific recommended solutions included:

- The **urgent need for the international community to either endorse proposed models for sustainable development being developed by companies and actors in Liberia, or to develop a High Forest Cover Landscapes (HFCL) approach.** It was suggested to aim for no net deforestation, whilst protecting wildlife corridors, important biodiversity areas and allowing pragmatic land development,
- **Establish a rational discussion about the deforestation challenge in Liberia** that recognises the social realities on the ground, and the forest degradation/deforestation trajectory that is already playing out. This could perhaps use the established *Oil Palm Sector Technical Working Group* but may need moderation between NGOs and companies!
- **Efforts to establish out-grower schemes (as required under lease agreements) have been stalled by a lack of start-up funding.** Companies have called for international donors, e.g. the International Finance Corporation (IFC) to support in establishing these projects.

A more general recommendation was for actors to recognise Liberia's recent conflict history and invest in building the government institutions that will help to establish rule of law, tackle corruption, provide jobs, create downstream processing jobs and ultimately tackle deforestation.

5.3 Côte d'Ivoire

Stakeholders identified a series of opportunities to strengthen implementation of 'no deforestation' commitments in Côte d'Ivoire. Specific suggestions were:

- 1. Develop or scale-up HCV-HCS for smallholder tools.** In the cocoa sector, the Cocoa and Forests Initiative (CFI) is interested in conducting a jurisdictional pilot for HCS-HCV to better understand how the tools and definitions can align with the government's new forest classification system for CI's classified forest,
- 2. Build capacity of HCV and HCS assessors in Côte d'Ivoire,**
- 3. Downstream companies need to support implementation of existing landscape-level and smallholder projects on the ground,** especially in the Taï/San Pedro landscape. Examples of existing projects mentioned include the SEP REDD+ ³project, and Mondelez and TFT's smallholder project in Méagui, and
- 4. Companies working in the same landscape should co-finance HCV-HCS assessments for smallholders.**

Other more general suggestions made included:

- 5.** The need to shift to cross-sector initiatives to tackle deforestation covering cocoa, palm, rubber and subsistence crops,
- 6.** Promoting and speeding-up land registration in the rural domain,
- 7.** Improve coordination and synergies between different policies and administrative bodies, including land-use planning,
- 8.** Increase the value of ecosystems through ecotourism, carbon credits, Payment for Ecosystem Services (PES), etc, and
- 9.** Promote participatory management of conservation areas and natural resources.

To find out more about the legal benchmarks and access the in-depth report, kindly follow this [link](#)⁴.

³ SEP REDD+: Permanent Executive Secretariat for REDD +

⁴ Visit: www.proforest.net/legality