

LEGALLY-MANDATED SOCIAL OBLIGATIONS

Guidance for EUTR competent authorities



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What are legally-mandated social obligations?

Logging companies' legal obligations to make payments to local communities.

Two types of social obligation:

1. **Cash** (either via state or directly to the community)
2. **Payments in kind** (eg. schools, health clinics, etc.)

May appear in 2 forms, **both of which are legally binding**

1. National law
2. Concessions contract

Why are they important to you?

→ If a company does not comply with these, ALL TIMBER coming from their concession is illegal



Cameroon:

**2 types of social benefit
required in Cameroonian law:**

1. **Area-based royalties (RFA)**
2. **Social clause in the contract**



1. Area-based royalties (RFA)

Annual Forestry Royalty (RFA) is a combination of a **flat-rate area tax** and the **price offered by a timber operator** in the bidding process.



Applies to only 2 types of permit:

- In *Unités Forestière d'Aménagement* (UFA), flat-rate is 1,000 CFA/hectare/ year
- For Sales of Standing Timber, flat-rate is 2,500 CFA/hectare/year

-Source: 2015 Tax Code

2. Social clause in the concession contract

- **All logging contracts** (except Harvested Timber Removal Licences, Special Permits and Community Forests) **must include Social Clauses**.
- The Social Clauses contain the ***minutes of information meetings (PVRI)*** between the communities and the logging operator. These should be signed by 'all the stakeholders', although typically they're signed by MINFOF & the local Prefecture.
- These social clauses are **part of the terms & conditions of the contract**. And social clause & PVRI are legality verifiers in Cameroon's VPA.

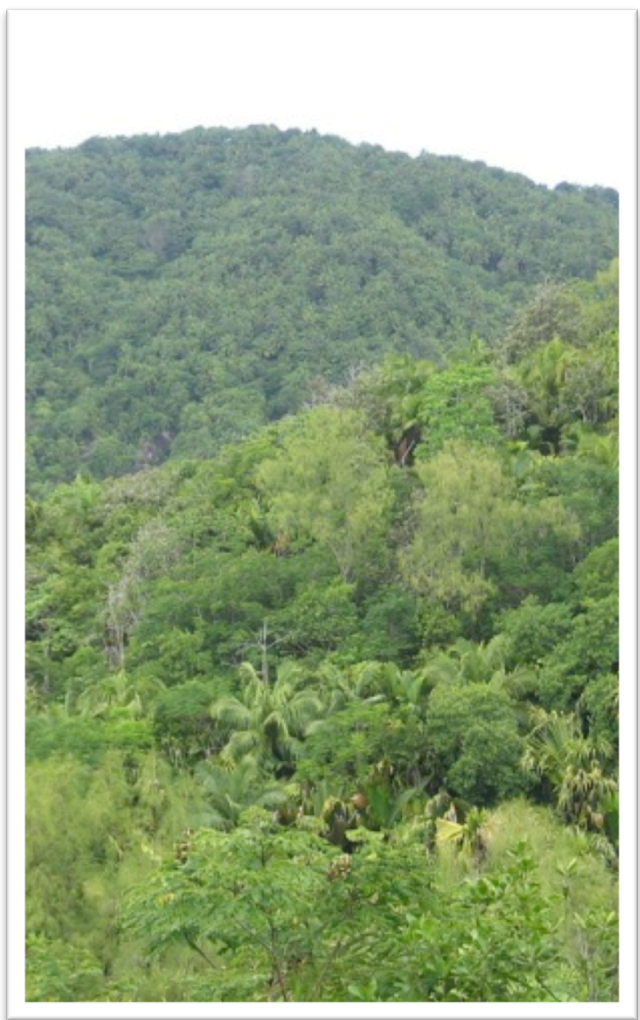
Ghana:

3 types of social benefit in Ghanaian law:



- Area-based royalties
- Volume-based royalties
- Social Responsibility Agreements

1. Tax payments



i) **Area-based royalties** are calculated following a **formula** laid out in the **Ghanaian constitution**:

- GH¢ 0.12 (US\$ 0.03) per hectare per year for forest reserves
- GH¢ 0.10 (US\$ 0.025) for off-reserve areas

ii) **Stumpage fees** are calculated from international timber prices.

- Currently range between US\$ 2.3 and US\$ 30 per m³.

3. Social Responsibility Agreements

- SRAs are negotiated **between each affected community and the logging company** (witnessed by the Forestry Commission; Traditional Authorities; and the District Assembly representatives).
- They include a **list of materials and services** (usually schools, health centres, water/electricity, etc) the logging company will provide the communities. These must be **equal in value to 5% of the stumpage fees** the company pays.
- **It is a condition of Ghanaian logging contracts (TUCs) that a SRA is agreed prior to the finalisation of the contract.** And the SRAs are a legality verifier in Ghana's VPA.

Illegality risks in social obligations

- **With payments in cash:**
 - taxes not being paid at all (or not enough)
 - not being paid to the right party
- **With social agreements:**
 - Not being negotiated at all
 - Not being negotiated according to the right process
 - Content doesn't follow legal guidelines (eg. Ghana 5% of stumpage fees)
 - Not up to date (eg. Ghana every 3 years)
 - Not implemented

How can you check law is being met?

- look at legality grid of VPAs! On EFI website.
- contact local NGOs who do independent monitoring of legality

What documents should you look for?

In the case of a payment, you're asking:

1. Has the right amount been paid?
2. Has it been paid to the right person?

Documents:

- Copy of most updated legal text showing how much tax they owe & to whom;
- Receipt of tax payment
- Financial statement of operator
- Showing how it was calculated (hectares of concession * rate; or volume of timber * rate)

What documents should you look for?

In the case of a social agreement:

1. Has the social agreement been negotiated correctly?
2. Is it being implemented?

For social agreement:

- Copy of updated legal text showing what social agreement requirement is;
- Copy of social agreement, signed by all the parties required by law.
- Companies can document how obligations in social agreement are being met, including with photos if possible.
- Independent monitoring reports by civil society



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