Research Paper

Environment and Society Programme

March 2022

Forest sector revenues in Ghana, Liberia and the Republic of the Congo

The impact of reforms on collection and disbursement

Alison Hoare and Thiago Kanashiro Uehara

CHATHAM HOUSE

Chatham House, the Royal Institute of International Affairs, is a world-leading policy institute based in London. Our mission is to help governments and societies build a sustainably secure, prosperous and just world.

Contents

Summary

- Good fiscal management is of critical importance if the forest sector is to fulfil its potential to contribute to sustainable development. In recognition of this, fiscal management has been the focus of much attention from the international community, including through the EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan and the Extractive Industries Transparency Initiative (EITI).
- This paper assesses whether fiscal management in the forest sector has improved as a result of these reform efforts, focusing on three African countries: Ghana, Liberia and the Republic of the Congo. Two questions are considered: whether the efficiency of forest revenue collection has improved over the last decade, and whether revenues are being disbursed to subnational governments and to forest communities as is legally required.
- While some improvements have been seen over the last decade, neither governments nor rural communities in those three countries are receiving the amount of revenues they are entitled to from the forest sector.
- With respect to the efficiency of forest sector revenue collection – the proportion of revenues collected compared to those invoiced – the available evidence in Ghana suggests that this is mostly good, while in Liberia and the Congo, efficiency is poor with arrears in the millions of dollars.
- There are limited data in all three countries on the revenues that are being disbursed from central to subnational governments. More information is available on benefit-sharing arrangements with communities. In the Congo, compliance remains weak while in Ghana and Liberia there is some evidence of improvements in compliance on the part of both government and companies. However, communities are still owed significant revenues.
- For all three countries, access to robust data on forest sector revenues remains inadequate. Given that enhanced transparency has been an important factor underlying the progress seen in fiscal management, further reforms in this area should be prioritized.

01 Introduction

Improving fiscal management has been a priority for international reform efforts in the forest sector, in particular through the FLEGT VPAs and the EITI, prompting the question of whether progress has been made.

Good fiscal management is of critical importance if the forest sector is to fulfil its potential to contribute to sustainable development. In recognition of this, fiscal management has been the focus of much attention from the international community as part of reform efforts in the sector.

Two international initiatives in particular have been working to strengthen fiscal management in the forest sector since the early 2000s: the EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, and the Extractive Industries Transparency Initiative (EITI).

Through the FLEGT Action Plan, established in 2003, the EU has been working with partner countries in the tropics to tackle illegal logging, with the aim of supporting sustainable forest management and broader development objectives.[1] Central to this has been support for forest governance reforms, including a range of measures aimed at strengthening the management of forest sector revenues. These have included policy and institutional reform, the development of financial management systems, and capacity strengthening for governments and civil society.

At the same time, the EITI has been working to 'curb corruption, strengthen governance and support inclusive development' through increased transparency of public finances and expenditures.[2] Established in 2002, it requires the publication of data by both the private sector and governments, in order

1 European Commission (2003), *Communication from the Commission to the Council and the European Parliament: Forest Law Enforcement, Governance And Trade (FLEGT) – Proposal for an EU Action Plan*, May 2003, COM(2003) 0251 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52003DC0251.
2 Extractive Industries Transparency Initiative (2020), 'The global standard for the good governance of oil, gas and mineral resources', fact sheet, https://eiti.org/document/eiti-factsheet.

to improve accountability in the management of natural resource revenues. While the EITI focuses mainly on the oil, gas and mining sectors, a number of countries have decided to extend their reporting to include their forest sectors.

Given the attention that these issues have received over the last two decades, the question arises of whether fiscal management has improved as a result. To explore this, IPE Triple Line and Chatham House undertook and commissioned research in Ghana, Liberia and the Republic of the Congo.

The three countries were selected because of their engagements in these two international initiatives; all three have negotiated FLEGT Voluntary Partnership Agreements (VPAs) with the EU, and in the cases of Liberia and the Congo, they both report on their forest sectors under the EITI. Pragmatic reasons also played a role in this choice: the availability of national experts and access to relevant data.

The research considered two issues:

— Whether the efficiency of forest revenue collection has improved over the last decade, and what factors have contributed to this; and

— To what extent revenues are being disbursed to subnational governments and to forest communities in line with national legislation.

Data availability and usability are still challenging in the three countries, and the size of the research project did not allow for extensive primary data collection. Therefore, this research could only explore certain aspects of these questions. The paper presents initial findings and highlights those areas where further research is needed.

Methodology

The research focused on the fiscal regime connected to timber production, primarily from industrial forest concessions. This is the main source of forest sector revenues for the government in Ghana and the Congo. In Liberia, over the last decade, logging has increasingly taken place on community lands, within the framework of the community forestry legislation (discussed further below),[3] and such production is also included within the research.

Forest revenue frameworks incorporate multiple fees and taxes along the timber value chain. Frameworks vary across countries but, broadly, these charges can be characterized as:

— **Area-based charges**, calculated according to the forest land area under exploitation, often expressed as a form of 'ground rent';

3 Log production under community forestry management agreements accounted for 43 per cent of total log production reported in the EITI report for financial year 2018/19. Liberia Extractive Industries Transparency Initiative (2021), *EITI report, FY 2018/2019*, https://www.leiti.org.lr/sites/default/files/documents/liberia_12th_eiti_report_signed.pdf.

— **Volume-based charges**, calculated according to the volume of timber under consideration. These can be linked to timber production (for instance stumpage fees), or processing (transport fees, and charges connected with transfer of ownership). Some charges are based on the volume harvested, while others consider the volume of timber that can be commercialized; and

— **Timber export levies and taxes**, usually also calculated by volume. However, these are worth considering separately from other volume-based charges because the mechanisms for collecting and distributing export charges are markedly different.

Some of the revenues generated through these charges are allocated to the forest sector, while others feed general national and subnational budgets, or are assigned to specific sectoral and non-sectoral use (such as plantation or infrastructure development). In addition, timber concession holders are sometimes required to establish bilateral agreements with local communities or local administrations. These may involve cash payments, 'in kind' payments, or both.

This research considered those taxes and fees that accounted for the majority of government revenues and sought to establish the efficiency with which they are being collected – that is, the proportion of revenues collected by the government compared to those that are invoiced. Furthermore, it sought to determine the level of compliance with legal requirements for governments to disburse these revenues to the subnational level, and for companies to provide funds to rural communities through benefit-sharing arrangements. An overview of the main forest sector taxes investigated for this paper is provided in Table 1, and a summary of the disbursement mechanisms is provided in Table 3.

Research was commissioned and undertaken by IPE Triple Line and Chatham House, and took place between September and December 2020. IPE Triple Line commissioned the research for Ghana and undertook most of the research for Liberia. Chatham House undertook some additional analysis for Liberia and commissioned the research for the Congo.[4]

Data for the research were obtained from multiple sources: reports and statistics from government, EITI and civil society organizations. Interviews with both forestry officials and non-governmental organization (NGO) representatives fed into the interpretation of data.

For Ghana, data on export revenues came from the annual reports of the Forestry Commission, which are publicly available, and from the Ministry of Finance. The data on stumpage fees and on payments made under social responsibility agreements (SRAs) were provided on request by the Ministry of Land and Natural Resources, the Forestry Commission and civil society organizations. Data were compiled for the period 2010–19.

---

4 IPE Triple Line (unpublished), *Ghana Forest Revenue Study*, report, 4 January 2021; IPE Triple Line (unpublished), *Using Timber Legality Assurance Systems (TLAS) and Other Nationally Available Data to Assess Changes in Behaviour and Governance in the Forest Sector in Liberia*, report, October 2020; Policy Evaluation Learning Team (PELT) – Forest Governance Markets and Climate (FGMC) (unpublished), *Forest Revenue Report, Republic of the Congo*, report, April 2021.

For Liberia, data were compiled from the monthly reports of LiberTrace, the national timber legality verification system, for the period 2014–20.[5] Data were also sourced from EITI annual reports, which were available for the financial years 2007/08 up to 2018/19.[6] Data on social agreements and benefit-sharing were provided by the National Union of Community Forestry Development Committee (NUCFDC).

For the Congo, data were compiled for the 10 subnational administrative divisions (departments) where there is an active forest sector.[7] The Ministry of Forest Economy and the subnational forestry offices provided annual reports on request, these covered the period 2010–19. EITI annual reports were also accessed, these were available for the financial years 2015/16 to 2017/18.[8]

Revenue data are provided in US dollars. This is the currency in use in Liberia. For the Congo and Ghana, conversions from the national currency were made using IMF annual market exchange rates.[9]

Approaches to enhancing revenue collection and disbursement under VPAs and the EITI

The EU's support for strengthening fiscal management in the forest sector has predominantly been through the framework of VPAs, a core element of the FLEGT Action Plan. These are bilateral trade agreements between the EU and timber-producing countries, under which national licensing systems for legal timber are established. These systems are developed through a multi-stakeholder process and include establishing a definition of legal timber. This has brought about policy and legal reforms in partner countries, including many reforms related to the fiscal framework.[10]

Ghana, Liberia and the Congo are at various stages of implementation in regard to these agreements and the associated reform processes.

Ghana began negotiating a VPA with the EU in 2007, which entered into force in 2009.[11] Development of a digital wood-tracking system began the same year and was implemented across the country in 2017, with a revised version introduced in 2022. The system is only accessible to government officials. However, some data are made publicly available through an online portal developed by civil society,[12] and other data are available on request. The country's definition

5 LiberTrace reports are public, and some are available through the LiberTrace website: https://libertrace.sgs.com. In December 2021, only those reports from 2019 and 2020 were available online.
6 Liberia Extractive Industries Transparency Initative (undated), 'LEITI Reports', https://www.leiti.org.lr/publications/document-type/leiti-reports.
7 The 10 departments are: Bouenza, Cuvette, Cuvette-Ouest, Kouilou, Lekoumou, Likouala, Niari, Plateaux, Pointe-Noire and Sangha.
8 Extractive Industries Transparency Initiative (2022), 'Republic of the Congo', https://eiti.org/republic-of-congo.
9 International Monetary Fund (undated), 'Exchange Rates selected indicators', https://data.imf.org/regular.aspx?key=61545850.
10 EUFLEGT Facility (undated), 'Voluntary Partnership Agreements', https://www.euflegt.efi.int/es/vpa.
11 EUFLEGT Facility (undated), 'Ghana: All about the Ghana-EU Voluntary Partnership Agreement', https://www.euflegt.efi.int/es/ghana.
12 The portal website is as follows: https://ghanatimbertransparency.info/#/home. However, the site is often not available, limiting access to the data.

of legal timber, which underlies the licensing system, includes criteria for the payment of fees and taxes by companies and the implementation of benefit-sharing arrangements between companies and communities.[13]

Negotiations for Liberia's VPA with the EU started in 2009 and the VPA came into force in 2013.[14] A timber legality verification system – LiberTrace – has been established as part of this process. Initially developed and managed by an independent company, SGS, the management of LiberTrace was handed over to the Forest Development Authority (FDA) in 2019. Monthly reports are published online that include data on the chain of custody and revenues. The country's definition of legal timber, established as part of the VPA process and reflected in the LiberTrace system, includes criteria for compliance of companies with their fiscal obligations and with benefit-sharing requirements.[15]

VPA negotiations between the Republic of the Congo and the EU commenced in 2008 and the VPA took effect in 2013.[16] While a timber legality verification system has been developed, it has not yet become fully operational. The underlying definition of timber legality includes criteria related to the payment of taxes and fees and for the implementation of benefit-sharing arrangements between companies and communities, both through social contracts (*cahier de charges*)[17] and local development funds.[18]

Both Liberia and the Congo also report on their forest sectors under the EITI.[19] Liberia began implementing the EITI standard in 2008, with its first report published the following year. It was the first country to include the forest sector in its EITI reporting,[20] and data are now available for the financial years 2007/08 up to 2018/19.[21] The Congo began implementing the EITI standard in 2016 and it has published four reports, most recently for 2019.[22]

---

13 European Union (2020), *Voluntary Partnership Agreement between the European Community and the Republic of Ghana on forest law enforcement, governance and trade in timber products into the Community, Annex II: Legality Definition for Issuance of FLEGT Export Licence and Legal Reform Process,* https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1504615396990&uri=CELEX:22010A0319(01).
14 EUFLEGT Facility (undated), 'Liberia: All about the Liberia-EU Voluntary Partnership Agreement', https://www.euflegt.efi.int/es/liberia.
15 European Union (2020), *Voluntary Partnership Agreement between the European Union and the Republic of Liberia on forest law enforcement, governance and trade in timber products to the European Union, Appendix A of Annex II, Legality Assurance System of Liberia,* https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22012A0719%2801%29&qid=1639330253843.
16 EUFLEGT Facility (undated), 'Republic of the Congo', https://www.euflegt.efi.int/es/republic-congo.
17 *Cahier de charges* are part of the contract for the concession, and they set out the 'benefits' (usually infrastructure, such as schools, health centres) that the company agrees to provide to the local government and to communities in the area where they are operating.
18 European Union (2020), *Voluntary Partnership Agreement between the European Union and the Republic of the Congo on forest law enforcement, governance and trade in timber and derived products to the European Union (FLEGT), Annex II, Legality Matrices for Timber Sourced from Natural Forests and Forest Plantations in Congo,* https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22011A0406%2803%29&qid=1639330596020.
19 Ghana also reports to EITI, but only for its oil, gas and mining sectors.
20 Blundell, A. (2008), *On the Benefits of Incorporating Forestry into the Extractive Industries Transparency Initiative, with Specific Reference to Liberia,* https://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/LEITI%20forestry%20report.pdf.
21 The Liberia EITI reports are available at: https://www.leiti.org.lr/publications/document-type/leiti-reports. The country was temporarily suspended from EITI in 2018 because of a failure to publish reports for the two preceding years. The suspension was lifted in 2020 after this was addressed.
22 The Republic of the Congo EITI reports are available at: https://eiti.org/republic-of-congo#eiti-reports-and-other-key-documents.

02 Collection of forest revenues

The efficiency of revenue collection has improved in Ghana but remains very weak in the Congo and Liberia. Better systems for managing fiscal data are important for enabling progress, but political commitment is also critical.

This section considers the evidence for whether there have been changes in the efficiency of forest sector revenue collection following the establishment of VPAs and EITI reporting. As noted above, efficiency refers to the proportion of revenues collected by the government compared to those invoiced.

The research focused on those taxes and fees that provide the main sources of government revenue, and an overview of these is provided in Table 1.

It is worth highlighting that efficiency is only one factor that influences whether governments are optimizing revenue collection. For example, there may be errors or fraud in the processes leading up to calculation of invoices. There is also a broader issue of the design and implementation of fiscal policies, which can have a much greater impact on the revenues that are available to governments. However, the efficiency of revenue collection is a useful indicator of the extent to which governments are enforcing fiscal policies.

Table 1. The main forest sector taxes, royalties and fees in Ghana, Liberia and the Republic of the Congo, with key legal texts

	Ghana	Liberia	Republic of the Congo
Area-based charges	**Timber rights fee (TRF):** a concession fee that is paid by holders of a timber utilization contract (TUC), established through a process of competitive bidding. Initially an annual fee, in 2017 this was changed to a one-off fee.[23] **Distribution:** 60 per cent retained by Forestry Commission, 40 per cent paid to Ministry of Finance. **Land rental fee (contract area rent):** paid by holders of a TUC to landowners. These fees are collected by the Forestry Commission which pays these rents to landowners through the Office of the Administrator of Stool Lands (OASL).[24] **Distribution:** For on-reserve forests, 60 per cent to the Forest Services Division of the Forestry Commission and 40 per cent to traditional authorities and local government. For off-reserve forests, 100 per cent to traditional authorities and local government.	**Land rental fees:** fee paid by holders of forest management contracts (FMC), timber sales contracts (TSC) and community forest management agreements (CFMAs) on the area of the concession.[25] **Distribution:** For FMCs and TSCs: 40 per cent to central government; 30 per cent to counties and 30 per cent for redistribution to affected communities.[26] For CFMAs: 55 per cent to the community owning the forest, the remainder to central government.[27] **Land rental bid premium:** until 2013 (when it was abolished) the bid premium was paid by concession holders on the basis of a competitive bidding process.[28] **Distribution:** 40 per cent to central government; 30 per cent to counties and 30 per cent for redistribution to communities.[29]	**Area tax:** fee paid by holders of concessions (forest management units) either on the area being exploited if there is a management plan in place, or on the entire area if there is no such plan.[30] Different rates are in place depending on the zone of production (north, central and south of the country).[31] **Distribution:** 50 per cent to the forestry fund (managed by the Ministry of Forest Economy) and 50 per cent for equal distribution between subnational departmental governments.[32]
Volume-based charges	**Stumpage fee:** paid on the volume of timber harvested under a TUC. The fee is to be reviewed quarterly, based on the free on board (FOB) timber prices.[33] **Distribution:** 50 per cent retained by Forestry Commission, 50 per cent for redistribution to traditional authorities and local government.[34]	**Stumpage fee:** paid on the volume of timber harvested under an FMC, TSC or CFMA. The rate is based on the FOB price, for which there are three levels, dependent on species.[35] **Distribution:** 90 per cent to central government; 10 per cent to Protected Forest Areas Network.[36] **Cubic metre fee:** fee paid by holders of FMCs and TSCs of a minimum of $1 per cubic metre, as part of their social agreements negotiated with affected communities.[37] **Distribution:** 100 per cent to affected communities.	**Felling tax:** tax based on the free on truck price of timber, by species, this being the average FOB price over the preceding 12 months, with transport costs deducted. **Distribution:** 100 per cent to the forestry fund.[38] **Deforestation tax:** fee paid by companies who carry out an activity that results in deforestation (forestry, mining, agriculture, public works). **Distribution:** 100 per cent to the forestry fund.[39] **Royalty:** paid on the volume of timber harvested at a rate of FCFA 200 per cubic metre. **Distribution:** 100 per cent for community development funds.[40]

23 UN law and Environment Assistance Platform (undated), *Timber Resources Management (Amendment) Regulations, 2003 (L.I. 1721),* https://leap.unep.org/countries/gh/national-legislation/timber-resource-management-amendment-regulations-2003-li-1721; UN law and Environment Assistance Platform (undated), *Timber Resource Management and Legality Licensing Regulations, 2017 (LI 2254)*, https://leap.unep.org/countries/gh/national-legislation/timber-resource-management-and-legality-licensing-regulations.
24 Client Earth (undated), *Timber Resources Management Regulations, 1998 (L.I. 1649)*, available here: https://www.clientearth.org/latest/documents/the-timber-resources-management-regulation-1998-l-i-1649.
25 ECOLEX (undated), *Regulation on Certain Forest Fees (FDA Regulation 107-07),* https://www.ecolex.org/details/legislation/regulation-on-certain-forest-fees-fda-regulation-107-07-lex-faoc160086.
26 ECOLEX (undated), *National Forestry Reform Law of 2006, Section 14.2*, https://www.ecolex.org/details/legislation/national-forestry-reform-law-of-2006-lex-faoc067626/?; ECOLEX (2009), *Regulation on Benefit Sharing (FDA Regulation 106-07),* https://www.ecolex.org/details/legislation/regulation-on-benefit-sharing-fda-regulation-106-07-lex-faoc160085.
27 Government of Liberia (undated), *Regulation to the Community Rights Law of 2009 with Respect to Forest Lands, as Amended*, http://extwprlegs1.fao.org/docs/pdf/lbr180010.pdf.

	Ghana	Liberia	Republic of the Congo
Timber export levies and taxes	**Export levies:** these are based on the invoiced export value, at a rate of 1.5 per cent since 2007; special and export premium levies for high-value threatened species and for lumber exports over a certain thickness (various rates) were introduced in 2014; an export levy for air-dried lumber of 10 per cent.[41] **Distribution:** 0.5 per cent of the 'basic' export levy is for the Forest Plantation Development Fund; all other revenues are retained by the Timber Industry Development Division (TIDD) of the Forestry Commission.	**Export levies:** log and wood product export fees based on the FOB price, for which there are three levels dependent on species.[42] **Distribution:** 90 per cent to central government; 10 per cent to Protected Forest Areas Network.[43]	**Export tax:** tax based on the free on truck price, at a rate depending on species, product type and zone of production.[44] **Distribution:** 50 per cent retained by government; 50 per cent for the road fund.[45]

Source: Compiled by the authors.

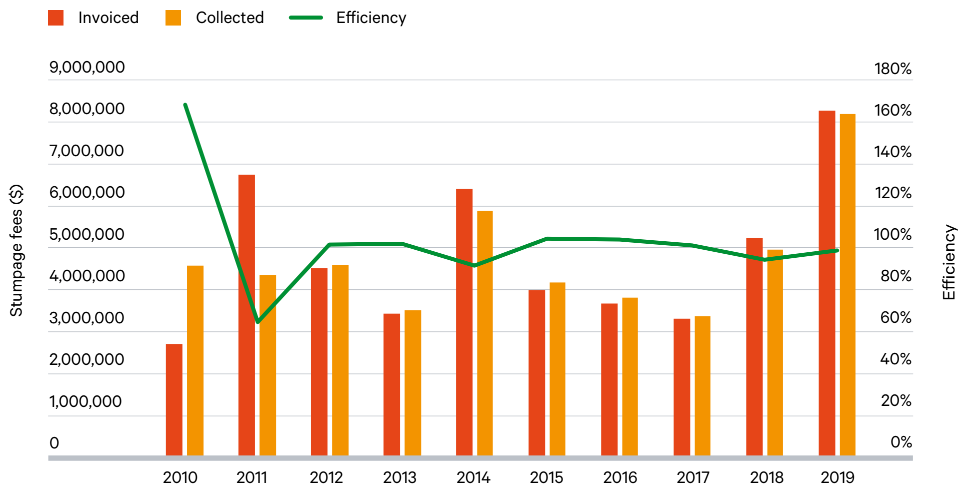
28 ECOLEX (undated), *An Act to Abolish the Payment of Annual Land Rental Bid Premium on Contract Area and Merging of Export Taxes into Stumpage/ Production Fee in the Forestry Sector of the Liberian Economy*, 17 September 2013, https://www.ecolex.org/details/legislation/an-act-to-abolish-the-payment-of-annual-land-rental-bid-premium-on-contract-area-and-merging-of-export-taxes-into-stumpageproduction-fee-in-the-forestry-sector-of-the-liberian-economy-lex-faoc160032; Government of the Congo (2002), *Arrêté nº 6382 fixant les modalités de calcul de la taxe de superficie [Order No. 6382 setting the methods for calculating the area tax]*, https://leap.unep.org/countries/cg/national-legislation/arrete-no-6382-fixant-les-modalites-de-calcul-de-la-taxe-de.
29 ECOLEX (undated), *National Forestry Reform Law of 2006, Section 14.2*; ECOLEX (undated), *Regulation on Benefit Sharing (FDA Regulation 106-07)*.
30 Droit Afrique (undated), *Code forestier, Loi n°16-2000 du 20 novembre 2000, Article 91 [Forest Code, Law No. 16-2000 of November 20, 2000, Article 91]*, http://www.droit-afrique.com/upload/doc/congo/Congo-Code-forestier-2000.pdf; ECOLEX (undated), *Arrêté n°5408/MEF/MEFB du 21 août 2007, fixant les superficies utiles à prendre en considération pour le calcul de la taxe de superficie [Order n°5408/MEF/MEFB of August 21, 2007, fixing the usable areas to be taken into consideration for the calculation of the area tax]*, https://www.ecolex.org/details/legislation/arrete-no-5408-fixant-les-superficies-utiles-a-prendre-en-consideration-pour-le-calcul-de-la-taxe-de-superficie-lex-faoc074637.
31 UNEP Law and Environment Assistance Platform (undated), *Arrêté n°6382 de 2002 fixant les modalités de calcul de la taxe de superficie [Order No. 6382 of 2002 setting the methods for calculating the area tax]*, https://leap.unep.org/countries/cg/national-legislation/arrete-no-6382-fixant-les-modalites-de-calcul-de-la-taxe-de.
32 Decree n°2002-438 of 31 December 2002 states that 50 per cent of this tax is for the departments and is to be distributed equally among them. However, Decree n°2004-165 of 26 April 2004 states that 50 per cent of this fee should be allocated to the road fund. This contradiction was addressed in the 2020 Forest Law, which reaffirms that 50 per cent of this tax should go to departments.
33 Client Earth (undated), *Timber Resources Management Regulations, 1998 (L.I. 1649)*; UN law and Environment Assistance Platform (undated), *Timber Resources Management (Amendment) Regulations, 2003 (L.I. 1721)*.
34 Mensah Mawutor, S. and Young, D. (2017), *District Assembly Use of Timber Royalties in Ghana*, Civic Response, https://loggingoff.info/wp-content/uploads/2017/05/CR-DA-Royalties-Final-2.pdf.
35 ECOLEX (undated), *Regulation on Certain Forest Fees (FDA Regulation No. 107-07), section 22*, https://www.ecolex.org/details/legislation/regulation-on-certain-forest-fees-fda-regulation-107-07-lex-faoc160086.
36 ECOLEX (undated), *National Forestry Reform Law of 2006, Section 14.2.*
37 ECOLEX (undated), *Regulation on Major Pre-Felling Operations under Forest Resources Licenses (FDA Regulation 105-07), Section 34,* https://www.ecolex.org/details/legislation/regulation-on-major-pre-felling-operations-under-forest-resources-licenses-fda-regulation-105-07-lex-faoc160084.
38 Republic of the Congo, Ministry of Economy, Industry and Public Portfolio (2009), *Loi n°14-2009 du 30 décembre 2009 modifiant certaines dispositions de la loi n°16-2000 du 20 novembre 2000 portant Code forestier [Law No. 14-2009 of December 30, 2009 amending certain provisions of Law No. 16-2000 of November 20, 2000 on the Forest Code]*, https://economie.gouv.cg/fr/content/loi-n%C2%B014-2009-du-30-d%C3%A9cembre-2009-modifiant-certains-dispositions-de-la-loi-n%C2%B016-2000-du-20.
39 Droit Afrique (undated), *Code forestier, Loi n°16-2000 du 20 novembre 2000 [Forest Code, Law No. 16-2000 of November 20, 2000]*.
40 Schmitt, A. and Baketiba, B. (2015), *Revue et analyse des principaux mécanismes de partage des bénéfices existants en République du Congo* [Review and analysis of the main existing benefit sharing mechanisms in the Republic of Congo], p. 32, https://www.euredd.efi.int/documents/15552/236515/01+Rapport+m%C3%A9canismes+partage+de+b%C3%A9n%C3%A9fices_RoC.pdf/64228d9f-86ff-464c-a26e-e9c506864abe.
41 ECOLEX (undated), *Trees and Timber (Amendment) Act, 1994 (Act No. 493 of 1994)*, https://www.ecolex.org/details/legislation/trees-and-timber-amendment-act-1994-act-no-493-of-1994-lex-faoc068404/; ECOLEX (undated), *Forestry Commission Act, 1999 (Act No. 571 of 1999)*, https://www.ecolex.org/details/legislation/forestry-commission-act-1999-act-no-571-of-1999-lex-faoc034739.
42 ECOLEX (undated), *Regulation on Certain Forest Fees (FDA Regulation No. 107-07),* Sections 44 and 45.
43 ECOLEX (undated), *National Forestry Reform Law of 2006, Section 14.2.*
44 Republic of the Congo, Ministry of Economy, Industry and Public Portfolio (2009), *Loi n°14-2009 du 30 décembre 2009 modifiant certaines dispositions de la loi n°16-2000 du 20 novembre 2000 portant Code forestier [Law No. 14-2009 of December 30, 2009 amending certain provisions of Law No. 16-2000 of November 20, 2000 on the Forest Code]*.
45 Republic of the Congo, Ministry of Economy, Industry and Public Portfolio (2004), *Décret n°2004-165 du 26 avril 2004 fixant la composition, les modalités d'emploi, de recouvrement et de versement des ressources du fonds routier [Decree No. 2004-165 of April 26, 2004 setting the composition, methods of use, collection and payment of road fund resources]*, https://economie.gouv.cg/fr/content/d%C3%A9cret-n%C2%B02004-165-du-26-avril-2004-fixant-la-composition-les-modalit%C3%A9s-demploi-de.

The evidence from Ghana

In Ghana, stumpage fees and export taxes have been the main sources of forest-sector revenue over the last decade, with area-based taxes and fees contributing relatively little. The land rental fee only has the potential to generate a low level of revenue,[46] while timber rights fees could contribute significant revenues, but they have not been collected (discussed below). An assessment of the efficiency of collection was undertaken for stumpage fees. For export fees, data on revenues generated were compiled but no assessment was made of collection efficiency due to the time constraints of the research.

Comparing stumpage fees invoiced to those collected shows a high level of efficiency throughout the last decade (Figure 1). The country's digital wood-tracking system has reportedly been an important factor in achieving this as it has reduced opportunities for fraud,[47] at least from the point of invoices being calculated by District Forestry Offices.[48] This had been a widespread problem in the early 2000s.[49]

Figure 1. Stumpage fee revenues, Ghana ($)

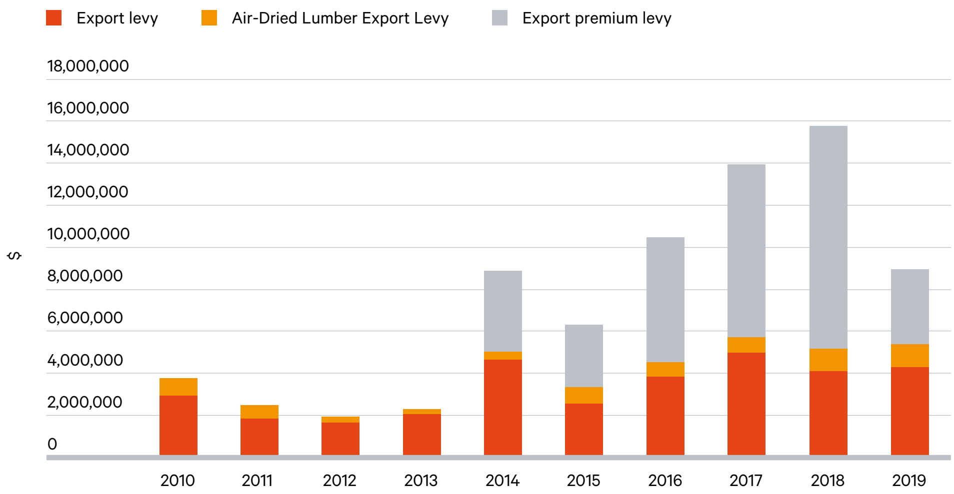


Source: Adapted from IPE Triple Line (unpublished), *Ghana Forest Revenue Study*, Report, 4 January 2021, based on data from the Forestry Commission (Forest Service Division, Resource Management Support Centre and Timber Validation Department).
Note: Where the fees collected exceed the amount invoiced, this is most likely due to payment of arrears.

46 The contributions of the stumpage fee and land rental to total royalties are approximately 97 per cent and 3 per cent, respectively. Mensah Mawutor and Young (2017), *District Assembly Use of Timber Royalties in Ghana*.
47 Overdevest, C. and Zeitlin, J. (2018), 'Experimentalism in transnational forest governance: Implementing European Union Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreements in Indonesia and Ghana', *Regulation & Governance*, 12(1), pp. 64–87, https://doi.org/10.1111/rego.12180.
48 The risk of fraud prior to this point still exists, in part due to the limited capacity of government officials to monitor the harvesting activities of companies.
49 Young, D. (2005), *Scoping Study Independent Forest Monitoring (IFM) In Ghana*, Global Witness, https://cdn2.globalwitness.org/archive/files/library/ghanaifmscopingstudyfinal.pdf; Forest Watch Ghana, et al. (2013), *Real Loss in Stumpage Values in Ghana's Forest Sector 2003–2012*, https://loggingoff.info/wp-content/uploads/2015/09/784-1.pdf.

The available data on export taxes show that revenues have increased over the last decade (Figure 2). However, this was primarily due to the introduction of the export premium levy in 2014 together with a surge in harvesting of African rosewood. According to officials, improved collection efficiency of export taxes has also contributed to this increase, and this was put down to moving the collection site of these taxes from customs to the point of production or processing in 2014.[50] This meant that companies were invoiced directly, whereas previously, invoicing and collection of these taxes was through the export negotiating banks, a change that helped to increase the Forestry Commission's control over collection of these revenues. However, the data were not collected to enable this to be corroborated.

Figure 2. Revenue from export levies, Ghana ($)



Source: Adapted from IPE Triple Line (unpublished), *Ghana Forest Revenue Study*.

The third main type of forest tax is the timber rights fee (TRF). This was introduced in 2003 with the establishment of a process for competitive bidding for the allocation of timber rights. Initially it provided an important source of forest sector revenues for the government – 50 per cent of these revenues at its peak in 2007[51] – but contributions subsequently dropped to very low levels, accounting for less than 1 per cent of forest sector revenues over the following decade. This was because the majority of operating companies refused to pay[52] as they disagreed with it being applied retrospectively.[53] In 2017, partly as a solution to this situation, the TRF was changed from an annual to a one-off payment. By the end of 2021,

50 Personal communications with government officials, November 2020.
51 Birikorang, G. (2008), *Public revenue analysis of the forestry, mining and environment sector*, Natural Resources And Environmental Governance (NREG) Programme, Ministry of Finance And Economic Planning, Ghana, in EcoEcon (undated), *Public Expenditure Review of the Forestry Sector*, Republic of Ghana and World Bank Group, https://mofep.gov.gh/sites/default/files/reports/economic/NREG%20Report.pdf.
52 GNA (2005), 'Timber companies failing to pay bid fees', *Modern Ghana,* 9 August 2005, https://www.modernghana.com/news/83713/timber-companies-failing-to-pay-bid-fees.html.
53 This was linked to the fact that the government had not converted existing leases to timber utilization contracts, as had been required under 1997 legislation. Preferred by Nature (2017), *Timber Legality Risk Assessment Ghana*, Version 1.2, November 2017, https://preferredbynature.org/sites/default/files/library/2017-12/NEPCon-TIMBER-Ghana-Risk-Assessment-EN-V1.2.pdf.

most companies had agreed to this and had applied to convert their existing leases to timber utilization contracts (TUCS) that, once approved, would require payment of this fee.[54]

The evidence from Liberia

In Liberia, the current main sources of forest sector revenue are stumpage fees, land rental and export taxes; prior to 2013, the land rental bid premium was also an important source of revenue.

Unpaid forest taxes have been a persistent problem in Liberia since commercial logging was formally resumed. This restarted after the UN sanctions on timber exports from the country were lifted in 2006. These were imposed three years earlier because of the role that the timber sector had played in the civil war.

Analysis of the country's annual EITI reports by Forest Trends indicated that over the 2007–15 period, the government collected $74 million in revenues from the sector, with $49 million in arrears.[55]

A significant proportion of the arrears accumulated prior to 2013 was due to the non-payment of the land rental bid premium – an annual fee that had been established as part of the bidding process for forest concessions (see Table 1). The bid premium accounted for more than 70 per cent of the $49 million arrears in 2015.[56] Companies had been refusing to pay this as they claimed that they had understood this to be a one-off fee, and it was abolished in 2013.[57]

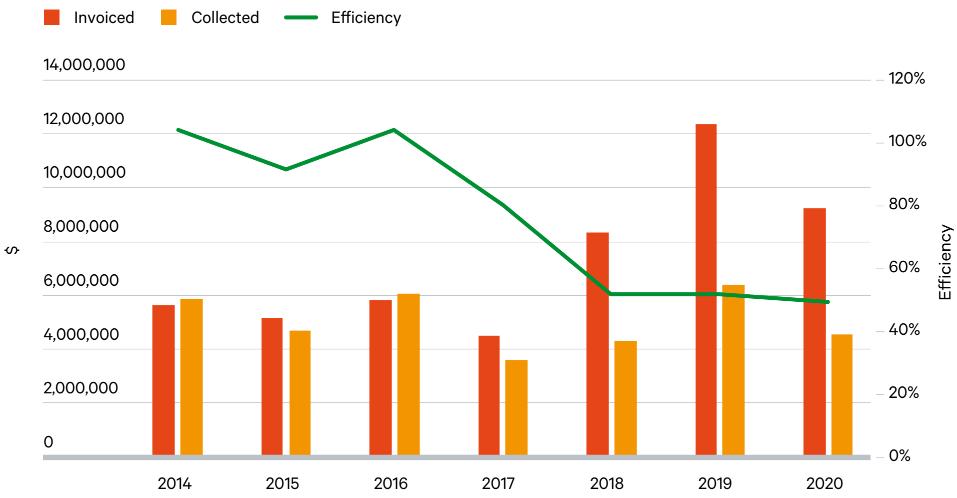
The government has sought to recoup these historical debts. The 2013 act that abolished the bid premium stated all arrears for this fee accrued up to the fiscal year 2011/12 were due to be paid within three years, or as agreed with the government. However, $11.7 million of these arrears were reported as outstanding as of July 2019.[58] New payment schedules were negotiated with companies for some of these arrears (as well as those for other taxes),[59] however, compliance with these has been reported to be low.[60]

54 Under the *Timber Resource Management and Legality Licensing Regulations, 2017 (LI 2254)* extant leases can be converted to timber utilization contracts through a 'one-off' payment of a timber rights fee. Government of Ghana and the EU (undated), *Progress Report, 2013 – 2017: Implementing the Ghana-EU FLEGT Voluntary Partnership Agreement*, available at: https://www.euflegt.efi.int/documents/10180/438736/Ghana+Progress+Report+2013+%e2%80%93+2017.pdf/96b75d78-7eb8-0761-85c2-3daa07e7dfe6.
55 Forest Trends (2020), *Community Benefits Sharing in the Forestry Sector: Liberia's Legislative Framework and Track Record on Sharing Land Rental Fees from Commercial Forestry, 2007-2019*, p. 15, https://www.forest-trends.org/wp-content/uploads/2020/07/Benefits_Sharing_Liberia_Final-1.pdf.
56 NGO Coalition of Liberia (2014), 'The Act to Abolish the Bid Premium & its implications for Liberia's revenue flow', https://loggingoff.info/wp-content/uploads/2015/09/847-1.pdf. This briefing states that 82 per cent of the $43 million in arrears from 17 concessions in 2013 were represented by the bid premium, so $35 million, or 71 per cent of the total arrears reported of $49 million.
57 Forest Trends (2020), *Community Benefits Sharing in the Forestry Sector,* annex 2; NGO Coalition of Liberia (2014), 'The Act to Abolish the Bid Premium & its implications for Liberia's revenue flow'.
58 Sofreco and EcoNixus (2019), *Liberia Forest Sector Project: Legality review of forest concessions in Liberia*, Review Report, Republic of Liberia and World Bank, Section 4.2.2.7.1: Payments of concession fee payments, https://loggingoff.info/wp-content/uploads/2021/10/EQO-NIXUS2019-LiberiaForestConcessionReview-Draft.pdf.
59 Ibid.
60 This was stated by the government at the Joint Implementation Committee meeting. Liberia–EU FLEGT Voluntary Partnership Agreement (2020), 'Aide Memoire, 8th meeting of the Joint Implementation Committee', Monrovia, 24–26 November 2020, paragraph 37, https://www.euflegt.efi.int/documents/10180/485351/8th_JIC-Signed-Aide-Memoire-and-Annexes.pdf/374be999-b979-1d41-2f36-4d74cf46bc71.

In 2017, legislation was passed allowing companies to write off their arrears through investments in wood-processing facilities made in the period 2016–20.[61] However, the extent to which this mechanism has been used by companies is unclear because it has not been systematically documented. The LiberTrace report for March 2019 notes that one company was issued a tax credit and so only paid 15 per cent ($95,126) of the total land rental due,[62] and in the 2018/19 LEITI report, two projects were reported for which a tax credit had been granted, valued at $3.9 million in total.[63] The government also noted to the VPA Joint Implementation Committee in 2020 that two further tax credits had been issued with a total value of $5.1 million.[64]

Tax collection rates have also worsened in recent years (Figure 3). Data from LiberTrace indicate that of the $51 million invoiced for the period 2014–20 (up to October 2020), $35.5 million in revenues had been collected, leaving $15.5 million in arrears.[65] The bulk of this debt has been accumulated since 2018, and is mainly due to arrears in land rental fees.

Figure 3. Total forest sector revenues, Liberia ($)



Source: Data compiled from IPE Triple Line (unpublished), *Using Timber Legality Assurance Systems (TLAS) and Other Nationally Available Data to Assess Changes in Behaviour and Governance in the Forest Sector in Liberia;* LiberTrace monthly performance reports for 2020, https://libertrace.sgs.com.
Note: Forest sector revenues reported on by LiberTrace include stumpage fees, land rental fees, export taxes, and other administrative and management charges. Where the fees collected exceed the amount invoiced, this is most likely due to payment of arrears.

61 The Forest Industrial Development and Employment Regime Act was passed in 2017, enabling companies to write off their arrears through investments in wood-processing facilities made between 2016 and 2020. World Bank (2018), *Liberia: Country Forest Note*, https://documents1.worldbank.org/curated/en/233271527176589175/pdf/Liberia-Country-Forest-Note.pdf.
62 LiberTrace (undated), *Quarterly Agreement Performance Updates, March 2019*, section 1.2 and table 17, https://libertrace.sgs.com.
63 LEITI (2021), *Liberia Extractive Industries Transparency Initiative: EITI Report FY 2018/2019,* https://www.leiti.org.lr/sites/default/files/documents/liberia_12th_eiti_report_signed.pdf; since 2019, companies are required to report to EITI on their provision of infrastructure. The LEITI Multi-stakeholder Steering Group agreed that those companies paying more than $500,000 in revenues to the government for that year should also report on any infrastructure provisions, see Section 1.3.7.
64 Liberia–EU FLEGT Voluntary Partnership Agreement (2020), 'Aide Memoire, 8th meeting of the Joint Implementation Committee', paragraph 37.
65 IPE Triple Line unpublished research data for this paper and additional data for 2020 from LiberTrace reports, available at: https://libertrace.sgs.com.

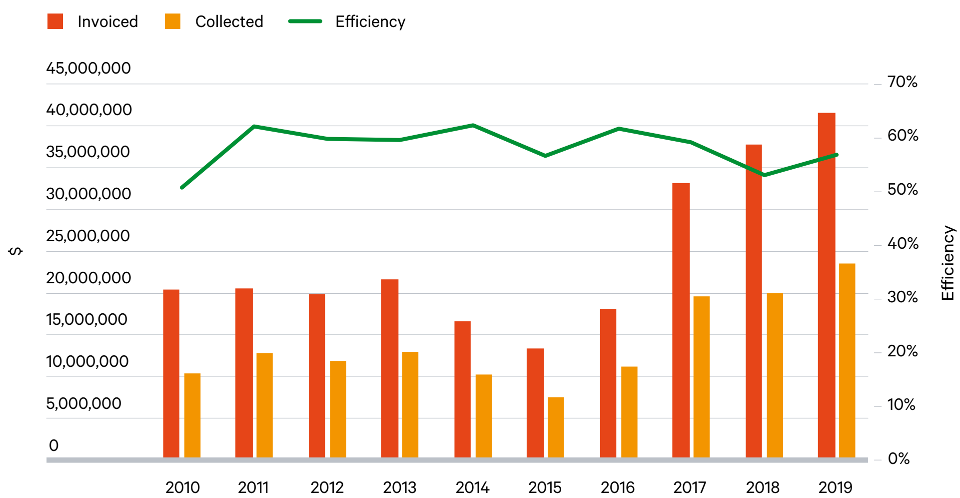
Furthermore, the LiberTrace data show that companies are being granted export permits despite being in tax arrears. For the period of 2014–19, IPE Triple Line found that half the companies that were issued export permits had not paid their taxes, with a number of companies being persistently in arrears.[66] While many are reported to have negotiated new payment schedules or exemptions, the government indicated that there has been a low level of compliance with these arrangements suggesting that the issuance of export permits is not being used as a mechanism to ensure payment of taxes.[67]

The evidence from the Republic of the Congo

In the Congo, felling, area and export taxes are the main sources of forest sector revenue, with a much smaller contribution from the deforestation tax. This paper does not include export taxes, however, as it was not possible to access this data within the time frame of the research.

For the three taxes linked to timber harvesting (felling, area and deforestation taxes), tax collection efficiency has been about 50–60 per cent over the last decade (Figure 4).[68] Thus, while revenues collected in 2019 were over twice those in 2010, so too were tax arrears.

Figure 4. Total forest revenues (felling, area and deforestation taxes), the Congo ($)



Source: Unpublished data provided by Ministry of Forest Economy.

66 Based on analysis by Triple Line of LiberTrace monthly reports for this period.
67 Liberia–EU FLEGT Voluntary Partnership Agreement (2020), 'Aide Memoire, 8th meeting of the Joint Implementation Committee', paragraph 37; Sofreco and EcoNixus (2019), *Liberia Forest Sector Project: Legality review of forest concessions in Liberia*, section 4.2.2.7.1.
68 The taxes considered here are the area tax, felling tax and deforestation tax. Data on import and export taxes were not readily available. The efficiency rate is based on the forest ministry departmental data, rather than that of the treasury.

Revenue collection efficiency varied between the three types of tax: 68 per cent for the felling tax; 47 per cent for the area tax; and 39 per cent for the deforestation tax (see Table 2).

Table 2. Efficiency of collection of forest taxes (felling, area and deforestation taxes), the Congo ($)

	Felling tax			Area tax			Deforestation tax		
	Due	Paid	Efficiency (%)	Due	Paid	Efficiency (%)	Due	Paid	Efficiency (%)
2010	8,550,923	5,547,599	65	11,538,463	4,652,112	40	384,730	198,026	51
2011	8,282,554	5,980,054	72	11,816,772	6,553,292	55	498,713	248,366	50
2012	8,268,192	5,945,598	w	11,102,804	5,751,348	52	508,216	211,011	42
2013	9,133,808	6,925,118	76	11,726,094	5,552,466	47	767,302	426,102	56
2014	6,789,891	5,383,373	79	9,138,524	4,592,820	50	620,903	332,444	54
2015	6,189,141	4,192,783	68	6,625,377	3,175,874	48	567,225	206,783	36
2016	11,022,103	8,065,484	73	6,360,534	2,945,493	46	671,133	131,396	20
2017	19,407,795	13,552,464	70	12,878,149	5,852,925	45	917,187	205,111	22
2018	23,676,048	14,006,468	59	13,140,608	5,615,400	43	965,466	427,632	44
2019	26,434,108	17,394,143	66	14,336,528	5,952,808	42	755,780	236,093	31
Total	**127,754,563**	**86,993,085**	**68**	**108,663,852**	**50,644,538**	**47**	**6,656,656**	**2,622,964**	**39**

Source: Unpublished data provided by the Ministry of Forest Economy.

In 2009 the government introduced a number of fiscal measures aimed at supporting the industry, including allowing companies to negotiate reductions in their tax arrears through carrying out certain work, such as the construction of infrastructure. Until recently, there has been little information on the extent to which this has been taken advantage of, although (as in Liberia) reporting on the provision of infrastructure by companies began in 2019 under the EITI. Thus, in the Congo's 2019 report, it was noted that work valued at around $10.5 million had been implemented up to the end of that year.

Key findings

The three countries present a mixed picture. The situation is best in Ghana. Here the collection of stumpage fees and export taxes is reported to be largely effective and to have improved compared to 10 years ago, although further research is needed to corroborate this. In Liberia, the level of arrears remains high, both due to a failure to collect historical debts and continued poor collection efficiency. In the Congo, the efficiency of revenue collection has remained low, with no evidence of improvement.

Tax breaks have been deployed in both Liberia and the Republic of the Congo to reduce the tax burden on companies, and the available data show that these are significant in value – amounting to several million dollars in each country in 2019 alone. However, transparency is lacking and there are limited available data on these, which increases the risk of corruption.

The improvements in Ghana have been attributed to the implementation of the digital wood-tracking system and reform of the structures and processes for managing revenues.[69] In Liberia, the establishment of LiberTrace has also improved the management and accessibility of data. However, the fact that export permits continue to be granted to companies in arrears, and authorities are failing to collect the revenues due, suggests that there is less commitment to enforcing the fiscal framework. In the Congo, many reforms in the fiscal sector are still to be fully implemented and weak institutional capacity remains a major hurdle.[70]

69 Mensah Mawutor and Young (2017), *District Assembly Use of Timber Royalties in Ghana*; Hoare, A., et al. (2020), *Forest Sector Accountability in Cameroon and Ghana*, Research Paper, London: Royal Institute of International Affairs; https://www.chathamhouse.org/2020/10/forest-sector-accountability-cameroon-and-ghana; Overdevest and Zeitlin (2018), 'Experimentalism in transnational forest governance'.
70 See country profiles at www.forestgovernance.chathamhouse.org.

03 Disbursement of forest revenues

Despite some improvements in transparency, information on revenue disbursement is limited, hindering efforts to hold governments and companies to account.

Forest sector revenues are disbursed and used in diverse ways by governments. An objective in many countries is that a proportion of forest revenues should be used to support rural development and, in particular, to benefit those forest communities affected by logging activities.

There are a number of mechanisms that can support rural development. One of these is through the disbursement of revenues to subnational governments. All three countries assessed in this paper have legislation requiring that a proportion of forest revenues collected by government are shared in this way. In Ghana and Liberia, the government is also responsible for disbursing a proportion of forest sector revenues to forest communities.

Furthermore, companies in Ghana, Liberia and the Congo are required to establish benefit-sharing arrangements directly with communities. Such arrangements are aimed in part at providing compensation for the loss of access to land and resources, while also seeking to support local development. These are summarized in Table 3 and further details are provided in the country sections below.

Table 3. Company obligations for benefit-sharing in Ghana, Liberia and the Republic of the Congo

Responsible for disbursement	Ghana	Liberia	Republic of the Congo
Government	**Land rental fee (contract area rent):** For on-reserve forests, 60 per cent to the Forest Services Division of the Forestry Commission and 40 per cent to traditional authorities and local government; for off-reserve forests, 100 per cent to traditional authorities and local government. Collected by the Forestry Commission, which pays these rents to landowners through the OASL. **Stumpage fee:** 50 per cent retained by Forestry Commission, 50 per cent for redistribution to traditional authorities and local government. Collected by the Forestry Commission, which pays to landowners through the OASL.	**Land rental fees:** For FMCs and TSCs, 40 per cent to central government; 30 per cent to counties and 30 per cent to affected communities. For CFMAs, 55 per cent to the community owning the forest, the remainder to central government. Collected by the Liberian Revenue Authority, which distributes these fees to County Forestry Development Funds, and to a dedicated account for distribution to communities. **Land rental bid premium:** until 2013 (when it was abolished) 40 per cent to central government; 30 per cent for distribution to counties and 30 per cent to communities.	**Area tax:** 50 per cent to the forestry fund (managed by the Ministry of Forest Economy) and 50 per cent is for equal distribution between subnational departmental governments. Collected by the Directorate General for the Treasury, to be paid into a special account for distribution.
Private sector	**Social responsibility agreements (SRAs):** 5 per cent of stumpage fee paid to communities (in cash or in kind) as established in SRAs.	**Cubic metre fee:** paid by holders of FMCs and TSCs at a minimum of $1 per cubic metre, as part of their social agreements negotiated with affected communities.	**Royalty:** paid on the volume of timber harvested, at a rate of FCFA 200 per cubic metre, to be paid to a local development fund.[71] **Social contracts:** previously negotiated with the state, but under the 2020 Forest Law, to be negotiated directly with communities.[72]

71 Schmitt and Baketiba (2015), *Revue et analyse des principaux mécanismes de partage des bénéfices existants en République du Congo* [Review and analysis of the main existing benefit sharing mechanisms in the Republic of Congo], p. 32.
72 Droit Afrique (undated), *Code forestier, Loi n°16-2000 du 20 novembre 2000 [Forest Code, Law No. 16-2000 of November 20, 2000]*; FAOLEX (undated), *Loi no. 33-2020 du 8 juillet 2020, portant Code forestier [Law no. 33-2020 of July 8, 2020, on the Forest Code],* https://www.fao.org/faolex/results/details/en/c/LEX-FAOC197361.

The evidence from Ghana

In Ghana, the revenues that are subject to benefit-sharing arrangements with rural communities are those from the land rental and stumpage fees. In addition, companies are required to establish SRAs with communities.

Regarding revenue-sharing, a proportion of both the land rental (40 per cent within forest reserves[73] and 100 per cent for off-reserve forests) and stumpage fees (50 per cent for both forest types) is for redistribution to these institutions. These revenues are collected by the Forestry Commission, which then pays the required share to the Office of the Administrator of Stool Lands (OASL), a government body established for the disbursement of revenues to landowners. OASL then distributes the funds between the traditional authorities, represented by the stools[74] (which receive 25 per cent), traditional councils (20 per cent), and the local government, in the form of district assemblies (55 per cent).

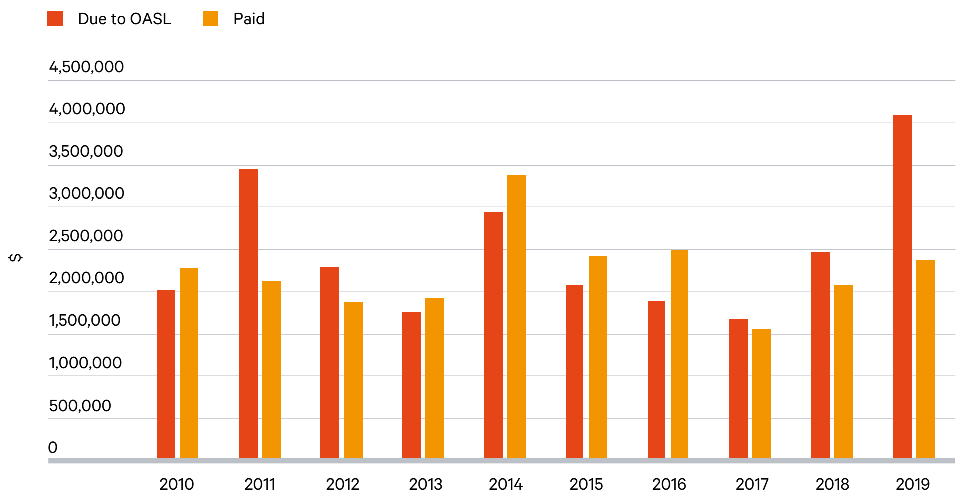
Forestry Commission data on the disbursement of stumpage fees[75] to the OASL shows that in 2010–19, the proportion paid was at times above, and at times below, the 50 per cent required (see Figure 5). Over the entire period, approximately $22.5 million in stumpage revenues were paid to the OASL, 90 per cent of the $24.7 million owed – with much of the shortfall due to underpayment in one year, 2019.

There is also the issue of historical royalties owed to landowners, from the period prior to 2010. According to Forestry Commission financial reports, at the end of 2018, around $3.1 million was owed to landowners.

This research paper did not investigate the extent to which the funds paid to the OASL are disseminated as they should be to the different beneficiaries. However, a 2017 report by NGO Civic Response highlighted delays in the payments to district assemblies as well as a lack of transparency regarding these payments and how the funds were being used. It also noted that similar issues were likely to exist for the disbursement of funds to traditional authorities.[76]

73 Rights to forests on reserve land, and to timber trees on off-reserve land are vested in the state, in trust for the customary owners.
74 Land in Ghana is owned by customary rights holders, under a system of stool lands that are linked to chieftaincy groups. See for example, Akyeampong Boakye, K. and Affum Baffoe, K. (2006), *Trends in Forest Ownership, Forest Resource Tenure and Institutional Arrangements: Case Study from Ghana*, FAO, https://www.fao.org/forestry/12505-01d2e95c6b96016463fe58818c7e9c29d.pdf.
75 The disbursement of revenues from the land rental was not investigated. The revenues from land rental and stumpage account for approximately 3 per cent and 97 per cent of timber royalties, respectively. Mensah Mawutor and Young (2017), *District Assembly Use of Timber Royalties in Ghana*.
76 Ibid. In recognition that timber royalties were not being used as they should be by local authorities to support rural development, guidelines were jointly developed by the government and civil society to help address this. Civic Response, MLNR and Fern (2020), *Guidelines for Utilization of Timber Royalties by Metropolitan, Municipal and District Assemblies (MMDAs) in Ghana*.

Figure 5. Disbursement of stumpage fees to the OASL, Ghana ($)



Sources: Adapted from IPE Triple Line (unpublished) report, based on data from the Forestry Commission (Forest Services Division) and from the Ministry of Lands and Natural Resources.

In parallel with the requirement for government to share royalties with landowners, companies are required to provide benefits to communities through the establishment of SRAs. These set out the services or materials that companies will provide to communities, and these should be equivalent in value to 5 per cent of stumpage fees.

Over the last decade, implementation of SRAs has been reported to have improved markedly, the result of reforms instigated by the VPA process,[77] although data is limited. Based on unpublished data compiled by Civic Response, IPE Triple Line reported a high level of compliance by companies with the requirement to establish SRAs during 2017–19. Across 11 of the 36 districts in the high forest zone, 141 timber companies (representing three-quarters of those operating) had done so by the end of this period.[78]

The evidence from Liberia

In Liberia, the land rental fee is disbursed to the subnational level (counties) and to forest communities. In addition, holders of forest concessions – forest management contracts (FMCs) and timber sales contracts (TSCs) – are required to pay a fee to affected communities as part of their social agreements.

Subnational counties receive 30 per cent of the land rental fee. This money is divided equally between each county and paid into County Forestry Development Funds. However, there is little publicly available information on these

77 Overdevest and Zeitlin (2018), 'Experimentalism in transnational forest governance'; Hoare et al. (2020), *Forest Sector Accountability in Cameroon and Ghana*.
78 Official data on the implementation of these agreements were not available at the time of writing. Data on social responsibility agreements (SRAs) are collected within the wood-tracking system, but these are not publicly available.

disbursements or on how counties use these funds.[79] The EITI report for the financial year 2018/19 states that the government 'did not report to us the total amount being paid to sub-national entities'.[80]

A further 30 per cent of the land rental fee should be paid into a dedicated account for redistribution to communities living near to forest concessions. The account is managed by the National Benefit Sharing Trust (NBST) to which Community Forestry Development Committees (CFDCs) submit applications for community projects.[81]

The first time such payments were made was in 2015 and in the period up to 2017, a total of $2.6 million was paid into the NBST.[82] A further payment of $200,000 was made in 2021.[83]

The total funds paid remain far short of the 30 per cent of the land rental fee received that is due to communities. Forest Trends estimated that just one-third of the funds due had been transferred to the NBST, leaving a shortfall of more than $5 million.[84] Communities are also not receiving all the revenues they are due because of the arrears in land rental fees. According to the government, in 2020, $3.8 million was owed in area-based fees, of which $1.14 million was due to communities.[85]

To address the failure of the government to transfer revenues as required by law, the government, forest communities and civil society agreed on a new system for disbursing funds in September 2021. This will entail the establishment of an escrow account into which the land rental fee will be paid, rather than directly to the government. From this account the proportion due to communities must be paid to the NBST within 24 hours.[86] In addition, as a longer-term solution, an amendment to the National Forest Reform Law of 2006 has been proposed that would enable companies to pay the 30 per cent community share directly to the NBST.[87]

Of the land rental fee for use of community forests by third parties, 55 per cent is due to communities.

Logging in community forests has become an important source of timber. Data from LiberTrace reports show that community forest management agreements (CFMAs) accounted for less than 5 per cent of log production in 2014, and over

---

79 Young, D. (2017), *How much do communities get from logging?*, Fern, https://www.fern.org/publications-insight/how-much-do-communities-get-from-logging-social-obligations-in-the-logging-sector-in-cameroon-ghana-liberia-and-republic-of-congo-249.
80 Liberia Extractive Industries Transparency Initiative (2021), EITI report, FY 2018/2019, section 4.3.15.
81 Forest Trends (2020), *Community Benefits Sharing in the Forestry Sector*; ELI (2013), National Benefit Sharing Trust, Community Guidebook, https://www.eli.org/research-report/national-benefit-sharing-trust-community-guidebook.
82 Young (2017), *How much do communities get from logging?*
83 Sherman, E. (2021), 'Government Pays Logging Communities', The Daylight, 19 October 2021, https://thedaylight.org/2021/10/19/government-pays-logging-communities-us200k.
84 Based on estimates in Forest Trends (2020), *Community Benefits Sharing in the Forestry Sector,* see Table 5; LiberTrace data for 2019 and 2020.
85 Liberia–EU FLEGT Voluntary Partnership Agreement (2020), 'Aide Memoire, 8th meeting of the Joint Implementation Committee'.
86 Resolution of the Stakeholders at the 3rd Legislative Dialogue, 16–17 September 2021, Farmington Hotel, Margibi County.
87 The draft amendment (unpublished) was presented to the committees on agriculture, forestry and fishery of both the House of Representatives and the House of Senate in 2021.

50 per cent by 2019. The extent to which the revenues due from such activities are being paid to communities was not explored in this research, but reports from civil society indicate that to date there has been weak implementation of this provision.[88]

With respect to the requirements for benefit-sharing by companies, the holders of timber concessions (FMCs or TSCs) are required to enter into social agreements with communities bordering their concession areas. These agreements include both cash and non-cash benefits such as road maintenance and social infrastructure. For the cash benefits, a minimum of $1 per cubic metre of timber harvested should be paid into a dedicated account held by the company for disbursal to community representatives.

Publicly available data on these agreements are limited. In LiberTrace, the existence of social agreements for a concession is registered, but the agreements themselves are not publicly accessible; and the Forestry Development Authority's website has no information on social agreements.[89]

That said, a list of signed agreements made by companies is given in the EITI reports. In recent years, these latter reports have included more detailed data on the payments being made, as reported by companies. Such reporting began in financial year 2012/13, and since 2016/17, the payments have been disaggregated by type (Table 4).

Table 4. Social payments reported by forestry companies to EITI, Liberia ($)

LEITI report	Mandatory		Voluntary		Total
	Cash	In-kind	Cash	In-kind	
2012/13	–	–	–	–	**52,271**
2013/14	–	–	–	–	**0**
2015/16	53,221	750,000	0	581,400	**1,384,621**
2016/17	114,450	0	0	0	**114,450**
2017/18	0	0	21,840	12,073	**33,913**
2018/19	33,000	0	11,000	14,000	**58,000**

Source: LEITI annual reports, https://www.leiti.org.lr/publications/document-type/leiti-reports.
Note: Mandatory payments are those to be made under social agreements with communities, these include the cubic metre fee.

88 Manvell, A. (2019), *Community Forestry in Liberia*, Fern, https://www.fern.org/publications-insight/community-forestry-in-liberia-902; SDI (2019), *A Decade Later: Time for a New Approach to Community Forestry in Liberia,* briefing, https://loggingoff.info/wp-content/uploads/2019/05/SDI2019-TimeForNewApproachCommunityForestry.pdf; Kamara, V. (2021), 'Lofa Community to First Use New Format for Logging Contract', The Daylight, 20 August 2021, https://thedaylight.org/2021/08/20/lofa-community-to-first-use-new-format-for-logging-contract; Voseida (2018) *Delta Timber Company in Flagrant Disregard to Liberian Forestry Laws, Numopoh Independent Forest Monitoring (IFM) Report,* https://loggingoff.info/wp-content/uploads/2019/04/VOSIEDA2019-Numopoh-IFMreport.pdf.
89 Forestry Development Authority (2020), 'Social Agreements', https://www.fda.gov.lr/index.php/publications/document-type/social-agreements.

How these payments relate to companies' obligations as set out in their social agreements is not clear. The National Union of Community Forestry Development Committees (NUCFDC) has reported that implementation of these agreements is weak. From their monitoring visits to 11 communities with active social agreements in 2018–19, the required cash payments had only been made for one-third of the agreements.[90]

The evidence from the Republic of the Congo

In the Congo, the area tax is disbursed to subnational departments. Regarding benefit-sharing arrangements for communities, companies are required to establish social contracts and also to pay into a local development fund.

With respect to the area tax, 50 per cent of this should be allocated to the country's subnational departments. The funds should be paid into a special account held by the treasury and then split equally between the departments for the purposes of development.

However, there are limited publicly available data on these revenues. In the EITI reports, for the years 2016 and 2019, it is stated that no transfers were made into this account, while for the years 2017 and 2018, the government did not provide any data on the amounts paid into this fund.[91] Based on the area fees reported to EITI, however, the total amount that should have been paid for the four years is approximately $7.8 million (Table 5).

Table 5. Revenues owed to local development funds, the Congo ($)

	Area tax reported by government to EITI	Amount to be paid to subnational departments (50% of area tax)
2016	2,625,473	1,312,737
2017	3,007,531	1,503,765
2018	5,764,929	2,882,464
2019	4,254,693	2,127,346
Total	**15,652,625**	**7,826,313**

Source: Republic of the Congo EITI annual reports, 2016–19, https://eiti.org/republic-of-congo#eiti-reports-and-other-key-documents.

90 IPE Triple Line unpublished research data for this paper.
91 See Republic of the Congo EITI reports for 2016, section 4.2.13; 2017, section 5.2.16; 2018, section 5.3.16; and 2019, section 5.3.15, available at: https://eiti.org/republic-of-congo#eiti-reports-and-other-key-documents.

These typically entail the construction of infrastructure such as roads, hospitals or schools. Under the 2000 Forest Law, these agreements were made between companies and the government, but this was changed under the 2020 Forest Law and negotiations are now required to be held directly with communities.[92]

In addition, concessionaires are required to establish local development funds to support community projects, through payment of a royalty. This was previously only required for certain concessions (13 of the 51 concessions operating in the country)[93] but since the 2020 Forest Law it has become mandatory for all. As of early 2021, just eight local development funds had been established.

Since 2017, the EITI reports have included data on the 'social payments' made by companies, as reported by these companies (Table 6). How this relates to compliance with their legal requirements is not clear because the agreements are not systematically published.[94] NGOs have reported this to be weak, however, with many communities receiving few benefits either from social contracts or local funds. [95]

Table 6. Social payments reported by forestry companies to EITI, Congo ($)

EITI report	Mandatory		Voluntary		Total
	Cash	In-kind	Cash	In-kind	
2017	2,212,794	41,800	264,542	0	**2,519,136**
2018	1,746	0	326,063	0	**327,808**
2019	320,706	402,295	97,580	0	**820,581**

Source: Republic of the Congo EITI annual reports, 2017–19, https://eiti.org/republic-of-congo#eiti-reports-and-other-key-documents.

Key findings

The extent to which revenues are being disbursed to subnational institutions, as required by law, is opaque. In Liberia and the Congo, there is little information available on whether revenues are being paid into subnational development funds. In Ghana, disbursement of revenues to the OASL is taking place largely

92 Droit Afrique (undated), *Code forestier, Loi n°16-2000 du 20 novembre 2000 [Forest Code, Law No. 16-2000 of November 20, 2000]*; FAOLEX (undated), *Loi no. 33-2020 du 8 juillet 2020, portant Code forestier [Law no. 33-2020 of July 8, 2020, on the Forest Code],* https://www.fao.org/faolex/results/details/en/c/LEX-FAOC197361.
93 Client Earth (2021), *Benefit sharing and community contracting: from legal design to full operation,* May 2021, https://www.clientearth.org/media/bk3lhzkj/benefit-sharing-memo.pdf.
94 A number of these agreements have been shared by companies for publication on the Open Timber Portal, https://opentimberportal.org/database.
95 Client Earth (2021), *Benefit sharing and community contracting*; Young (2017), *How much do communities get from logging?;* Schmitt and Baketiba (2015), *Revue et analyse des principaux mécanismes de partage des bénéfices existants en République du Congo* [Review and analysis of the main existing benefit sharing mechanisms in the Republic of Congo].

as required, although there remain historical arrears. Further investigation is required to determine whether the OASL is disbursing the funds to the beneficiaries as required.

There is more transparency regarding benefit-sharing arrangements with communities and the available evidence suggests that compliance is improving on the part of both government and companies in Ghana and Liberia. Increased access to fiscal data in concert with reforms of the policy mechanisms for benefit-sharing have been helping to drive the improvements seen. In the Congo, compliance remains weak but recent reforms are expected to help improve compliance.[96]

Clearly, the improvements seen remain far from adequate and communities are still owed significant revenues. Communities are losing out not just because of the failure to disburse revenues, but also because the revenues due are not being collected. The latter is also impacted by government decisions to provide tax breaks, which in both Liberia and the Congo, have amounted to millions of US dollars.

96 Schmitt and Baketiba (2015), *Revue et analyse des principaux mécanismes de partage des bénéfices existants en République du Congo* [Review and analysis of the main existing benefit sharing mechanisms in the Republic of Congo].

04 Conclusion

The forest sector is not currently contributing the revenues that it should, either to government or rural communities. Further improvements to transparency are necessary as part of broader efforts to strengthen accountability.

This paper sought to explore two issues:

- Whether the efficiency of forest revenue collection has improved over the last decade, and the factors that have contributed to this; and
- The extent to which revenues are being disbursed to subnational governments and to forest communities.

The broad picture is one of partial improvement, with much more progress required in all three countries. In Ghana, revenue collection is broadly efficient, the exception being for timber rights fees (although there is now a resolution to this). There has been progress on benefit-sharing with processes for establishing agreements between companies and communities, but there is little data on the extent to which communities are receiving revenues. Similarly, there is limited information on the disbursement of revenues to traditional authorities and local government. In Liberia, collection of revenues remains poor, and the issue of historical arrears has also not been addressed. Some progress has been seen with respect to benefit-sharing, with several payments having been made to communities, but far more is still owed. In the Congo, reforms instigated under the VPA are at an earlier stage and these have not yet translated into improved revenue collection or disbursement.

Enhanced transparency has been an important underlying factor in progress on collection and disbursement of forest revenues. The investments made in timber tracking systems in Ghana and Liberia have improved the quality and accessibility of data, while the EITI process has also increased the availability of data in Liberia and the Congo. This has been a factor in helping to drive reforms within these countries, raising awareness of the scale of the issues and bringing these to the fore of political discussions both at the international and national levels.

Internationally, these issues have been discussed in the bilateral meetings on VPA implementation between the EU and each of the three countries covered in this paper. In the case of the Congo, for example, increased understanding of the scale of financial losses from the sector is reported to have helped increase the engagement of the Ministry of Finance in the VPA process.[97] In both Ghana and Liberia, the issue of tax arrears has been discussed in VPA bilateral meetings, helping to keep it in the spotlight – for example, the Liberian government described the level of arrears as 'astonishing' in the 2020 committee meeting.[98]

At the national level, civil society has also been making use of available data to bring about change. In Ghana, improved transparency of forest sector data has helped civil society to advocate reforms to the benefit-sharing system, and it has enabled communities to negotiate fairer agreements with companies.[99] Similarly, in Liberia, the availability of such data has raised awareness of the scale of the revenues that are owed to communities and has been used by civil society and communities to campaign for reforms.[100]

However, in spite of these improvements in transparency, for all three countries there remain many gaps. For example, while increasing amounts of data are being published or made available, these are not always complete or accurate, with inconsistencies between reports and gaps for certain time periods. Where available, data are often in various formats or held by different government departments, requiring considerable effort to compile and analyse.

In Ghana, there is a large body of data available, but much of this needs to be accessed on request and from different parts of government. In Liberia, much data is also now available but access is not reliable, and there are inconsistencies in the data. The availability and quality of data is weakest in the Congo. Here, most data are not automatically published and can only be accessed through direct requests to officials.

Further improving transparency is of critical importance to support ongoing efforts to strengthen accountability of both government and the forest sector. In particular, improvements are needed in relation to the disbursement of revenues for rural development, both to subnational governments and to communities. Civil society has been actively engaged on this latter question, with those in Ghana and Liberia developing databases to enable monitoring.[101]

---

97 Personal communication, FLEGT expert, October 2021.
98 Liberia–EU FLEGT Voluntary Partnership Agreement (2021), 'Aide Memoire, 8th meeting of the Joint Implementation Committee', paragraph 37.
99 Hoare, et al. (2020), *Forest Sector Accountability in Cameroon and Ghana*.
100 FPA (2020), 'Liberia: House Passes Stand-alone County and Social Development Fund (CSDF) Bill', press release, https://frontpageafricaonline.com/news/liberia-house-passes-stand-alone-county-and-social-development-fund-csdf-bill/; FAO (2020), 'National Forestry Forum brings together forest-dependent communities and the Government of Liberia to improve benefit-sharing from logging', https://www.fao.org/in-action/eu-fao-flegt-programme/news-events/news-details/en/c/1329425.
101 In Liberia, the National Unions for Community Forestry Management Boards, and Community Forestry Development Committees, are developing databases to monitor benefit-sharing arrangements with communities; and in Ghana, the NGO Civic Response is working with the Forestry Commission to establish a database on compliance with the requirements for SRAs that would be linked with the wood-tracking system.

This work, as well as broader efforts to enhance transparency, warrant further support, as it is clear from the preliminary research reported on here, that the forest sector is not yet contributing the revenues that it should, either to government or rural communities. As a result, the forest sector is not fulfilling its potential to support sustainable development.

About the authors

Alison Hoare is a senior research fellow at Chatham House, with expertise in international forest policy, forest governance, and natural resource use and trade. Prior to joining Chatham House in 2006, Alison worked with a number of environmental organizations undertaking research, policy analysis and project management.

Dr Thiago Kanashiro Uehara is a research fellow at Chatham House and affiliated with the Fundação Getulio Vargas Ethics, Transparency, Integrity and Compliance Studies Centre as a senior research fellow. Thiago's areas of expertise include sustainability science, social policy, land use and rural development, with an interest in the political economy dynamics between corporations, states and peoples' movements. Prior to Chatham House, Thiago worked for the IPCC, the Office of the President in Brazil, and for national and subnational environmental agencies in cooperation with the Global Environment Facility, UNEP, European Commission and Mercosur.

Acknowledgments

This research paper draws on the expertise and knowledge of a large number of individuals. Particular thanks are due to Tom Blomley, who led the research on behalf of IPE Triple Line, Gene Birikorang, who undertook the research in Ghana, those experts from government, the private sector and civil society who contributed to the research in Congo and Lindsay Duffield, who contributed valuable analysis. Thanks are also owed to the government and civil society representatives in Ghana and Liberia who provided data and shared their expertise.

The authors are grateful to Art Blundell, Duncan Brack, Paolo Cerutti, Alain Karsenty, Albert Katako, Richard King, Saskia Ozinga, Jade Saunders, Marieke Wit, Jonathan Zeitlin and Andrew Zelemen, as well as two anonymous peer reviewers for their valuable comments and feedback on the paper. Thank you also to those colleagues who commented on earlier drafts, and to Kate O'Reilly and the Chatham House publications team for their contributions to the paper.

The research and publication of this paper was made possible with the support of the Forest, Markets and Climate Governance (FGMC) programme of the UK Foreign Commonwealth and Development Office.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical including photocopying, recording or any information storage or retrieval system, without the prior written permission of the copyright holder. Please direct all enquiries to the publishers.

Chatham House does not express opinions of its own. The opinions expressed in this publication are the responsibility of the author(s).

Copyright © The Royal Institute of International Affairs, 2022
Cover image: A town near the mountains in Ganta, Liberia, 2018.
Photo credit: Copyright © Edwin Remsberg/VWPics/Universal Images Group/Getty Images

ISBN 978 1 78413 518 8
DOI 10.55317/9781784135188

Cite this paper: Hoare, A. and Kanashiro Uehara, T. (2022), *Forest sector revenues in Ghana, Liberia and the Republic of the Congo: The impact of reforms on collection and disbursement*, Research Paper, London: Royal Institute of International Affairs, https://doi.org/10.55317/9781784135188.

This publication is printed on FSC-certified paper.
designbysoapbox.com

Independent thinking since 1920

CHATHAM HOUSE

The Royal Institute of International Affairs
Chatham House
10 St James's Square, London SW1Y 4LE
T +44 (0)20 7957 5700
contact@chathamhouse.org | chathamhouse.org

Charity Registration Number: 208223