Fighting over forest: interactive governance of conflicts over forest and tree resources in Ghana’s high forest zone

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Citation for published version (APA):
The governing system: Features, orders, modes and elements of Ghana’s forest governance

Introduction

Globally, the evolution of governance processes in the forestry sector poses many challenges to policymakers, forest managers and forest users. These challenges range from overcoming weaknesses in the rule of law and enforcement, the illegal use of forest resources, vague policy directions, institutional failure and competition with other land uses (Ostrom 1999, Tyler 1999, Marfo 2006). The challenges of relevance in the context of this study are usually the absence or ineffectiveness of mechanisms to manage competing claims to forest and tree resources (i.e. to accommodate them and ensure cooperative actions), which often results in conflict.

Current forest governance reforms in Ghana are oriented around stakeholder participation with a view to enhancing sustainable forest management and improving forest governance and forest-based livelihoods. In line with this the government of Ghana, through the Ministry of Land and Natural Resources and the Forestry Commission and in cooperation with civil society (with NGOs acting as ‘brokers’), the timber industry and ‘development partners’,¹ has pursued several governance initiatives and programmes some of which are still ongoing. Nevertheless, forest and tree-related conflicts within the sector are ubiquitous.

This chapter contributes to the governance debate by applying the interactive governance theory developed for the fisheries sector by Kooiman et al. (2005) (see also

¹ In Ghana’s ongoing forest governance reforms, the term ‘development partners’ refers to international donors and development organisations that support the reforms. Examples are the EU with which the Ghana government signed the Voluntary Partnership Agreement (VPA) to combat illegal logging and improve forest governance, the World Bank with which efforts are being undertaken to reduce emissions from deforestation and forest degradations (REDD), and the National Forest Programme Facility (NFPF) of the United Nations Food and Agricultural Organization (FAO) with which the Ghana government established national and regional forums to promote stakeholder consultation and participation for the enhancement of sustainable forest management (FC-FAO, n.d.). In the rest of this chapter the term ‘donors’ or ‘donor community’ will be used.
Jentoft 2007, Kooiman 2008, Kooiman et al. 2008, Chuenpagdee & Jentoft 2009 and Chapter 2 of this thesis) with a view to assessing the status of Ghana’s forest governing system and the governability limitations it is facing with regard to dealing with forest and tree-related conflicts. From a normative perspective it also explores the opportunities that the interactive governance approach holds for the forest sector of Ghana as regards managing forest-related conflicts. The central question guiding this chapter is: what are the characteristics in terms of features, orders, modes and elements of the governing system that contribute to the governability of Ghana’s forest sector and how does it deal with forest and tree-related conflicts? This central question has been divided into five sub-questions:

1. What is the historical context of the Ghanaian forest governing system in terms of its policies, legislations and conflicts?
2. What features prevail in the forest governance process (in terms of diversity, scale, complexity and dynamics)?
3. What is the quality of the three governance orders (principles, institutional arrangements and day-to-day management of conflicts) in the forest governing system?
4. How responsive is Ghana forest governance in terms of the governance modes (hierarchical, co-governance and self-governance)?
5. What is the fit of governance elements (in terms of forest actors’ images, instruments and actions) with conflict management and how do actors assess the potential to strengthen forest conflict management in the governance process?

The information in this chapter is based on a review of literature and a survey among, and interviews and a workshop with, forest governors and experts and representatives of the donor community with the intention being to generate data on their knowledge, views and perceptions of forest governance and conflict management.

The following sections present the results based on the research questions after which the findings are discussed against the background of scholarly literature on the subject matter, positioning them within the myriad of forest governance initiatives in Ghana. The conclusions are presented at the end of the chapter.

Ghanaian forest governance in a historical perspective: Colonial legacy

Historical background to Ghana’s forest policies and its legislative instruments
Ghana’s forestry sector has undergone a massive transformation in policy reforms since scientific forestry was introduced in the first decade of the twentieth century (Table 5.1). The first forest policy of 1908 focused on forest preservation to protect water and boost cash crop production (see Chapter 4). In 1910 a Forest Bill was introduced which gave the colonial government the right to appropriate land for the creation of forest reservation. Different versions of the first forest policy of Ghana are given. Kotey et al. (1998) recognise the first formal forest policy as being the 1948 policy, whereas Bilijo (2005) distinguishes three phases in the history of forest policy in Ghana, each of which is backed by a specific forest policy: one starting with the 1908 forest policy (colonial government), one with the 1948 forest policy (colonial/post-colonial) and the current phase which starts with the 1994 Forest and Wildlife Policy (post-colonial). The overview here (see Table 5.1) follows Bilijo (2005) who, in turn, strongly builds on Kotey et al. (1998).
serves. This was opposed by the Aborigines Rights Protection Society\(^3\), which interpreted the reservation process as an attempt by the colonial power to expropriate indigenous lands. It also led to the local people opposing and responding to this process by rapidly converting forests into farmlands in order to avoid reservation (Francois 1987). Ultimately the Bill was withdrawn in 1911 (Ageyman et al. 2010).

The 1908 colonial forest policy was supported by three complementary pieces of legislation, i.e. the Native Authorities’ Ordinance No. 18 of 1927 (Cap. 111), the Forest Ordinance of 1927 (Cap. 157) and the Concessions Ordinance of 1939 (Cap. 136). Colonial forest policy recognized the customary governing system of giving power to traditional authorities. With the consent of the traditional authorities, provisions were made to release stool lands to be constituted as forest reserves. Most of the demarcation and reservation processes took place between 1928 and 1939. According to Amanor (2005: 17), ‘the colonial forestry policy disempowered rural farmers to empower the state through the chiefs, by creating customary systems that vested land in paramount chiefs and facilitated expropriation of land for the creation of forest reserves’. Until then, land had been under the control of the town chiefs who consequently disputed these claims (Rathbone 1993, Addo-Fenning 1997). The ordinances of the 1920s and 1930s gave traditional rulers the right to grant timber rights to commercial loggers, albeit with endorsement from the colonial legal system (court). Even though power and rights were given to the traditional authorities, the colonial rulers sought to gain control over natural resources. Colonisation through the native authorities gave them power over local communities in order to help foreign corporate access to land resources (Opoku 2006). These policies discouraged traditional subsistence activities and were intended to force communities into the cash economy away from the forest resources (Ibid.). Local communities were then forbidden to farm, fell trees or cause damage to trees in the forest except on the basis of permits endorsed by a Forest Officer (Agyeman et al. 2010).

The year 1948 marked the start of an era in which the environmental perspective and its focus on forest protection shifted towards a utilitarian perspective with a focus on maximum productivity and value on the basis of sustained yield (Bilijo 2005.). The 1948 forest policy document consisted of eight clauses but fell short of meeting the desired objectives (Agyeman et al. 2010). During that period, timber exploitation was high on the political agenda and the period is therefore referred to as the ‘timberisation’ era (Kotey et al. 1998, Bilijo 2 005). The priority given to the timber industry resulted in immense cash income for the timber merchants and revenue for the state, but local people’s NTFP livelihood base was destroyed by excessive logging. The new emphasis on timber production strengthened the British economy and met Europe’s post-war reconstruction needs (Bilijo 2005). Furthermore, under the Forest Ordinance the royalties given to landowners were reduced from 70\% to 40\% because the colonial government shifted the burden of increased costs of reserve management to the landowners (Opoku 2005). Nonetheless, when the Gold Coast attained independence and became the Re-

\(^3\) The Aborigines Rights Protection Society was formed in May 1897 by traditional leaders and the educated elite in Ghana society following the Crown Lands Bill of 1896 and the Lands Bill of 1897 (Nti 2002). Kimble (1963: 330 cited in Nti 2002) attributes the historical roots of this organisation to (i) the chequered history of attempts to form associations among educated Africans, (ii) the growing tradition of protest against colonial government, (iii) the conscious revival of respect for national traditions, and (iv) a deep-rooted reverence for land as the foundation of community life. Colonial Government officials considered the Society as mere land speculators (Ibid.).
public of Ghana, the postcolonial government changed little in the structure and functioning of forestry in Ghana and did little to curtail the power and privileges of the industry (Smith 1999 cited in Opoku 2005: 20). Instead it strengthened state control over local governance and natural resources (Sasu 2004).

The Forestry and Wildlife policy of 1994 in Ghana marked a major paradigm shift towards collaboration and decentralisation initiatives in the sector during almost all of the past two decades. The period 1994-2011 is discussed in more detail later in this chapter.

Table 5.1 outlines the timeline of different policies and legislations that have governed the allocation, use and management of forest resources, and the sanctions since scientific forestry was introduced in Ghana in the early 20th century.

| Table 5.1 Timeline of Ghana’s colonial and post-colonial forest policies and legislations (1908-2011) |
|---|---|---|
| (40 Years in existence) | (44 years in existence) | (17 years in existence) |
| Colonial period: Era of Protection | Colonial and post-colonial period: Era of ‘Timberisation’ | Post-colonial period: Era of pro-poor forest policy and emergence of governance |

**Objectives of 1908 Forest policy:** ‘Conserving a sufficient area of forest suitably distributed throughout the country in order to protect water supply, prevent erosion and to ensure the maintenance of the present climatic conditions existing in the high forest zone which are essential factors in the cultivation of cocoa, cola and other crops on which the prosperity of the colony largely depends.’

**Objectives of 1948 Forest policy:** ‘Management of forest reserves by methods which will achieve maximum production and value on the basis of sustained yield.’

**Objectives of 1994 Forest and Wildlife policy:** ‘Manage and enhance a permanent estate of forest and wildlife resources; promote and develop viable and efficient forest-based industries; promote public awareness and involvement of rural people in forest management and conservation; promote research-based and technology-led resource management and Develop institutional capacity at all levels.’

**Legislative instruments**

*Native Authorities Ordinance No. 18 of 1927 (Cap. 111) - Established local government system with power being given to the paramount chief and his traditional council of elders.*

*Concessions Ordinance 1939 (Cap 136) – Regulated the granting of commercial timber rights by stool or ‘natives’ and endorsement by court through certificates of validity.*

*Forest Ordinance 1927 (Cap. 157) – Constitution of forest reserves on (a) state land, (b) stool lands at the request of Native Authority, and (c) private lands at the request of owners.*

*Trees and Timber Ordinance No. 20 of 1949 (Cap. 158) – Responds to the regulatory needs of the fast-growing timber industry.*

*Forest Improvement Fund Act, 1960 (Act 12) – Deprived chiefs of their economic power by centralised collection and management of forest revenues.*

*Local government ordinance (No. 51) – Repealed Cap. 111.*

*Concessions Ordinance 1939 (Cap 136) – Regulated the granting of commercial timber rights by stool or ‘natives’ and endorsement by court through certificates of validity.*

*Local government ordinance (No. 51) – Repealed Cap. 111.*

**LI1649 Timber Resource Management regulation, 1998 provided guidelines for the allocation and management of timber resources.**

**Timber Resources Management Act, 1997 (Act 547) – Repealed the Concession Act of 1962 (124) and provided for the granting of timber rights in a manner that secures the sustainable management and utilisation of timber resources.**

**The Forestry Commission Act 1999 (Act 571) – Repealed Act 453 and re-established the Forestry Commission as a semi-autonomous corporate body. It also brought the forestry sector agencies under the FC.**
<table>
<thead>
<tr>
<th>Law</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>Concessions Act, 1962 (124)</strong> – Vested all timber or tree rights in the state.</td>
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<tr>
<td>Forest Plantation Development Fund Act, 2000 (Act 583) – Consolidated the Forest Improvement Fund for the development of private commercial plantations in the country.</td>
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<td>Forest Protection Decree, (NRCD 243) – Defined forest offences and prescribed sanctions and or penalties for such offences.</td>
<td>Forest Plantation Development Fund (Amendment) Act, 2002 (Act 623) – Enabled both public and private plantation growers to participate in forest plantation development.</td>
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<tr>
<td><strong>Trees and Timber Decree 1974 (NRCD 273)</strong> – Extended Forestry Department jurisdiction outside forest reserves. It also prescribed guidelines for participation in the logging/timber industry and provided for the payment of fees and defined sanctions for non-compliance.</td>
<td><strong>The Forest protection (Amendment) Act 2002 (Act 624)</strong> – Repealed the forest protection (amendment) law of 1986 (PNDCL 142) and increased forest offences fines and introduced joint liability in the commitment and prosecution of forest offences.</td>
</tr>
<tr>
<td><strong>The Forest Protection (Amendment) law, 1986 (PNDCL 142)</strong>: Increased the penalties/fines for forest offences.</td>
<td>Timber Resources Management (Amendment) Act, 2002 (Act 617) – Amended Act 547 to exclude from its application land with private forest plantation to establish a maximum duration and upper limit for the scale of operations for the total area under timber rights, and to provide incentives and benefits for investors in the forestry and wildlife sector.</td>
</tr>
</tbody>
</table>

Note: There are 3 wildlife laws with 9 amendments (mainly gazetting Protected Areas and Resource Reserve governing the wildlife management in the Country (World Bank 2006)

Key: * = These laws have been repealed; ** = These laws are subsidiary.

Sources: Kotey et al. (1987), Opoku (2005), Bilijo (2005), Owusu (2005), Bamfo (2005) and Ghana forest policy and legislations documents available online at [http://www.fcghana.org](http://www.fcghana.org) (accessed on 23 January 2010)
The governing system as a source of conflicts: A historical perspective

Conflicts related to forest resources in Ghana took place in forest reserves and off-reserve areas and across the different levels of geo-political scale in the country. These conflicts are multifaceted as they involve several actors such as farmers, timber operators, chainsaw operators, forest officers, and other interest groups. An insight into the historical background to some of these conflicts provides a basis for a better understanding of the present situation. From a historical perspective, forest conflicts began in the era when forested lands were forcibly included in the forest reservation process. The buyout of the Forest Bill in 1911 led to another means of governing instrument termed ‘Indirect Rule’ being used. The colonial government gave the chiefs the responsibility for native administration and therefore gave them power to control land, natural resources and labour services. Under this new rule, chiefs were entitled to gazette forest reserves within a specific period of six months after prior notice had been given to the landowners (Amanor 2005; Agyeman et al. 2010). Whenever a chief failed to create the forest reserves, the colonial government intervened to ensure reservation. However, the regulations had created sufficient incentives for the chiefs to undertake the reservation process, as it enabled them to claim more lands and benefit from royalties. Local people lost out in the process as they were excluded from land that they could otherwise have used for agriculture or to negotiate concessions for the extraction of valuable timber resources (Amanor 2005: 17). Until then farmers in some parts of Ghana were entitled to sell a timber tree on their cleared land if they had permission from the local chief and they would then pay the chief part of the proceeds (Amanor 2005). According to François (1987), the colonial government failed to enter into a dialogue with the local communities on how best to implement the reservation process and instead used force to achieve its objectives. As already mentioned, the local communities responded to this by rapidly converting forests into farmlands. As a consequence the reservation process and its governing instruments were fraught with conflicts right from the start. Personal communication with a retired forester revealed that most of the forest reserves constituted after 1952 were accompanied with reported conflicts incidences and offences because the reservation itself started life on the basis of misunderstandings and conflicts. He gave four reasons to support his assertion (Box 5.1).

Another basis for conflict is the loss of negotiation rights on timber trees by the chiefs and landowners. Interestingly, the governing system that brought the traditional leaders into power as resource managers was also used to take away their right to negotiate concessions on stool lands that had hitherto been under their jurisdiction. The 1962 Concession Act assigned that power to the state. However, it could not take away the land rights since this move was fiercely opposed by the traditional leaders (Kotey et al. 1998). Nonetheless, the poor demarcation and documentation of land rights became a source of forest conflict in itself. Even though colonial rulers did not contest the land ownership rights of the chiefs and other landowners, the Reserve Settlement Commission, which served as an arbitration platform, denied individual farmers the chance and choice to either dissent or commute their land rights into another form of interest (Ohene-Gyan 2004). Currently, many of the forest conflicts surrounding the expansion of admitted farms, for example, are still the result of this deficient tenure system.

Illegal farming soon became prevalent after Ghana’s independence on 6 March 1957 when several claims for admitted farms were made (England 1993; Ohene-Gyan 2004).
There was considerable pressure to release these farms and the government agreed to their exclusion from forest reserves. In a statement in the National Assembly on 10 July 1957, the then Minister for Agriculture announced that all those who had already set up cocoa farms in forest reserves should be allowed to retain such farms after survey and demarcation (Hansard Cols. 1874 and 1875). Thereafter the public was notified in Gazette Notice (GN) 385 Gazette No. 16 of 20 February 1960. The notice set a time limit of three years from the date of the Minister’s announcement within which all claims by cocoa farmers were to be received by the Forestry Department of the Ministry of Food and Agriculture (Anonymous 1985).

The notice added that any claims for cocoa farms received after 9 July 1960 would not be admitted. Acting in this way reflected the government’s decision to recognise all hitherto illegal, unclaimed, and existing farms in forest reserves (Ibid.). Towards the end of the three-year grace period, large-scale clearing and farming took place in forest reserves. These illegal farms had to be recognised because they fell within the period of grace. This recognition of illegal farms on the orders of the government meant that illegal farming de facto became legal in 1960. Farmers considered encroachment on reserves as a right since the illegal farms would eventually be given to them through the courts either after they had been sentenced to a fine or via a petition to the government. Considering the petty fines, illegal farming indeed became a lucrative investment. Attempts by the Forestry Department in 1969 to destroy illegal farms, especially in the Desiri forest reserve, were quickly stopped by order of the government and farmers gained the upper hand when it came to continuing illegal farming with vigour (England 1993, Ohene-Gyan 2004). This indeed encouraged further encroachment into other reserves in the Western regions (England 1993).

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4 Hansards is the name of printed transcripts of parliamentary debates in the Westminster system of government that Ghana inherited from its colonial past. Cols. refers to Hansards reference, which are 1874 and 1875.

5 The author is a former staff member of the Forestry Department, who preferred to remain anonymous.
Amanor (2005: 20) recorded the genesis of off-reserve conflicts as being the expansion of the concession system into farmlands. He reports on increasing conflicts between timber companies, chainsaw operators, farmers and the Forestry Department during the 1980s and early 1990s, as the export timber companies encroached onto farmlands to fell timber trees, thereby causing extensive damage to farms and plantations without being punished. Chainsaw operators who had been encouraged during the recession years now found their livelihoods threatened and their activities criminalised. Farmers deliberately destroyed timber trees on their land and prevented them from regenerating to prevent concessionaires entering their farms. Those who maintained the trees were sometimes poorly compensated or not compensated at all for crops that were destroyed during the harvesting operations (Inkoom 1999, Marfo 2006). As conflicts and hostility mounted, especially towards the Forestry Department, the Collaborative Forest Management Unit (CFMU) was established in 1992 with the aim being to develop a better relationship with local people. Despite the reform, the central issues of access and rights to timber on farmland were not addressed and are still not being addressed, with farmland conflicts between farmers and timber operators therefore continuing unabated (Marfo 2009, Agyeman et al. 2010).

Another kind of forest conflict based on a recent law is linked to the illegal felling of timber as either logs or sawnwood. Illegal chainsaw operations have increased in Ghana despite the ban in 1998 as most people involved in these operations consider it as their main source of livelihood. In addition, chainsaw logging is the primary source of timber for the domestic market (Odoom 2005, Adam et al. 2007, Marfo & Acheampong 2011). Missed benefits from royalties, stumpage fees and social responsibility agreements between the timber companies and local communities, competing claims for timber and tree resources and the extraction of NTFP resources are all sources of conflicts associated with illegal logging (Chapter 8).

Features of the current governing system

This section address the question regarding the features that prevail in the forest governance process in terms of diversity, complexity, scale and dynamics.

Diversity in institutional structures: The governing actors

Kooiman & Bavinck (2005) place actors into three categories, i.e. the state, market and civil society. Lemos & Agrawal (2006: 310) distinguish three social mechanisms through which interactions between these actors take place, i.e. public-private partnerships, co-management and private-social partnerships. Ros-Tonen et al. (2008) add civil society coalitions and NGO community partnerships to take account of civil society actors at levels of scale higher than the community. Considering the transitional nature of the Ghanaian governance process, a number of actors do not fit neatly into one

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6 The timber industry in Ghana collapsed in the early 1980s, mainly due to the global recession in the late 1970s and early 1980s. The IMF intervened through a Structural Adjustment Plan, thereby promoting the expansion of Ghana’s exports as a way to generate foreign exchange. The World Bank’s Export Rehabilitation Project of 1983–86 focused special attention on Ghana’s timber sector by renewing sawmills, modernising logging operations, rebuilding harbours and increasing timber exports (Glastra 1999). Based on this review, Glastra concludes: ‘The economy improved, but at the expense of Ghana’s forests’ (Ibid.: 59).
**Figure 5.1** The governing structures in forest governance process in Ghana forestry sector

### Key Actors in Forest Governance, Forest-Related Livelihoods, Conflicts & Conflict Management

#### Key Actors

**Customary Structure**
- King (Ashantehene)*
- Paramount Chief (Omanhene/Obirempon)
- Divisional Chief (Ohene)
- Sub divisional Chief (Apakanhene)
- Village Chief (Odikro)
- Clan Head (Abusaupanyim)
- Council of Elders (Besuanfo)
- Local communities
- Households

**Statutory Category**
- Ministry of Lands and Natural Resources
  - Forestry Commission (FSD, WD, TIDD)
  - Administrator of Stool Lands
  - District Assemblies
  - Police and Military
  - Judiciary
  - MoFEP

**Transnational Supportive Structure**
- FAO, Royal Netherlands Embassy, World Bank, GTZ, ITTO, DfID, European Commission, UNFF, AFD, JICA, DANIDA AfDB, academic and research institutions (e.g. TBI, WUR, University of Amsterdam, Aberdeen university etc.)

**Market**
- Legal timber operators
  - TUC or concession holders
- SP holders
- Millers (legal)
- Chainsaw millers / loggers
- Wood processors
- Lumber sellers
- Investors in commercial timber plantations
- Individual tree growers
- NTFP traders (plant related)
- Bushmeat traders

**Hybrid Structure**
- MTS Committees
- CFCs
- CBAGs
- Fire Volunteer Squads
- Unit Committees
- Forest Forum
- FSC

**Civil Society**
- National NGOs
  - Ghana Forest Watch
  - Rural Youth Organization
  - TBI Ghana etc.
- International NGOs/Brokers
  - IUCN
  - Care International
  - Tropenbos International etc.

**Acronyms in alphabetical order:** AfDB = African Development Bank; AFD = French Development Agency; CBAGs = Community Biodiversity Advisory Groups; CFCs = Community Forest Committees; DANIDA = Danish International Development Agency; DfID = Department for International Development (UK); FAO = Food and Agriculture Organization of the United Nations; FORIG = Forest Research Institute of Ghana; FRNR-KNUST = Faculty of Renewable Natural Resources of Kwame Nkrumah University of Science and Technology; FSC = Forestry Stewardship Council; FSD = Forest Services Division; GTZ = Deutsche Gesellschaft für Internationale Zusammenarbeit; HIPC = Highly Indebted Poor Countries; ITTO = International Tropical Timber Organization; IUCN = International Union for the Conservation of Nature; JICA = Japan International cooperation Agency; MTS = Modified Taungya System; NGOs = Non-governmental organisations, NTFP = Non-timber forest products, SP = Salvage Permit, TBI = Tropenbos International; TIDD = Timber Industry Development Department; TUC = Timber Utilisation Contract; WD = Wildlife Division; UNFF = United Nations Forum on Forests; WUR = Wageningen University and Research Centre

### Notes

- The arrow indicates a flow of interactions which may complement or conflict within and between governing structures.
- * Exists among the Ashanti tribes in Ghana only.
specific category. Most previous studies on actors in the Ghanaian forest sector have placed actors under either the state, civil society or the private sector or have categorised them under primary, secondary and tertiary levels (Owusu 2009, Mayers & Kotey 1996, Kotey et al. 1998). This study introduces a new governing structure termed the hybrid-governing mode. In this mode, actor constellations are mostly formed through the integration of two or more of the governing structures (see Figure 5.1). It is essential to delineate this mode from the other five categories because actors ‘are often constrained or enabled in their actions by structures’ (Bavinck et al. 2005: 29).

The hybrid mode facilitates their continuous changing from one governing mode to another and their ability to operate at different levels of scale while being positioned at one geopolitical level. The proposal is therefore to arrange actors into six main categories: (i) actors in the formal/statutory governing structure (ii) actors in the traditional or customary category, (iii) actors in the market category, (iv) actors in the civil society category, (v) actors in the international community, and (vi) actors in the hybrid category. The local communities under the traditional governing structure and the various actor groups under the market governing structure in Figure 5.1 were discussed in Chapter 4 as they were considered to be direct forest users. The actor categorisation presented in Chapter 2, guided the choices regarding the actor constellations in the various categories based on their roles and interests.

– Actors in the statutory governing structure
In this study, actors that are legally mandated to manage the forest and tree resources are termed ‘forest governors’. These include the Ministry of Lands and Natural Resources (MLNR)
sources (MLNR), which is responsible for designing appropriate governance principles and guidelines enshrined in policy and laws, as well as for monitoring and directing the policies. Under the MLNR the two most important institutions with regard to forest and tree-related resources are the Forestry Commission (FC) and the Administrator of Stool Lands (Figure 5.1). The FC has three key divisions, namely the Forest Services Division (FSD), the Wildlife Division (WD) and the Timber Industry Development Division (TIDD), and a technical and research wing known as the Resource Management Support Centre (RMSC). The FC’s responsibilities include ensuring effective implementation of the policies, laws and effecting management goals related to sustainable forest and wildlife management and development of the timber industry (see Figure 5.2 for the structure of the mandated institutions indicating the study respondents in shades).

The Administrator of Stool Lands – established by the 1992 Constitution and 1994 Stool Lands Act (Act 481) – is in charge of the management of stool lands on behalf of the communal landowners as well as the disbursement of royalties to the respective beneficiaries. In addition to the forest governors, other relevant actors in the statutory category are those in charge of forest law enforcement, being the District Assemblies, the Ghana Police Service, Military and the Judiciary. The District Assemblies form the local arm of the government at the district levels. Although not directly law enforcement bodies, they have the mandate to enact byelaws that govern against environmental destruction. As stated in the Ghana Police Service Act of 1970 [Act 350] the functions of the Ghana Police Service are: (i) crime detection and prevention, (ii) apprehension (arrest) and prosecution of offenders, (iii) maintenance of law and order, and (iv) due enforcement of the law. With respect to the prevalence of illegal forest activities, the military have been involved in the monitoring of illegal timber operations in Ghana and therefore in collaborating with the police and the FC to form a task force. The judiciary is the third arm of government (the other two are the executive and the legislature), autonomous and vested with the judicial power of the nation. It has the sole responsibility for interpreting the constitution and laws, administering justice and providing other related services (see Chapter 11 for a more detailed discussion of the three key forest law enforcement agencies – the police, FC and the judiciary).

The Natural Resources and Environmental Governance programme (NREG) has focused attention on the Ministry of Finance and Economic Planning (MoFEP) as an important actor in terms of control and management of finances in the forest sector (World Bank 2006). There are other actors which are closely related to the formal/statutory structure but which are not officially part of it. At national level these include organisations supporting forestry development, research and capacity building, such as academic institutions (e.g. the Faculty of Renewable Natural Resources (FRNR) at Kwame Nkrumah University of Science and Technology – KNUST) and research institutions (e.g. the Forestry Research Institute of Ghana – FORIG).

– Actors in the traditional or customary governing structure

The traditional or customary governing structure consists of communities and customary institutions. The customary governing structure has different levels of hierarchy. The village chief (locally called Odikro, which literally means ‘caretaker of the village’) resides near the forest resources, even though he is not the landowner. The Odikro is normally appointed caretaker chief at village level by the divisional chief (Ohene) under

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whose jurisdiction a number of Odikros serve. In turn, the Ohene serves under the head of the traditional state (oman), the paramount chief (Omanhene or Obirempon)\(^9\) (Mayers & Kotey 1996, Kasanga 2003, Kendie & Guri 2006). Prevailing only among the Ashanti tribes is a king who rules over a kingdom called the Ashantehene who resides over the Golden stool and is therefore the owner of the stool lands within the Kingdom.

Traditional councils are bodies created around a paramount chief and consist of stools and chiefs. The traditional councils, based on a combination of statutory and customary law, often hold the landholding authority in the High Forest Zone (Mayers & Kotey 1996). In Ghana, 78% of the land is in the hands of customary landholders (Sasu 2004). An important traditional authority in this respect is the stool. The stool (or in Northern Ghana, the skin) is the symbol of chieftaincy at all levels. In statutory law, a stool (or skin) is defined as any person or body of persons having control over community land, including family land, as a representative of a particular community (Kasanga 2003). The stool can only hold land in trust for communal landowners but has no say in the management of forest resources, which fall under the jurisdiction of the FC. The management of stool lands is in the hands of the Administrators of Stool Lands, which body is part of the formal/statutory governing structure.

– Actors in the civil society governing structure
The civil society governing structure in the forestry sector consists of national and international environmental organisations as well as NGOs that contribute to capacity building, forest restoration, ensuring legality and advocate for policy reforms. Examples of national organisations engaged in advocacy include Forest Watch Ghana (FWG) and the Rural Youth Development Association (RUDEYA) for grassroots community development. The international NGOs in this arena include Tropenbos International Ghana for research and capacity development, Care International for humanitarian aid and the International Union of Conservation and Nature (IUCN), which often serves as a ‘broker’. Tropenbos International (Ghana) plays a dual role in both academic research and influencing policy reforms in the civil society arena and was therefore placed both under the international supportive structure and under civil society in Figure 5.1.

– Actors in the hybrid governing structure
This study identifies three actor groups in the hybrid governing structure. The first one can be found at community level and is a blend of statutory and customary influences. The reason for this is that the formal sector (notably the FC) engages people from the traditional/local governing structure in its own governing structures. Specific examples are (i) the Modified Taungya System (MTS) farmers, (ii) Community Forest Committees (CFCs), (iii) Community Biodiversity Advisory Groups (CBAGs), (iv) Fire Volunteers Squads and (v) Unit Committees. Mayers and Kotey (1996), Kasanga (2003) and the World Bank (2006) clearly spell out the different mandates these local governing structures play. The MTS farmers are engaged in a co-management arrangement with the FC, under which they are allocated rights to plant crops in reforestation schemes in return for tending the tree seedlings and saplings and a share in the proceeds. Communities are empowered to participate in forest resource management by acting as social fences in the protection of Globally Significant Biodiversity Areas within forest re-

\(^9\) The female counterparts of the Omanhene and Ohene are referred to as Ohemaa (queen mother) whereas the female counterpart of the Odikro is the Obuapanyin. The latter can be the chief’s mother, his mother’s sister, sister, a mother’s sister’s daughter or a sister’s daughter (Kendie & Guri 2006).
serves through their participation in CBAGs. They also engage in preventing and combating wild fires through their participation in Volunteers Squads and by stimulating local development based on communal labour and village fundraising to build schools, clinics, wells and latrines through their participation in Unit Committees.

The second group is the Forestry Forum. Within the context of Ghana, the forestry forums have been established to engage different actors (i.e. state agencies such as the FSD, local government, MOFA, etc.), the private sector (i.e. timber loggers, millers, timber traders, chainsaw operators etc.) and civil society (i.e. communities, traditional leaders, NGOs, CBOs etc.) in dialogue on forestry issues on a common platform. Currently, there are district, regional and national forums with a national secretariat in Kumasi. When together, these actor groups try to find common ground and share a common vision, but each has its own objectives that it wishes to achieve. As a consequence, depending on the platform, they may have different ways of expressing themselves either for their individual group or as a collective body with a common ‘voice’ to pursue an agenda.

The Forest Stewardship Council (FSC) is the third group and could also be considered part of the hybrid sector in the sense that it consists of representatives of both the market governing structure (representatives of the timber industry) and the civil society governing structure (environmental and social organisations). The literature is not clear about this. Some consider FSC as a form of private governance (e.g. Pattberg 2005), whereas others indeed classify it as hybrid governance (e.g. Gulbrandsen 2004.). However, the blend of market and civil society elements means these are regarded here as being hybrid.

– Actors from the transnational arena
Actors that are closely related to almost all the five national governing structures mentioned above – the formal/statutory, customary, civil society, market governing, and the hybrid governing structures – are those from the international arena that sponsor and support forestry development through institutional strengthening and policy planning, research and capacity development (i.e. both human and logistics). As shown under the International formal supportive structure in Figure 5.1, some of these foreign governmental, inter-governmental, development, and multilateral partners include the UK Department for International Development (DFID), the Food and Agriculture Organization of the United Nations (FAO), the Royal Netherlands Embassy, the African Development Bank, and the World Bank. International academic and research organisations (e.g. Wageningen University, the University of Aberdeen, the University of Amsterdam and Tropenbos International etc.) also fall into this category.

Complexity
The diversity of actors outlined in the previous section and their conflicting roles contribute to forest conflicts. Most of their interactions are discussed in later chapters in which the case studies are presented. This section discusses the forest governors’ and experts’ views of the complexity of the relations between the actors in the governing system. In order to know whether actors’ actions or inactions contribute to forest conflicts, the forest governors and experts involved in the survey and interviews were asked

10 The forum concept was initiated by the UK Department for International Development (DFID) under the second Forest Sector Development Project (FSDP II) and expanded by the United Nations Food and Agriculture Organisation (FAO) under the FAO/NFP facility.
about forest actor’s roles that undermine the governing system. Their responses are presented in Box 5.2 and clearly illustrate the challenges that forest management and the governance process are facing. Each actor’s actions or inactions while performing their roles and duties could be a source of conflicts ranging from policy implementation to inequity in resource access.

Scale
On paper Ghana is one of the most decentralised countries in West Africa. The political and administrative decentralisation came into full operation during the enactment of the nation’s constitution in 1992 (Constitution of Ghana 1992, Kpessa 2011). Similarly, the forestry sector has a decentralised structure since it has forty-six (46) forest districts across the ten regions of Ghana. However, re-echoing Sasu (2004) in practice decentralisation may not exist or may be in its ‘infant’ stage. Although forest decentralisation policies are well developed in Ghana, the decentralisation process has suffered because of the central government’s reluctance to decentralise key revenue-generating sectors such as forestry and mining (Sasu 2004).

The weakness of the forestry decentralisation process was that it was driven by the Forestry Commission, which has its own centralisation agenda. According to Amanor (2005), the Forestry Commission’s resistance to decentralisation resulted in it establishing its own form of collaborative forest management11 as a form of ‘centralised’ decentralisation. However, this only allows rural people to participate in the Forestry Commission’s agenda, rather than to set their own agendas (Ibid.: 21).

Until the late 1990s, local communities and other stakeholders were barely involved in forest management. Although the decentralisation policies devolved a number of key functions and decision-making processes to the District Forestry Office, implementation of the decentralisation process in terms of involvement of civil society, non-governmental organisations (NGOs) and community-based organisations (CBOs) has been slow (Sasu 2004). There is therefore a clear indication that the implementation of decentralisation as a governance reform is a challenge. The forest sector’s ‘incapacity to implement’ was also identified as a problem by the World Bank (2006).

In spite of the lack of a clear decentralisation pathway in the forest sector and legislative backing for collaborative resource management, some of the community forest management programmes have created avenues for participation and opened up opportunities to consider community grievances in policy formulation. Some of these collaborations and partnerships between local communities and other stakeholders are compiled in Box 5.3. As was noted earlier in this chapter, several of these collaborations belong to the hybrid governing structure, which allows the actors to operate across different levels of scale.

11 Here the author referred to the establishment of Community Forestry Committees (CFCs) and Customer Services Centres. The customer services centres were piloted in some forest districts across the country under the second Forest Sector Development Project (FSDP II). The customer services officers are responsible for educating the local communities and implementing community level projects.
Box 5.2  Actions and inactions of forest actors that hamper the governing system as perceived by forest governors and experts

**Ministry of Lands and Natural Resources**
- Formulates policies that do not take the interests of some of the actors into consideration.
- Interferes with forest implementation activities.
- Formulates policies that enmesh with ambiguous tenure systems.
- Is unclear as regards policy implementation.

**Forestry Commission**
- Circumvents policy on tenure systems.
- Implements policies that are not in balance with stakeholders’ interests.
- Implements policies and regulations in a non-transparent way.
- Interferes with operations instead of decentralising authorities to the Divisions with a clear chain of command.

**Forest Services Division**
- Some compromise their integrity by conniving with forest operators on illegal activities.
- Fail to enforce existing laws.
- Engage in poor forest management planning and implementation through ignorance of legislative rights of stakeholders, which results in conflicts.
- Have a more timber-oriented focus

**Judiciary**
- Biased adjudication of justice in forest-related cases (corruption, poor interpretation of the law).
- A lack of interest in forest and tree cases.

**Police /Military**
- Some compromise their integrity.
- Only partially enforce laws.
- Tend to overuse force to implement regulations.
- Are biased against some actors.
- Collect bribes and take sides in forest offence cases

**Forest fringe communities and the various community-based organisations**
- Competing interests in forest/tree resource use and forestlands.
- Connive with some forest offenders with a view to engaging in illegal harvesting and farming.
- Often take the law into their own hands when they disagree with one or more actors.

(continues)
Formal timber operators (on and off-reserve TUC holders)
- Destroy farms and disregard local norms and cultures.
- Obtain their source of raw materials from legal sources but do not sell the obligatory 20% on the local market.
- Disregard the terms and conditions of contracts and do not comply to the logging standards.
- Sometimes refuse to comply with social responsibility agreements (SRAs).
- Fell more trees than officially allocated.

Lumber sellers
- Finance illegal chainsaw operators and instigate people against FC staff or police.
- Obtain lumber from illegal sources and refuse to disclose sources and suppliers.

Chainsaw millers
- Connive with farmers, the FSD and the police to harvest and transport products to clients.
- Destroy trees and farms with crops without compensation.
- Employ some members of the community to carry the lumber and give money to some leaders in the community.

Traditional leaders
- Some leaders at community level connive with illegal operators/millers.
- Most stool land chiefs keep royalties or funds from forest resources for themselves.

NGOs (national and international)
- Lobby for resource benefits outside prevailing laws.
- Fail to educate stakeholders on forest-related laws.
- Instigate confrontation between resource managers and communities.

District Assemblies
- Fail to use some of the royalties for social development at the site where logging takes place.
- Are not transparent in managing funds from forest resources.

Academic institution (Faculty of Renewable Natural Resources)
- Do not incorporate conflict management techniques in conventional training of resource managers.

Transnational community
- Short-term interventions which do not often results in achieving interventions goals.
Dynamics: new trends in forest governance

Forest governance has become one of the pivot points in sustainable forest management efforts in developing countries and Ghana is no exception. In the face of overlapping drivers which undermine sustainable forest management, and taking into consideration the benefits of forests to the Ghanaian economy and the world at large, the Ghana government puts forest governance high on its development agenda. International donors, civil society and the private sector have been supportive of this move. Several initiatives have been and are being taken by both state and non-state institutions to mitigate the menace by the turn of the millennium (Box 5.4).

Box 5.3 Several collaboration initiatives between local communities and other stakeholders

The Modified Taungya System (MTS). The MTS is an agroforestry system that was introduced in Ghana in 2002 in a bid to support both rural livelihoods and address Ghana’s deforestation problem. It is an adapted version of the old taungya system, which was suspended in 1984 partly due to a lack of farmers’ support for it. Under the MTS, farmers receive land to grow food crops alongside the planted timber trees during the early years of plantation development (Ledger et al., 2010). This form of co-management is a major source of both cash and non-cash income to some forest fringe communities (see Insaidoo et al., submitted). However, there are several challenges such as uncertainty about the continuity of the scheme (see Chapter 8).

Boundary cleaning. This is an agreement between the FSD and members of the Community Forestry Committees and Community Biodiversity Advisory Groups) for cleaning forest reserve boundaries in exchange for wages.

The National Forestry Forum (NFF). The forestry forums have been established to engage different stakeholders from the actor groups in forest governance (i.e. the state (FSD, local government, MOFA, etc.), the private sector (i.e. timber loggers, millers, timber traders, chainsaw operators etc.), and civil society (i.e. communities, traditional leaders, NGOs, CBOs, etc.) in dialogue on forestry issues on a common platform. Currently, there are district, regional and national forums with a national secretariat based in Kumasi.

Community Biodiversity Advisory Groups. The Forestry Commission created the CBAG during the creation of the Globally Significant Biodiversity Areas (GBSAs) with a view to getting community assistance in the management of the protected area. It is composed of representatives of several stakeholder groupings at village level (i.e. the Unit Committee, youth, women, traditional leaders, etc.). The CBAGs assist in clearing the GSBA boundaries and serve as a mouthpiece for the community in GSBA matters.

Community Forestry Committees (CFCs). Like the CBAGs, the CFCs were established to serve as a channel through which the FSD could implement its collaborative forest management activities.

Commercial timber plantations: Large-scale plantation development within degraded forest reserves with a land lease between the FC, a private investor and the stool landowners signed before plantation establishment. Associated with this partnership is the benefit sharing agreement as discussed in Box 5.5.
The Voluntary Partnership Agreement (VPA) initiatives initiated as part of the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) process aim to tackle the global problem of illegal logging and the associated trade in illegally produced timber products as well as providing social safeguards for affected persons (see Insaidoo et al. forthcoming, for an elaboration on social safeguards in the Ghana-EU VPA process). Ghana signed and ratified the Voluntary Partnership Agreement (VPA) with the European Union in 2009 in a quest to increase the commitment of timber-producing countries to sustainable forest management by supporting forest law enforcement and governance (Bodegom 2009, Beeko & Arts 2010, Owusu et al. 2010, Ramcilovic-Suominen et al. 2010). Article 17 of the agreement on social safeguards states that ‘in order to minimize possible adverse impacts, the parties agree to develop a better understanding of the livelihoods of potentially affected indigenous and local communities as well as the timber industry, including those engaged in illegal logging’.

Box 5.4 The myriad of ongoing forest governance initiatives

AC-FLEGT = EU = European Union; FAO-nfp = UN Food and Agricultural Organization-national forest programme; FC = Forestry Commission; FIP = Forest Investment Programme; FLEGT = Forest Law Enforcement, Governance and Trade; FORIG = Forestry Institute of Ghana; GIRAF = Governance Initiative for Rights and Accountability in Forest Management; IUCN = International Union for the Conservation of Nature; KASA = civil society sector support mechanism in the natural resource and environment sector; NFDP = National Forest Development Plan; NLBI = Non-Legally Binding Instrument; NREG = ; REDD+ = Reducing Emissions from Deforestation and Degradation plus; VPA = Voluntary Partnership Agreement; WD = Wildlife Division of the FC

* Is an NGO collaborating with the WD to improve the livelihoods of inhabitants around protected forest areas using microcredit as a tool to reduce poverty.

Source: Adapted from FC website, Terry Green cited in Rozemeijer & Wiersum 2009.
The VPA clearly envisages that the implementation process is likely to affect actors who depend on forest resources for their livelihoods through illegal means, but it is not clear about how it interprets social safeguards. An international workshop was therefore held in 2010 as part of the ‘Illegal or incompatible?’ project\textsuperscript{12} to address this gap. Six mechanisms were identified during this workshop, namely: (i) legal security for forest users; (ii) soft law enforcement (meaning creating incentives for people to adapt in the long term); (iii) benefit sharing and compensation; (iv) capacity building; (v) alternative livelihoods and employment; and (vi) expansion of the forest resource base (IOI Project team, 2010). These mechanisms are the outcome of two interpretations of the VPA. One prevails among the state and the formal timber industry and can be qualified as ‘command-and-control’ law enforcement. The other prevails among civil society organisations and the small-scale timber industry, which prefer to see the VPA as a multi-stakeholder process based on equitable access and control over forests and benefits (\textit{Ibid.}).

The multi-donor sector budget support through the Natural Resources and Environmental Governance (NREG) programme aims to increase the contribution by the natural resource sectors (particularly forestry, wildlife, and mining) and the environmental sectors (such as the Environmental Protection Agency, EPA) to Ghana’s socio-economic development. The NREG programme ensures that all stakeholders share responsibilities for sustainable natural resource management and environmental protection and enhancement. The NREG programme provides annual budget support to sustain the implementation of the reforms planned by the government in the areas of natural resource and environmental governance (FC 2008).

Another remarkable initiative is the United Nations Forum on Forests’ (UNFF) non-legally binding instrument (NLBI) that Ghana adopted in 2008. The NLBI is intended to promote sustainable forest management and thereby maintain and enhance the economic, social and environmental values of forests. One of the expected outcomes of the Ghana NLBI project is to ensure that ‘progress in the implementation is monitored and lessons learned, documented and shared’ (FORIG 2010). Of the 24 NLBI national policy measures, stakeholders in Ghana prioritised four key issues for the achievement of sustainable forest management in the country. These are (i) to promote cross-sectoral coordination for sustainable forest management, (ii) to strengthen law enforcement, (iii) to develop effective financial strategies for sustainable forest management, and (iv) to develop and implement the National Forest Programme and ensure its integration into the national development programmes (e.g. Ghana Poverty Reduction Strategy – GPRS) (\textit{Ibid.}).

Another initiative includes the partnership between Ghana and the national forest programme (NFP) facility of the United Nations Food and Agriculture Organization (FAO) in Rome, Italy. This partnership is in favour of (i) developing the National Forest Forum and making it operational at national and regional levels, (ii) removing blockages to, and support the effective operation of, Collaborative Forest Management, and (iii) promoting the implementation of the modified taungya system to reforest degraded forest reserves (see \url{http://www.nfp-facility.org}).

\textsuperscript{12} The ‘Illegal or Incompatible?’ research project was funded by the Netherlands Ministry of Foreign Affairs, Directorate-General for International Cooperation (DGIS) and is a partnership between Wageningen University and Research Centre, Tropenbos International and research organisations in Ghana and Indonesia.
With a view to promoting the sustainable management of Ghana’s forests, the FC has engaged itself internationally with the Reducing Emissions from Deforestation and Degradation Plus (REDD+)\(^\text{13}\) and the Forest Investment Project (FIP) initiatives designed to use market incentives to encourage forest conservation and mitigate climate change. In addition, there is the National Forest Plantation Development Programme (NFDP).

Some key projects initiated by non-state institutions to improve the forest governance process include ‘the strengthening voices for better choices (SVBC) in Ghana initiated by the International Union for conservation of Nature (IUCN) and the Tropenbos/FORIG/FC Chainsaw milling project by Tropenbos International Ghana.\(^\text{14}\) From the research arena, the Forestry Research Institute of Ghana (FORIG) is also involved in climate change mitigation projects, which are all oriented around sustainable forest management.

**Third order governance**

Third order governance, or meta-governance, encompasses the principles underlying forest governance (Kooiman et al. 2005). In the following sub-sections, the principles underlying Ghana’s forest governance and conflict management are first analysed, insofar as they are based on international agreements. Next, the analysis shifts to the perceptions of forest governors and experts regarding the underlying principles, which emerged from the survey and validation workshop.

**Principles underlying Ghana’s forest governance and conflict management**

For the past six decades, global concerns about tropical forests have brought forest management issues to the forefront of many environmental debates, especially after the United Nations Conference on the Environment and Development (UNCED) in Rio in 1992, which led to the concept of sustainability featuring prominently on the international agenda (Adams 2009).

The concept of sustainability in forestry received international attention in the ‘Forest Principles’\(^\text{15}\) and in Chapter 11 on combating deforestation in Agenda 21, both adopted at UNCED (Ros-Tonen et al. 2005). Although the Forest Principles were not a legally binding contract, they reflect a global commitment to forest conservation, reforestation, and sustainable forest management, acknowledging the social, economic, ecological, cultural and spiritual needs of present and future generations (UN 1992). One of the first ‘post-Rio’ moves was to promote the development and use of criteria and indicators for sustainable forest management, for which the International Tropical Timber Organisation (ITTO) had laid the foundation by developing the first set of criteria and indicators

\(^{13}\) REDD-plus is an initiative to create a set of financial mechanisms to reduce carbon gas emissions from deforestation and forest degradation with the plus referring to additional benefits, including the role of conservation, sustainable management of forests and enhancement of forest carbon stocks (see [http://www.un-redd.org/AboutREDD/tabid/582/Default.aspx, accessed on 14 September 2011]).

\(^{14}\) According to the TBI website, ‘The chainsaw milling project is using multi-stakeholder dialogue (MSD) as the key mechanism for developing a consensus based action plan to address the problems associated with chainsaw milling. This MSD is fuelled with sound information to facilitate good decision making. Outcomes from this multi-stakeholder process are piloted in ten communities in Ghana.’ ([http://www.tropenbos.org/projects/securing+legal+domestic+lumber+supply+through+multi-stakeholder+dialogue+in+ghana, accessed on 14 September 2011](http://www.tropenbos.org/projects/securing+legal+domestic+lumber+supply+through+multi-stakeholder+dialogue+in+ghana)).

\(^{15}\) The Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Forest Types.
for the sustainable management of natural tropical forest just before the summit. A specific set of criteria and indicators was developed for Africa by the African Timber Organisation in 2003 (ATO/ITTO 2003).

Table 5.2 summarises several international forest management initiatives before and after the Rio Earth Summit which were all intended to improve forest governance at global and national levels in order to ensure sustainable forest management and which have influenced the principles underlying Ghana’s forest policies. Some of the principles that come to the fore include sustainable management, biodiversity conservation, the recognition of customary rights, and stakeholder involvement. As Braatz (2003)

<table>
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<tr>
<th>Date</th>
<th>Pre-Rio Earth Summit</th>
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<tbody>
<tr>
<td>1948</td>
<td>IUCN is formed to promote international cooperation for nature conservation.</td>
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<tr>
<td>1972</td>
<td>The UN Stockholm Conference highlights threats to the biosphere, including stratospheric ozone depletion, deforestation, desertification, and biodiversity loss.</td>
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<tr>
<td>1982</td>
<td>The Brundtland Commission Report requires sustainable development to meet the needs of current generations without compromising the needs of future generations.</td>
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<tr>
<td>1985</td>
<td>The Tropical Forest Action Plan (TFAP) process was initiated by FAO/UNDP, the World Bank, and the World Resources Institute (WRI) in an effort to establish national programmes for sustainable forest utilisation.</td>
</tr>
<tr>
<td>1986</td>
<td>The International Tropical Timber Organisation (ITTO) is established. In 1994 ITTO agrees to ensure that all tropical timber exports would come emanate from sustainably managed forests by 2000.</td>
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<tr>
<td>1991</td>
<td>The World Bank issued the Forest Policy Paper which stresses the need for sustainable conservation-oriented forestry responsive to local communities.</td>
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<tr>
<th>Date</th>
<th>The Earth Summit</th>
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<tr>
<td>1992</td>
<td>The UN Conference on Environment and Development (UNCED) in Rio de Janeiro addresses global environmental problems. The Commission on Sustainable Development (CSD) was created to implement Agenda 21, including the Forest Principles in Chapter 26 which address the role of local communities, indigenous people and other stakeholders.</td>
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<table>
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<tr>
<th>Date</th>
<th>Post-Rio</th>
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<tr>
<td>1993</td>
<td>The ITTO adopts the Guidelines on the Conservation of Biological Diversity in Tropical Production Forests which call for biodiversity conservation in production forests while acknowledging the need for consultation with local people and the need to respect their tenure rights and rights to benefits from biodiversity.</td>
</tr>
<tr>
<td>1993</td>
<td>The Forest Stewardship Council (FCS) is established. FSC Principles and Criteria are adopted in 1994 and recognise the legal and customary rights to indigenous people to own and manage their forests.</td>
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<tr>
<td>1994</td>
<td>Launching of the World Commission on Forests and Sustainable Development (WCFSFD) to develop a global vision for forests in the twenty-first century. The WCFSFD seeks to achieve policy reforms by reconciling economic and environmental objectives for sustainable management of global forests.</td>
</tr>
<tr>
<td>1995</td>
<td>The Intergovernmental Panel on Forests (IPF) is initiated by the CSD to seek a global consensus for action supportive of participation and sustainable forest management.</td>
</tr>
<tr>
<td>2003</td>
<td>ATO/ITTO initiates national level principles, criteria and indicators and three forest management unit level principles with criteria and indicators, with all these being intended to ensure sustainable forest utilisation and the maintenance of multiple functions of forests: ecological, economic and social wellbeing of society.</td>
</tr>
<tr>
<td>2007</td>
<td>The United Nations Forum on Forests’ (UNFF) non legally binding instrument is launched to reduce deforestation and degradation, to enhance sustainable forest management in member countries and to maintain and enhance economic, social and environmental values of all types of forests for the benefit of present and future generations.</td>
</tr>
</tbody>
</table>


16 ATO = African Timber Organisation.
noted, the complexities resulting from the proliferation of international agreements, instruments and conventions, as well as the bodies that deal with various aspects of forests pose a challenge, namely how to set coherent policies and coordinate action effectively. Efforts to find synergies among international forest-related instruments are being hindered as it is still unclear (i) what legal, financial, and institutional modalities for forest governance would best facilitate progress toward sustainable forest management and help achieve national and international sustainable development priorities, (ii) where and how the necessary resources (financial, human, and technological) can be secured, and (iii) how governance structures and processes can be strengthened in countries so that they can effectively support sustainable forest management (Ibid. 2003).

Since Ghana is a signatory to all of these conventions and a member of several international organisations, the nation is obliged to fulfil the objectives of these bodies. Several international principles have therefore shaped most of the governing instruments that guide Ghana’s forest sector, such as the 1994 Forest and Wildlife Policy, operational strategies (i.e. the manual of procedures in timber harvesting and guidelines to distribute forest resource benefits) and governance initiatives such as Non-Legally Binding Instrument (NLBI) and Reducing Emissions from Deforestation and Degradation Plus (REDD+) (FC-FAO n.d.). The Forest and Wildlife Policy (FWP) of 1994, which represented an attempt to project the general societal concerns about the country’s forests, specifies the principles on rights of local access to basic natural resources, local democracy, participatory management and protection of forest and wildlife resources.

Governors’ and experts’ perceptions of principles at the national level
The focus of the survey, interviews and the workshop was on guiding principles such as effectiveness, legitimacy and moral responsibility (c.f. Kooiman & Bavinck 2005). In terms of substantial values, the respondents highlighted the following issues as being relevant:17

- The protection of community rights and norms;
- Transparency;
- Accountability;
- Effective dialogue;
- The inclusion of actors in decision making;
- Conciliatory negotiations;
- Respect for legal pluralism by institutionalising and strengthening traditional laws as a part of forest management;
- Adherence to the rule of law.

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17 In addition to the principles listed here, some respondents also referred to adherence to policy documents such as the Ghana FC’s logging manual of procedures and the VPA between Ghana and the EU to combat illegal logging. These answers have been summarised under the heading ‘adherence to the rule of law’.
Figure 5.3 arranges the principles mentioned by the respondents and workshop participants in accordance with the features of good governance as proposed by UNESCAP.  

**Figure 5.3** Principles underlying interactive forest governance in Ghana

- **Consensus-oriented**
  - Open attitude by the FC to public criticism and other actors; conciliatory negotiations

- **Participatory**
  - Inclusion of all actors in decision making

- **Follows the rule of law**
  - Constitute a legally recognised interactive governance committee/body; strengthen institutions responsible for law enforcement

- **Effective and efficient**
  - Strengthen the governance system at all levels – Reserve, District, Regional and National

- **Accountable**
  - Effective dialogue; easy access to information for all

- **Transparent**
  - Actors’ roles, rights, responsibilities and benefits clearly known

- **Responsive**
  - Adopt new forest policies to meet contemporary challenges

- **Equitable and inclusive**
  - Empowerment of marginalised actors

**Source:** Survey data and workshop outcomes in 2010, arranged according to the features of good governance (adapted from UNESCAP, retrieved on 14 September 2011 from [http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp](http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp)).

Second order governance: Institutional arrangements

This section first reviews the current forest policies and regulations under statutory law that determine existing institutional arrangements and then reviews the institutional arrangements under customary law.

**Statutory law: current policies and legislations and tree tenure arrangements**

International forest policy processes such as the Rio declaration, Agenda 21 and other conventions had a direct influence on the 1994 Forest and Wildlife Policy of Ghana (FWP 1994) aimed at ‘conservation and sustainable development of forest and wildlife resources for the maintenance of environmental quality and the perpetual flow of optimum benefits to all segment of society’ (FC website). Based on the general prin-

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Box 5.5 On and off-reserve rights to ownership, use, revenues and benefit sharing

Admitted farms: these are the rights of farmers who had farms prior to reservation to continue to farm in designated areas.

Admitted rights: customary rights held by individuals or communities to the forest reserve land at the time of reservation, especially when not harmful (i.e. cultural or religious uses), were upheld and documented.

Domestic use rights/communal rights: the right of forest fringe communities to access forest resources in forest reserves for domestic purposes.

Royalties: The concept of royalties in Ghana forest management could be traced back to the 1927 Forest Ordinance Act, in which stool landowners were given a role in forest management under colonial rule in return for a percentage of the revenue generated. The current benefit-sharing arrangement is enshrined in Article 267 (6) of the constitution of Ghana, complemented by the Timber Resource Management Act (TRMA 547). As stipulated in the constitution, this benefit-sharing scheme still holds for the on-reserve forest areas, whereas the percentage was modified for off-reserve areas through a forest policy reform in 2002. The distribution among beneficiary stakeholders occurs when FC has taken its share of 50% management fees from the royalties. The administrator of stool lands also retains 10% to cover its administrative costs, and then allocates the remaining revenues to ‘stakeholders’ according to the following constitutional formula.

25 % to the stool ‘for the maintenance of the stool in keeping with its status’
20 % to the traditional authority (generally the paramount chief and his council) and
55 % to the District Assembly.

Social Responsibility Agreement: is a right governed by the Timber Resource Management Act 1997 (Act 547) with a fixed amount of 5 per cent of stumpage values in L.I.1721 between TUC holders and communities, often in the form of public services such as schools etc.

Crop damage compensation: A timber utilisation contract (TUC) or concession holder gives compensation to a farmer when food crops on farmlands are damaged in the course of felling and is backed by Act 547. The farmer has the right to negotiate with the TUC holder for ‘fair compensation for crop damage’

Timber utilisation permit (TUP): The District Assemblies, town committees, rural community groups or NGOs, may apply for the grant of a timber utilisation permit to harvest timber in a land not subject to a TUC, which shall be used solely for social, or community purpose.

MTS benefit sharing: The FC receives 40% of all proceeds obtained from the plantation, excluding non-permanent food crop proceeds unless mutually agreed with the farmer. The farmers receive 40% of all the proceeds obtained from the tree plantations and all the non-permanent food crops unless agreed otherwise. The landowner and the local community receive 15% and 5% respectively of all proceeds obtained from the tree plantations excluding non-permanent food crop proceeds.

(continues)
principles underlying the FWP, the then Ministry of Lands and Forestry launched the Master Plan 1996-2020 to provide a firm foundation for implementing the aims of the 1994 Forest and Wildlife Policy. Several legislative instruments were enacted (see Table 5.1) to support the policy in fulfilling its objectives but, to date, no single clear piece of legislation has been passed to support collaborative ideas or community rights to natural timber resources. Several benefit-sharing strategies, such as ownership rights to planted timber trees on farmland, timber utilisation permits for community development projects, social responsibility agreements and compensation payments are dispersed over several laws such as Act 574 and Act 617.

The enactment of some of the pieces of legislation came with some tree tenure arrangements (e.g. rights, ownership benefits and revenue sharing) as elaborated in Box 5.5. The creation of forest reserves meant that local communities still maintained some

**Box 5.6 The Forest and Wildlife policy of 1994 is a move in the right direction but……**

‘The policy is a move in the right direction but the major challenge is that, to date, most technocrats do not believe that forest management should be shared’. I suggest that the technocrats take the following into consideration:

- Forestry education must be a ‘constant friend’ of the technocrat.
- Management prescriptions and legislations must be different for forest reserves and off-reserve areas, with more participatory legislation for the off-reserve areas.’
- The agriculture-forest interface (i.e. reforestation efforts) must be strengthened in order to increase timber supply for both the domestic market and export.
- Timber trees outside forests need to be properly documented with a view to ensuring proper ownership rights and farmers should be well educated to this end.
- Administrative guidelines to manage conflicts should be institutionalised with a focus on constructive instruments such as mediation, dialogue and education that demand a partnership between the Forestry Commission and other actors.

usufructuary rights in the form of admitted farms, admitted rights, and domestic rights of use. In addition, communities were entitled to a revenue sharing arrangement (royalties). The enactment of the Act 547 of 1997 (amended Act 617, 2002) also created some benefit rights such as the social responsibility agreement (SRA), crop damage compensation, timber utilisation permit, and the right to own planted trees on individual farmlands. Similarly, there are the MTS and commercial plantations development benefit sharing schemes which were launched under the National Forest Plantation Development Programme (NFPDP) in 2001. These benefit-sharing arrangements indicate a shift from authoritarian control and state management of natural resources to collaborative stakeholder management of resources (Agyeman et al. 2010). However, in practice, the tenure challenges regarding individual access and rights to naturally grown and nurtured timber trees on farmlands hinder a pro-poor policy. Box 5.6 is the view of a retired forest governor of what is needed to ensure that the 1994 FWP does not trigger conflict incidences in Ghana.

The Ghana Forest and Wildlife policy of 1994 has been under review since 2008 in a process of multi-stakeholder consultations. The review of the policy was needed in order to address the negative issues and trends19 in the sector and to integrate contemporary global governance issues.

Customary laws and practices governing forest management
The customary laws and practices that are used to govern forest management in Ghana are based on cultural norms, traditions and beliefs that together ensure that trees and animals are protected. An analysis of the system was described by the FC through FORUM20 experiences (n.d: 15-19). According to FORUM, the landowners were efficiently managing the forests on the basis of the principles that statutory law presently seeks to achieve. In the past, customary norms, taboos and sanctions were used to conserve and preserve endangered species through hunting restrictions and control of felling of economic tree species. Although some of these restrictions are still in use (see, for instance, Bokhorst 2011), other practices had to be rejected due to the importation and adoption of foreign cultures, indiscipline and the lack of respect for customs (FC-Forum experiences undated). Population explosion, land shortage and cultural changes have further reduced the effectiveness of customary systems (Agyeman 1994). Nevertheless, the 1992 Constitution of Ghana clearly recognises customary law and practices (see Box 5.7 for an overview). Kasanga (2002) calls for the ‘rationalisation’ of the plurality of the rules and sources of authority (both customary and statutory) with a view to identifying clear issues and problem areas that need to be addressed to encourage security of tenure among all people and resource conservation.

According to this author, this will help fulfil the legitimate quest for land by local communities and migrant farmers who want to meet their basic needs in the face of limited land supplies brought about by the arbitrary creation of forest reserves, and which

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19 Such negative issues include absence of an institutional and legal framework to support local people’s livelihoods, illegal logging and chainsaw milling, inequitable access and benefit rights, and an over-emphasis on timber production.

20 The Forest Resources Management Project (FORUM) was funded by the German GTZ and KfW, with an original budget of DM 25.0 million. The project aimed to reduce degradation of forest resources in the Volta Region and it ended in February 2008. However, there are a few activities to be finalised with the DM 0.45 million funds that remained at the end of the project (http://76.12.220.51/index.php accessed on 16 September 2011). The project generated useful educational material on their experiences in the forest sector in the Volta region.
underlie many current tenurial and land-use conflicts (*Ibid.*). Another issue worth addressing is that of guaranteeing an equitable distribution of customary beneficiary rights to natural resources that are currently held by the chief in trust for the local communities (Agyeman *et al.* 2010).

**First order governance: Day-to-day conflict management**

The day-to-day management of conflicts in the forest sector in the past and present regime can be categorised into preventive and mitigation measures. The daily management of forest resources at district level falls under the supervision of the District Forest Manager and the team made up of assistant managers, range supervisors, cartographers, forest guards, customer service officers (not present in all districts), and other administrative staff. Their core role in forest management is to monitor and control harvesting operations, and they are therefore faced with the need to deal with the day-to-day management of conflicts that arise from their activities or those of other forest stakeholders.

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**Box 5.7 Customary laws and practices within the 1992 Constitution of Ghana**

**Article 11:** (2) common law comprises the common law, doctrines of equity and the rules of customary law including those determined by the Superior Court of Judicature; (3) customary law is the rules of law which by custom are applicable to particular communities.

**Article 26:** (1) gives entitlement to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the Constitution; (2) customary practices which dehumanise or are injurious to the physical and mental well-being of a person are prohibited.

**Article 125:** (2) citizens may exercise participation in administration of justice through public and customary tribunals and the jury and assessor systems.

**Article 267:** all stool lands in Ghana shall vest in the appropriate stool on behalf of, and in trust for the subjects of the stool in accordance with customary law and usage.

Establishment of Office of Administrator of Stool Lands: **Article 270:** (1) guarantee of institution of chieftaincy, together with traditional council as established by customary law and usage; (3) law making provision for (a) determination, in accordance with appropriate customary law and usage, by a traditional council, Regional House of Chiefs, or Chieftaincy Committee, of the validity of the nomination, election etc. of a person as chief.

**Article 272:** states that the National House of Chiefs shall (b) undertake study, interpretation and codification of customary law with a view to evolving a unified system of rules of customary law and to compiling the customary laws and lines of succession applicable to each stool or skin; (c) undertake evaluation of traditional customs and usages with a view to eliminating those that are outmoded and socially harmful.

**Article 274:** (3) Regional House of Chiefs shall ... (f) compile customary law and lines of succession applicable to each stool or skin.

*Source: 1992 Constitution of Ghana (currently under review).*
The patrolling by forest guards has been one means to prevent illegal encroachment that may result in conflicts. During the 1990s, an institutional reform resulted in major retrenchment of most of the guards. It was also the era in which collaborative forest management was initiated and community institutions such as the CFCs were tasked to play the role of forest guards and to maintain the integrity of forest reserves by policing the boundaries to prevent illegal use of the reserve (Amanor 2005). Nevertheless, in the absence of clearly defined tenure and benefits rights, the collaborative approach was not positively reflected at the district levels at which policy strategies are operationalised.

In terms of mitigation, there are numerous different means and methods for resolving disputes and these include judicial mechanisms (courts, tribunals, arbitral panels), extra-judicial means (such as committees) and administrative means within the sector. An attempt will be made to analyse these conflict or dispute management approaches based on the scanty documentation available in the form of laws reviews and official documents and discuss some challenges identified through the survey and interviews held with forest governors and experts.

From the judicial perspective, legislation is used to govern conflict management in a more procedural orientation. A review of the 1994 Forest and Wildlife Policy shows that some of the guiding principles of the policy promote collaboration among different stakeholders in order to foster good governance, whereas several regulations clearly state how disputes or conflicts must be resolved. Notably among them, are the following:

a. The Timber Resource Management Act 617 (Amendment) Act 2002 outlines the following steps in resolving disputes and punishing forest offenders:
   - Section (6b): ‘Where a holder of timber rights who seeks to be granted further timber rights has been convicted of, or admits to, two illegal transactions or operation in the industry, in the two years immediately preceding the application, the application shall not be granted.’
   - Section 14f: ‘(1) where a dispute arises between an investor and government all efforts shall be made through mutual discussions to reach an amicable settlement. If the conflicts cannot be amicably resolved then the option of arbitration must be selected.’

b. The Benefit Sharing Agreement for Modified Taungya Forest Plantation includes the following conflict management mechanisms:
   - Section 13.1: ‘Any disputes arising out of, or in connection with, this agreement, which cannot be settled amicably among the parties shall be settled definitely and conclusively in accordance with the provisions of the Arbitration Act 1961(Act 38) by a panel of 4 arbitrators and the decision of the arbitrators will be final.’

c. The Partnership agreement between FC and Investor under commercial plantation investments:
   - Section 10: ‘Any disputes arising out of, or in connection with, this agreement which cannot be settled amicably among the parties shall be settled definitely and conclusively in accordance with the provisions of the Arbitration Act 1961(Act 38) by a panel of three arbitrators.’

   - Part 1(8): ‘Where any public identified as suitable for the grant of timber rights and endorsed by the Chief Conservator of Forests is also identified by any other state institution to be suitable for some other national purpose, the matter shall be
resolved by the Minister and any other Minister concerned.’

e. The Forest Protection (Amendment) Act, 2002: oriented towards forest offences

- Section 1 (for details see Chapter 7). ‘Any person who (...) commits an offence and is on summary conviction liable to a fine not exceeding 500 penalty units or to imprisonment not exceeding 2 years or to both, except that for a second or subsequent offence under this section the offender shall be liable on summary conviction to a fine of not less than 250 penalty units or to imprisonment not exceeding 3 years or to both.’

f. Social Responsibility Agreement (SRA): Under this agreement, the modes of resolving disputes are through negotiation between the timber contractor and fringing communities. The presence of a District Chief Executive and the Forest Manager as witnesses may bring the mediation mode into play when the need arises (see Chapter 2 for the different conflict management modes).

This analysis clearly indicates that the current legislation is ‘timber-friendly’ in the sense of promoting negotiation in the case of confrontations between the FC and timber operators, whereas community members who access trees illegally, according to the Forest Protection (Amendment) Act, 2002, are immediately subject to court action (fines or imprisonment).

Another conflict mitigation measure is the establishment of a committee of inquiry which assesses conflict cases such as illegal farming and logging (especially when no offender is arrested) in forest reserves, and presents recommendations for action to the Forestry Commission. This mode was used frequently soon after Ghana’s independency when there were widespread admitted farm conflicts. The challenge of this approach is in the implementation of recommendations and the counter interferences by some elites. One such committee was the Nyinaku Committee set up to examine the circumstances surrounding the illegal alienation of land in forest reserves in the Western Region. The report and its recommendations were incorporated into a government white paper in 1976. However, just as preparations were being made to implement these recommendations, the government (through the then secretary of the Ministry of Lands and Natural Resources, MLNR) issued counter-instructions to the then Chief Conservator of Forest (England 1993).

The FSD sometimes uses an administrative approach to fine offenders when the offender is made to sign affidavits to pledge to desist from committing such offences again and pay for the stolen forest products. This is a common practice in relation to illegal logging by legal timber contractors or sometimes chainsaw millers. The reasons for applying this approach are twofold. First there are the frustrations of the officials involved in the court system due to constant delays as regards pronouncing a judgement, as a result of constant adjournments which lead to extra working hours. The second reason is the lenient penalties imposed on the offender by the judiciary which fail to deter the culprit.

Another mitigation measure is coercion. Assistance from the military or the police help to arrest illegal chainsaw millers or destroy illegal farms in the reserves. Some-

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21 Letter Reference No. SCR/G 1-SF.2 of May 23 1977 and SCR/G.1-ST.2 of 18 July 1977, issued the following administrative instructions which were said to have superseded the white paper on the Nyinaku Committee report:

These farms should under no circumstances be destroyed;
The farmers should be allowed to continue farming the land in the forest reserves already cultivated.
times this approach culminates in violent or non-violent direct action. Managing conflicts relating to SRAs and crop damage compensation results in mediation by the District Chief Executive or the District Forest officer when negotiation fails.

The mitigation of conflicts related to intruding into a concession area and exploiting timber resources to which someone else has the rights are often mediated or arbitrated by the FSD at district level, or solved by the companies themselves (company-company conflict mitigation). When mediated by the FSD, the claimant (the timber company making a case of trespassing) reports the matter to the FSD district manager, who (often in company of other officers) organises a meeting with the two companies to seek a mutual resolution to the conflicts. The accused timber company is made to pay the stumpage fee and other expenses incurred by the claimant depending on the outcome of the negotiation process. According to a forest manager, such cases are often not resolved in court because the FSD ensures that the matter is amicably resolved as agreed by the parties to the conflict (Boakye Kwabena Akyeampong, pers.comm. January 2012).

Modes of governance

Ghana’s formal forest sector has a blend of hierarchical and co-governance modes of governance (see Chapter 2 for an explanation of the different governance modes). The hierarchical mode of governance is widespread, with the Forestry Commission being the main responsible agency for forest management. This mode of governance is a legacy of British colonial rule and is governed by strict policies and laws with strings of a ‘command-and-control-system’. Even though hierarchical governance is essential to govern a complex common pool resource like a forest, a balance is needed with co-governance modes. When hierarchical governance overshadows the co-governance process it weakens governability and this has been identified by forest governors and experts as one of the weaknesses in Ghana’s forest governance process (see next section).

The co-governance arrangements are rooted in the 1994 Forest and Wildlife Policy and its legislative instruments, especially the provisions and guiding principles relating to community forestry and collaborative resource management. Such arrangements are also being influenced by changes in the international community. The operationalisation of the collaborative resource management in the early 1990s has ensured that stakeholders have a better understanding of the activities of the FC in forest resource management. Furthermore, the collaborative resource management programmes have been creating avenues for participation and consensus building and opened opportunities to incorporate community and other stakeholders concerns into policy formulation. Over the years such trends have been promoted through forestry programmes (see Box 5.5) that have resulted in different hybrid governing actor structures as discussed earlier in this chapter. In this mode of governance, forests are managed jointly by government agencies and communities and conflict management issues are also resolved on a joint basis. An example is given in Chapter 9 in the form of a description of how forestry frontline staff together with MTS farmers and local traditional leaders manages conflicts that emerge from the MTS scheme despite weak participation of the MTS farmers in decision making.

Co-governance is also promoted through the forestry forum concept where different stakeholders come together for dialogue, with decisions being taken from a collective perspective. Equally important in this respect are the multi-stakeholder approaches em-
ployed in the Forest Law Enforcement, Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) and the Natural Resources and Environmental Governance Programme (NREG). A sector study revealed that donors’ financial and technical contributions to the forest sector in the past had not resulted in sustainable forest management (World Bank 2006). This therefore necessitated a shift from direct sector support to inter-sectoral support, which gave ‘birth’ to the NREG programme. The NREG programme not only aims to bring about inter-sectoral collaboration, but also promotes donor harmonisation and effectiveness, which are key elements of sectoral coordination and governance. Besides general support for government institutions, there is parallel individual donor support for civil society, industries and research institutions in their efforts to stimulate sustainable forest management through advocacy, efficient timber productivity, and scientific research respectively (see Box 5.4).

Kooiman et al. (2008) refer to self-governance as situations in which actors take care of themselves, outside the purview of the government. This governance mode prevailed prior to the introduction of scientific forestry. The case study in Chapter 7 shows how a local traditional council without government influence or mediation by government officials manages civil conflicts and imposes sanctions on offenders. This can be seen as an example of self-governance.

From images to action: Forest governors’ perspectives of ‘interactive forest governance elements’

The final part of the governing system to be analysed concerns the elements, i.e. the images, instruments and actions developed by the governance actors. This analysis is based on the outcomes of workshop discussions with forest governors and experts during which the survey outcomes and other forest governance issues were discussed. The analysis of the participants’ perceptions is structured in line with elements of interactive governance theory (i.e. images, instruments and actions).

Images

Despite intentions to move towards co-governance and to ensure sustainable forest management, the forest governors and experts at the workshop identified some challenges with regard to dealing with forest conflicts and their driving forces. One of the key challenges in this respect includes the pervasiveness of conflicts over forest and tree resources, which the existing conflict management mechanisms were unable to minimise successfully. Second, there are the weak institutional structures in the Forestry Commission, especially in the Forest Services Division, in terms of inadequate field staff and poor logistics to fulfil its statutory mandates. In addition, there is weak col-

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22 In the interests of donor harmonisation and effectiveness, four donors are augmenting Official Development Assistance under a common Framework Agreement and Policy Assessment Framework. Donor contributions include those of the Royal Netherlands Embassy amounting to approximately €7 million per year over five years (2008-2012), the UK Department for International Development (DFID) with approximately £2.1 million per year for three years (2009-2011), the Agence Française de Développement (AFD) with approximately €1 million per year over five years (2008-2012), and the European Commission (EC) contributing approximately €4 million per year over three years (2010-2012). Total donor contributions will be approximately US$ 77 million. URL: http://web.worldbank.org/WEBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/0,,contentMDK:22701705~pagePK:146736-pPK:226340-theSitePK:258644,00.html?cid=3001_2
Accessed on 9 September 2011.
laboration between FC, the judiciary and the police and this leads to weaknesses in law enforcement and sanctions. Workshop participants also mentioned challenges related to the supremacy of the top-down governance style in the formal sector, which overshadows the co-governance style inherent in the decentralised structures in the various districts and the participatory initiatives based on the 1994 FWP. An equally important challenge is resource ownership and management among separate actors (i.e. traditional authorities and governments respectively) with the former having no role in supporting forest management. This makes it difficult to reconcile statutory and customary systems to manage conflicts constructively. Inadequate political and administrative will address societal problems emanating from natural resource management because of the influence of politicians and powerful loggers which was also stated as being a hindrance to the forest governance process. Insofar as the sector promotes collaboration among key forest stakeholders, some of the workshop participants emphasised the fact that the implementation of co-management is often difficult as none of the actors has the sole power to decide in certain cases. Lastly, they revealed that forest laws insufficiently differentiate between forest reserves and off-reserve areas, despite the differences in contexts and actors.

In the opinion of the workshop participants, the aforementioned challenges can be overcome by using a combination of strategies. These include (i) a decentralised and interactive approach to forest governance with feedback loops during implementation, (ii) differentiated laws and regulations adapted to the specific conditions both on and off reserve, and (iii) the FC sharing responsibilities, equitable benefits, power and ensuring cooperation with key actors in communities and the private sector, in order to facilitate the smooth operationalisation of its activities. Furthermore, they identified the need to pay due attention to conflict management skills for forest practitioners in natural resource management academic curricula. In this respect they called for a clearly defined position of customary laws within the statutory forest laws, with defined roles for traditional authorities. According to the workshop participants, the above-mentioned strategies call for the commitment of the FC in addition to its ability to mobilise internally generated funds. The FC should also mobilise international donor funds to support these improvements, either alone or in collaboration with research and civil society organisations.

**Instruments**

As discussed earlier in this chapter, there are serious constraints that forest governors are facing in their day-to-day management of conflicts over natural resources. In order to improve the way they deal with the various stakeholders, the forest governors and experts made several suggestions during the workshop, based on soft instruments that could complement the existing legislation. They hope that this will create new opportunities favourable for the accommodation of the multiplicity of actors and for promoting effective interactive forest governance. For such implementation to be effective, they suggested the following joint actions and strategies:

- Provide the FSD district offices with adequate human, financial, technical and logistic resources for the implementation of policy strategies, laws and regulations at the district level.
- Strengthen capacity development of the FSD frontline staff, such as forest guards, range supervisors, customer service officers (where applicable) and district manag-
ers, particularly in conflict management. This will enable them to strengthen existing community-based organisations such as CBAGS and CFCs in terms of education and other provisions such as Wellington boots and identity cards to perform their duties.

- Create a common platform that occasionally redresses grievances and addresses conflicts through cross diffusion and fertilisation of ideas.
- Ensure participatory formulation and implementation of management plans with relevant stakeholders.
- Strengthen the forestry forum at all levels so that it can play a ‘broker’ role between the resource managers and forest users.
- Create spaces for people’s empowerment through participation in decision making.

**Action**

In order to ensure that constructive conflict management becomes an integral component of the forest governance process, workshop participants proposed strategies which could be embedded in the governing system with a view to strengthening both second and third order governance (i.e. respectively institutions and underlying principles). The principles were discussed in the section on third order governance. The respondents’ and workshop participants’ suggestions to strengthen institutional arrangements and instruments were as follows:

1. Mobilise funds from the government and the donor community in order to strengthen the governing system and its institutions.
2. Explore international best practices in managing forest conflicts.
3. Institutionalise constructive conflict management options in the forestry sector.

With respect to the latter, the workshop participants advocated a unit within the sector which is specifically designed to manage conflicts and enforce laws, to arbitrate, to engage in adjudication, to mediate, educate and remain in constant dialogue with its stakeholders, clients and other sectors. They judged a periodic assessment of the performance of such a unit to be essential in order to identify weaknesses and apply the necessary remedy on time. In addition, the workshop participants argued in favour of legal recognition of social forestry within the policy framework and inter-sectoral planning and a strengthening of collaboration among land-use sectors. They also considered it important to define roles and responsibilities of the various actors and to create schemes for equitable benefit sharing among stakeholders in forest management. According to the workshop participants, these suggestions could be realised as part of the critical review of existing policies and procedures and ongoing institutional reforms.

**Discussion**

This section addresses the research question on which this chapter was based, i.e. what the characteristics are in terms of features, orders, modes and elements of the governing system that contribute to the governability of Ghana’s forest sector and how does it deal with forest and tree-related conflicts? It starts with a discussion of the implications for forest governance and conflicts of the policy instruments inherited from colonial rule. This is followed by a discussion of the four components of governance systems distinguished in interactive governance theory, via an examination of the features, orders, modes and elements of the forest governing system and their implications for conflict
management mechanisms.

**Implications of colonial policy instruments for current forest governance**

Two main forest policies have been enacted since the introduction of scientific forestry in the colonial period, with very different policy directions. While the 1908 policy recognized protection as being important, the 1948 policy gave priority to production forestry. It resulted in an era mostly referred to as the ‘timberisation’ era, during which the timber industry became a powerful actor in the forest sector (Kotev *et al.* 2005). Each of these phases had different legislations to ensure the achievement of the policy objectives (see Table 5.1). The findings reflect the fact that the forest reservation process was fiercely opposed by local people who were supported by the Aborigines Rights Protection Society. Francois (1987) attributed this to poor consultation by the colonial government with the local people and their chiefs. To some authors, it was an act of using policy to disempower rural farmers while empowering chiefs to expropriate land by creating a customary system that vested land in paramount chiefs, which had hitherto not been their prerogative (Rathbone 1993, Adoo-Fenning 1997, Amanor 2005). Policy and legislative lapses and institutional failures, perceived goal incompatibility and perceived opportunities for deliberate interference with the other’s goals resulting in blocking behaviour can be seen as the underlying causes of conflict in the era of reservation (Schmidt & Kochan 1972, Tyler 1999, see also Chapter 2).

The struggles in the era of reservation were accompanied by a series of conflicts ranging from disputes over land ownership, claims on admitted farms, the emergence of illegal farming in the forest reserves for cocoa cultivation to the introduction of the concession system in off-reserve areas. This supports the assertion about the complexities resulting from such diversity of claims on natural resources and a lack of say in decision making (Dietz 1996, FAO 1996). The nature of conflicts inherited from Ghana’s colonial past also reveal that these are often triggered by a conflict of interests between livelihood needs and other interests in declining resources, whether economic or related to biodiversity conservation (Glasl 1999, Ros-Tonen & Dietz 2005).

**Elements of the governing system: Diversity, complexity, scale and dynamics**

One of the key challenges hindering the governance process is the multiplicity of actors in the forest governing system (Derkyi *et al.* 2010). The shift from government to governance increased the diversity of actors involved and has had tremendous implications for the role of the state, the relation between state and society and the role of the state versus other actors involved in the governing process, especially in Africa (Büscher & Dietz 2005). Although this has increased the complexity, from an interactive governance perspective it has also created an opportunity. In the words of Bavinck *et al.* (2005: 30): ‘if the interests, agendas and capacities of these stakeholders can be harnessed and guided, then there is a possibility of creating synergy that could benefit governance’.

The hybrid-governing mode introduced in this chapter presents an actor constellation involving two or more of the five categories (i.e. statutory, market, civil society, customary and transnational governing structures) identified. It is essential to delineate this mode from the five categories because actors are often constrained or enabled in their actions by structures (Bavinck *et al.* 2005: 29). The hybrid mode facilitates their continuous changing from one governing mode to another as well as to ‘scale-jumping’
across different levels. The emerging governance initiatives mean multi-stakeholder platforms are required for policy dialogue and the formulation and implementation of conflicts management strategies, which in itself are positive indicators of good governance. However, an insufficient focus on actors’ interests can lead to a weak governance process. Actors may grab the opportunity to seek self and/or institutional benefits instead of achieving a common goal and this could create grounds for conflicts due to competing interests and claims.

Different levels of governance orders in the sector: Opportunities and challenges
According to Kooiman et al. (2005, 2008), the governing system is characterised by three orders of governance. This section begins the discussion on the third order (the underlying principles), which will be followed by a discussion on the second order (the institutions) and the first (day-to-day management) respectively.

– Third order governance: Principles underlying forest governance and conflict management
The analysis in this chapter revealed that principles underlying Ghana’s forest governance can, to a large extent, be traced back to a series of dialogues at global level on how to improve forest governance and ensure sustainable forest management (see Table 5.2). The decisions taken at global level influence the management of natural resources at national level. A key source of these principles is Agenda 21 and the Forest Principles adopted at UNCED in 1992 that contributed to a shift in policy focus from timber production to a collaborative management-oriented policy framework that led to the establishment of the nation’s Forest and Wildlife policy of 1994. Underlying principles emanating from UNCED include sustainable forest management, stakeholder participation and biodiversity conservation. New principles have been generated by more recent governance initiatives, such as the VPA process (principles relating to the rule of law) and REDD+ initiatives (principles relating to civil society participation, transparency and accountability, as well as the use of market mechanisms in forest conservation). The integration of these principles into the national agenda was, however, disputed at implementation level. The country is still struggling to translate them effectively into practice, while also having to tackle issues of unclear tenure, inequitable benefit sharing and illegal activities intertwined with conflict incidences (Marfo 2009, FC 2010, Marfo & Acheampong 2011).

In view of these challenges, the workshop participants suggested some substantial guiding principles and values as being relevant to Ghana’s forest governance process. Many of these suggestions emanate from the good governance debate, principally the five building blocks for good forest governance and their components proposed by the World Bank (2009). These include (i) transparency, accountability and public participation, (ii) stability of forest institutions and conflict management, (iii) quality of forest administration, (iv) coherence of forest legislation and rule of law, and (v) economic efficiency, equity and incentives.

The congruence of the workshop participants’ suggestions with the World Bank’s ideology of good forest governance is a coincidence since the document had not yet been published at the time of conducting the survey and workshop. Even though some

23 The term ‘scale-jumping’ was coined by Neil Smith (1992) and refers to the nation-state operating beyond its jurisdictional boundaries. It was extended later into a metaphor that denotes the joining of power and political claims across geographical scales (Marston et al. 2005).
of the survey and workshop outcomes might have been steered by closed questions and the researcher’s explanation of the concepts underlying the interactive governance approach, it is also illustrative of the participants’ exposure to, and familiarity with, the international governance debate. For that reason, the respondents’ and workshop participants’ suggestions for strengthening interactive governance in Ghana were ordered according to the eight features (principles) of good governance in Figure 5.3.

– Second order governance: Institutional arrangements
In order to understand the institutions within Ghana’s forest sector, this study follows the meaning given by Kooiman and Bavinck (2005), i.e. systems of agreements, rules, rights, laws and roles for decision making. The rules and norms guiding statutory and customary governing systems are addressed below.

As discussed earlier, Ghana’s forest sector has undergone different policy reforms with the current Forest and Wildlife Policy of 1994 being considered one of the best in view of principles like collaborative management and equitable share of benefits (Agyeman et al. 2010). Several legislations emerged from this policy, which provide for rights and benefit sharing arrangements for different stakeholder groups. The benefit sharing arrangement observed in this study covers social responsibility agreements (SRAs) and the modified taungya system (MTS). However, despite the pro-poor nature of the current policy several challenges exist with regard to their implementation (Wiggins et al. 2004, Opoku 2006, World Bank 2006, Ayine 2008). The colonial legacy of poor recognition of customary laws and practices is seen as an underlying problem for the current regime.

Customary laws and practices differ among different ethnic groups of Ghana and the 1992 Constitution of Ghana (Article 272) allocates the task of codification of customary laws to the National House of Chiefs. Kasanga (2002) advocates a rationalisation of the plurality of the rules and sources of authority (both customary and statutory) to synchronise the two governing systems and increase the consistency between them. This could be achieved by following the recommendation made by Engel & Korf (2005: 57) that ‘customary practices institutionalised within broader national legal frameworks may provide a good starting point to enhance traditional authorities’ ability to deal with the challenges of contemporary natural resource management.’

– First order governance: Day-to-day conflict management
Both preventive and mitigation measures for managing conflicts in the forest sector are in place in Ghana. The patrolling of reserve boundaries by forest guards has not been very effective due to a lack of personnel. Support through hybrid governing structures like the CFCs and CBAGs has not led to many improvements due to a lack of long-term motivational incentives (World Bank 2006, Kendie & Guri 2007). Mitigation mechanisms involve different strategies which range from judicial to administrative approaches of fines and coercion. However, negotiation and mediation strategies for solving conflicts are also applied, particularly in relation to crop damage compensation and SRAs. The variety of conflict incidences (see Chapter 6) indeed mean that different resolution approaches are required, as advocated by Yasmi & Schanz (2007).

Despite the different approaches, conflict incidences in Ghana’s high forest zone are still prevalent, especially in relation to illegal logging (see Chapter 8). The recommendation made by Castro & Nielsen (2003) that conflict management should be an intrinsic part of natural resource management has not yet received much or even any attention
in Ghana’s forest sector. Some of the forest governors and experts involved in this study pointed out that foresters and resource managers are not trained in conflict management, which is considered to be the domain of the judiciary. This resulted in the recommendation to integrate conflict management in the academic curriculum (see Chapter 6).

**Emerging issues relating to modes of forest governance**

All the three modes of governance distinguished in interactive governance theory co-exist in Ghana. However, a blend of hierarchical and co-governance modes commonly prevails in the formal (statutory) forestry sector, whereas self-governance combined with the other two modes prevail within the customary governing structure.\(^2\)\(^4\) Despite efforts to create co-governance arrangements, the hierarchical mode of governance characterised by command-and-control and centrist approaches still prevails over co-governance. This corresponds with the findings of Bavinck et al. (2005) for the fisheries sector. The integration of co-governance arrangements in the forest sector has been considerably improved with respect to joint decision making and benefit sharing between (and within) government, non-government actors and the donor community. These achievements have been possible through a series of governance initiatives such as the NREG programme and the REDD plus and VPA processes.

Both civil society and state-initiated co-management and participatory governance arrangements led to an increasing number of actors in the forest governance arena, all with competing claims and interests. This increases the complexity and dynamics of the governance system and the potential for conflicts. Nonetheless, the issue of conflict management is not given a lot of attention in most of the recent governance initiatives, except for the REDD plus process. A review of Ghana’s REDD Readiness Preparation Proposal (R-PP) in January 2010 by the World Research Institute (Williams et al. 2011, WRI-Ghana, R-PP 2010: 3) reported the following issues related to conflict resolution:

‘Ghana’s R-PP provides a useful synopsis of the land tenure conflict dynamics in Annex 7, but fails to articulate sufficiently the significance of land tenure conflicts for the development of REDD+. However, it emphasizes the importance of effective conflict resolution and access to redress in the context of REDD+ (p19). The R-PP does not assess to what extent existing conflicts are effectively resolved by the judiciary and alternative systems of justice. However it proposes to establish conflict resolution structures that will operate at the most localized level as appropriate, including REDD+ specific training for lawyers, judges, etc. (p19, 63). At this stage, it is unclear how these conflict resolution structures for REDD+ will relate to existing judicial and other conflict resolution structures, or whether they will address wider underlying land and forest tenure-related conflicts.’

This reflects a positive signal of conflict management becoming a feature of forestry programmes with REDD plus taking the lead. Initiatives like the VPA process, which touches on the implementation of legality standards, must consider complementing the proposed hard enforcement measures with soft enforcement mechanisms (see Chapter 8 and Arts et al. 2010).

**Strengthening conflict management systems within the governance process:**

*From images to action*

The forest governors and experts highlighted the pervasiveness of forest conflicts, institutional lapses and poor recognition of traditional governing system in forest manage-

\(^2\) Chapter 7 of this thesis shows how the three modes of governance amalgamate in the customary institutions in the study area.
ment. Some recommendations were given based on specific challenges. As conflict management is not given a lot of recognition in Ghana’s forest sector they recommended specific strategies to strengthen each of the three orders of element in the governing system.

Conclusion

This chapter explored and assessed the status of the governing system in Ghana’s forest sector with a focus on conflict management. The historical overview clearly indicated the underlying factors of past forest conflicts and their linkages with the present. The analysis of the features of the governing system brought the diversity and complexity of the system to the fore, as well as its multi-scalar and dynamic nature. The analysis of the governance orders highlighted the various principles and institutional instruments that guide the sector as regards achieving sustainable forest management as the core principle of its policy. However, the combination of colonial legacy of unresolved tenure and access rights issues, implementation challenges and dynamics associated with population growth have resulted in illegal land and resource use, characterised by conflicts.

Since conflicts are inherent in any natural resource to which multiple claims exist, they should be regarded as challenges which need to be addressed by setting up suitable institutions, structures and mechanisms for their non-violent management. This can be seen as an opportunity potential to strengthen governance if the process of problem solving is done in a transparent and fair manner, ensuring the equitable sharing of benefits and access rights and promoting conditions that can help to create cooperative relationships.

Considering these challenges, the forest governors and experts involved in this study have expressed their views on what actions they see as a point of entry for the establishment of constructive conflict management in the forest sector. Such actions are to be integrated into the myriad of ongoing governance initiatives in the sector, of which the REDD plus framework acknowledges conflict resolution to the greatest extent. Conflict management should be an integral component of the forest governance process in Ghana. How the forest governors and experts perceive the nature of conflicts and conflict management and the options for improvement is addressed in the next chapter.