Civic Response

Policy Institutional and Legislative Reforms to Support Ghana's Forest Sector Governance

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BRIEFING PAPER

THE STATE

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In 2001 forest sector policy analysis brought to the fore the challenge of the State's inability or unwillingness to exact an appropriate "forest tax" that reflects the real value of timber resources. While this revelation influenced the course of NRMP by including policy reform in the forest agenda; later followed by a partial success of the reform negotiation with the private industry (competitive bidding and its frustration by political interference;, events were overtaken by the emergence of the drive towards Timber legality through a VPA. A subsequent fiscal assessment in 2006 of the likely outcome of timber legality for the forest fiscal and revenue distribution also showed that the FC institution was a problem: it contributes to high transaction costs of the industry and communities, while the loss of confidence of landowners (Traditional Authorities) in the FC institution has led to a *de facto* imposition of "tax" (by chiefs) on timber operators. Institutional reform and a fiscal regime that mutually and consistently align with each other was, therefore, embraced as a more comprehensive approach to dealing with the bottom line issue of inadequate forest rent capture and inequitable distribution of whatever the State exacted from the industry. Today, the dual objective remains largely unachieved. Overharvesting and forest depletion continues, the delivery of competitive forest management services by FC remains questionable, and the forest structure is rapidly changing as a result of depletion, making it important to get the policy right over the next timber felling cycle.

The above developments have implications for Ghana's poverty reduction strategy and the way it has been approached in the past. Poverty reduction still depends significantly on policies and institutions and how they promote markets and income re-distribution. It is, therefore, important to understand the import of the new dimension to the forest policy analysis introduced by the above studies which moves away from the practice of discussing forest fiscal and institutional reforms as separate issues. In another related matter the challenge today for Ghana's forest institutional governance is that forest regulation and its procedures sometimes make it cheaper to bribe, if they cannot be avoided without cost, than comply. Sometimes too, it creates incentives for enterprises to exit the formal sector. While reducing state monopoly in the overall regulatory regime in order to reduce transaction costs, it becomes expedient to use legal enforcement and sanctions as balancing acts. Economic growth (creation of wealth) and poverty reduction (distribution of wealth) are not sustainable events without the fiscal, institutional and legal enforcement linkage.

CHARACTERISTICS

The State comprises central government, local government and law enforcement agencies and their personnel.

As envisioned under FC institutional reforms, the Collaborative Resource Management Unit (CRMU) and Customer Services Centres (CSCs) appear at the bottom periphery of the FC bureaucracy as the main channels for activating processes to give substance to ownership and management rights of communities.

Despite the institutional reform progress made in line with the long-term vision, the FC follows the traditional role of "command and control" over forest management and regulation. Together with a decentralized government system, the combined Forestry Commission District Assembly (local government) structures crowd out chiefs in forest decision making.

The policy-legislative framework

Current legislation, in many respects, is inconsistent with the intent of the Forest and Wildlife Policy of 1994, inadequate and sometime conflicting.

Revenue control

FC collects stumpage fees and distributes this between itself, the State and forest owners. Stumpage fee is collected to cover forest management costs and leave a margin for landowners (Reg. 21(3), of L.I 1721). [1] In providing a distribution service, Office of the Administrator of Stool Lands (OASL) imposes a 5% charge on the 50% total landowners share of stumpage fees received from FC. The State allocates an inequitable share of forest revenue to forest owners. In the share that goes to landowner, District Assemblies collect the largest share (55%) but are not transparent in their appropriations. Though an under-collection of revenue (about 42% in 1999) has improved to about 90% by 2006, the State has been losing real revenue overtime through a non-adjustments and/or partial adjustments of stumpage fees to take account of inflation. Revenue leakage is also occurring through a laundering of timber species and unrecorded timber.

1 As an economic tool, "stumpage" is used to cover institutional costs and capture economic rent. Export levies on timber and wood products are the second most important source of FC's revenue. Competitive bidding for timber resources provided the most single important source of FC's revenue between 2004 and 2006.

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Under-pricing of timber

The State practices administrative allocation of resources and maintains a log export ban policy along with the practice. In the absence of complementary measures to accompany the log export ban, the dual policy has historically depressed domestic price of logs and protects the wood industry with its excess capacity.

Off-Reserve (OFR) Control:

Resistance to change at the FC institutional and organizational levels has substantially retarded reform progress towards realizing participatory natural resources management and poverty reduction. Devolution of OFR operational management to forest owners remains unappealing to FC.

IMPACTS OF POLCY AND INSTITUTIONAL FAILURES

Wood scarcity

Due to past overharvesting practices, Implementation of Ghana's VPA is expected to bring about a significant reduction in the legal cut limit to between 600,000m^3 and 840,000m^3. In line with the wood scarcity, which has started to occur, there is an observed shrinking of the formal wood industry and increased degree of control of timber resources by a limited number of companies.

Domestic market

The domestic market has become over-dependent on illegal wood due to failure of policy to address the problems of under-pricing of timber that has created price distortions between formal (export) and informal sector (chain saw) lumber on the domestic market. The log export ban also contributes to a strong export incentive. The price distortion keeps formal sector lumber out of the domestic market, leaving the supply gap to be filled by illegal sources and at the expense of the environment. Chain saw lumber generates significant revenues that are informally distributed It is estimated that illegal harvesting with its attendant deforestation and forest degradation is costing the economy about 5% of GDP.

Economic Rent Wastage[2]

The State has been unable to capture a sizeable portion of the economic rent in forest fees, largely because a log export ban is in place and domestic prices of logs generally remain low. This policy has encouraged the maintenance of low efficiency in processing

2 Economic rent is the value of the standing tree in its highest valued market, and it is that value which remains after deducting cost of extracting the tree and a reasonable profit margin for the operator that will keep him in business. Since the State (Forestry Commission to be precise) has monopoly over forest management and regulation, the value of the standing tree includes costs of performing these functions. The State captures economic rent principally through stumpage fees [According to (Reg. 21(3), of L.I 1721), stumpage fee is collected to cover forest management costs and leave a margin for landowners]. The payment of export levies at the port is also part of this value. Then, the introduction and payment of Timber Rights Fees are supposed to mop up uncaptured economic rents, since the State has had an aged problem of leakages in stumpage fees. When the State fails to use any or all of these fiscal measures to "tax" the economic rent, the rent stays with the industry. It either remains with it as an excess gain or it is wasted. So the economic rent harboured by the industry does not all end in its pocket. Either way, gain or loss it is a bad policy outcome. If the State compromises with industry on the grounds that it is not making profit, the States forgiving inefficiency, and this runs counter to the declared goal of making the private sector and engine of growth (Vide Ghana's MDGs stated in Annual Budgets).

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which also makes it impossible for the industry to pay close to international prices and survive. Over the last decade and a half, the effect of the policy of timber under-pricing (low stumpage fees) has shifted the economic rent distribution more from loggers to wood processors which in turn wasted a large portion of this rent through low technical efficiency. Economic rent has been distributed to or "harboured" by the following stakeholders:

a. Loggers

b. Wood processors

c. Forest owners; and

d. A large portion that is lost through technical deficiencies in milling

Failure to address this fiscal deficiency or accompanying the log export ban policy with other appropriate measures has shifted economic rent distribution more from loggers and processors to the wastage bracket.

By2005, the State's forest revenue was still below 25% of the size of economic rent. The State allocates an inequitable share of this forest revenue to forest owners. In the share that goes to landowner, District Assemblies collect the largest share (55%) but are not transparent in their appropriations. Though an under-collection of revenue (about 42% in 1999) has improved to about 90% by 2006, the State has been losing real revenue overtime through a non-adjustments and/or partial adjustments of stumpage fees to take account of inflation. Revenue leakage is also occurring through a laundering of timber species and unrecorded timber.

High risk of future revenue decline

There is now a high risk of forest revenues declining with the depletion of high demand species and the overall emerging wood scarcity. There is also the environmental risk that FC in its conflicting roles might allocate these species to the annual yield contrary to its own forest standards, so it can balance its budget. The resulting environmental risks will pass to forest communities

Little investment in regulatory capacity

While the state is maintaining a wide command and control approach to Forest Management and Regulation, it is making little investment in regulatory capacity. At the same time its institutional non-alignment is costing the State US$15 per m^3 in revenue foregone -from industry's unwillingness to pay additional forest tax and from economic rent collected by chiefs. Altogether, FC plays multiple roles that are conflicting.

Forestry has not been able to contribute meaningfully to poverty reduction.

DAs are not appropriating revenues in the direction that improves the coping capacities of forest owners. The nature of the State's plantation programmes involving communities deprives them of a future pension scheme. Thirdly, policies and legislation delink SMFE development from Ghana's MDGs. Legislation in particular has caused timber interests to be served and, generally, poor forest users, including SMFEs, are relegated to the background.

Other Impacts

Other impacts acknowledged include the following: (a) increased risk of declining revenue for the State as a result of declining resource volumes; (b) Continued decline in levels of employment, based on unsustainable wood; (c) limited support of forest owners for Sustainable Forest Management on account of inequitable shares of revenue and little forest revenues trickling down to communities and (d) environmental risks in the form of resource crash and deforestation; and (e) in the future, a high financial risk in the form of foregone carbon and other payments for ecosystem services.

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THE VPA SCENARIOS

A Scoping study carried out on the likely impacts of Ghana's VPA reviews forest policies and stakeholder perceptions and assesses the likely impacts of VPA under three scenarios: The Baseline Scenario (representing "Business-As-Usual");The Legitimate Scenario (VPA unaccompanied by major reforms, and Sector Reform Scenario (VPA accompanied by comprehensive sector reforms). The business as usual scenario spells disaster for both the industry and future livelihoods. The legitimate scenario promises a significant degree (but not total) of legal compliance with industry structure virtually unchanged and turnover declines arrested at some point in time; the likelihood of environmental governance and co-existence of legality with reduced livelihoods in the forest sector. The sector reform scenario, more than the legitimate, corrects significant policy and market failures, provides opportunity for "soft landing measures to mitigate short term adverse impacts of implementing a VPA. These measures will include development the tertiary industry, particularly the informal or small and medium scale enterprises which will in turn offer opportunities for employment generation.

Conclusion And Recommendations

The synthesis study points to insufficient capture of timber rent which is largely wasted by the forest industry. Forest revenue distribution is also characterized by inequity, forest owners being the losers. This inequity, accompanied by non-transparency in the appropriation of forest owners' share, has not engendered forest owners' support for sustainable forest management and forest protection. Though forests are contributing to economic growth, they have not lived up to expectation, that is , making a positive impact on the livelihoods of forest people. Even though the forest industry has made some contribution to employment this is based on unsustainable timber.

Failure to adopt comprehensive reform measures to correct these policy failures have accentuated already existing market failures and worsened timber rent capture. The State has been unable, in the face of industry resistance, to push for further fiscal reforms. There is sufficient evidence that the approach to poverty reduction through distribution of revenues and engagement of communities in paid labour plantation programmes has not worked. There is need for simultaneous pursuit of economic growth and income re-distribution.

The following specific recommendations are made by the VLTP Fiscal Studies:

a. Devolution of Forestry Commission functions
   - Shared FM&R responsibility with the private sector
   - De-regulation of off-reserve resources
   - Role of the Ghana Institute of Foresters (GIF)
   - Training of semi-professionals and professional staff

b. Fiscal reforms that provide incentives for sustainable forest management and value addition

c. Managing the global responsibility of forest governance

d. Transitional measures
   - Engagement of local governments and civil society in discussions of off-reserve issues;
   - Engagement of GIF
   - Outsourcing of grading and inspection functions
   - Private sector dialogue and
   - Strengthening capacity of forest trade associations

These recommendations are consistent with sampled opinions of stakeholders under a VPA Impact Assessment Study in 2007

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