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Forest Watch Ghana Media Statement - Illegal Salvaging Permits

Article 296 of Ghana's Constitution enjoins persons exercising statutory discretionary powers to act fairly and candidly; to avoid arbitrariness, capriciousness and bias (whether from resentment, prejudice or personal dislike) and to follow due process of law. This applies to the discretion to award natural resource rights including timber "salvaging permits".

Salvaging Permits are used in situations where trees are earmarked for destruction as a result of legitimate non-timber activities or (arguably) in situations where felling is necessary to protect the larger forest. Salvaging prevents resource wastage and preserves value for the benefit of Industry, the public and forest owning communities.

In 2004 Forest Watch Ghana challenged the Forestry Commission's blatant use of Salvaging Permits to evade the transparency and competition requirements of the Timber Resources Management Act, 1997 and the Timber Resources Management Regulations, 2003. Permits malpractices channelled hundreds of millions of dollars from the state and forest communities to certain timber men, forestry officials and politicians leaving the FC financially and morally bankrupt. In 2005, after meetings with Forest Watch Ghana, the Board of Commissioners of the Forestry Commission committed to halt these practices; to work strictly and transparently in accordance with sector laws and to pursue legislative reform through participatory processes. Following this we have enjoyed collaborative relations with the forestry establishment and with donors supporting the natural resources and environment sectors in pursuit of forest governance reform. As a result Ghana became the first country to sign a Voluntary Partnership Agreement under which the Ghana government undertook to export only legally sourced timber to Europe. Though there have been many challenges civil society has had no occasion to doubt the good faith of the forestry establishment. When problems such as the unlawful grant of felling rights over the Bomfobri Wildlife sanctuary in 2007 have occurred the Ministry swiftly launched public enquiries, published findings and taken corrective action.

Management Committee:

A. Katoko, K Opoku, PK Anderson, J.M. Shaibu, R. Antwi-Bediako, O.Y. Owusu-Sekyere, Ben Guri
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We have now seen official FC records indicating that the FC administratively issued at least 111 “Salvaging Permits” between 8 January and 19 November 2010 suggesting a return to large-scale systemic lawlessness in the forest sector. This would amount to a reneging on governance reform commitments made by the FC and the Ministry for Lands and Natural Resources under initiatives such as the multi-donor Natural Resources and Environmental Governance (NREG) budget support, the EU’s Voluntary Partnership Agreement, the World Bank’s Forest Carbon Preparation Facility and the World Bank Forest Investment Programme. Forest Watch wishes to note the following.

1. This scale of “salvage” is not justified by law or by due process.

Section 38 (1) of the Timber Resource Management Regulations, 1998 (LI 1649) as amended allows the FC to issue salvaging permits “... for the salvage of trees from an area of land undergoing development *such as road construction, expansion of human settlement or cultivation of farms* (emphasis added)”.

The FC must explain the rate of increase in the use of Salvaging Permits from 0 in 2008 to 9 in 2009 to 111 in 2010. It must also explain the sheer scale of 2010 salvaging. According to the FC the total number of trees needing “salvage” in 2010 so far is over 15,800.

What processes did the Forestry Commission go through to determine that so many trees needed salvage? In each case what assessments were carried out? Who was consulted? What was District Assembly involvement? What other alternatives were considered? How is all of this documented?

2. The process used to allocate these permits amongst companies is unlawful and unfair.

Section 9 of the Timber Resources Management Regulations, 2003 (LI 1649) says that timber rights can only be allocated by auction involving pre-qualified bidders.

Article 268 of Ghana’s Constitution requires parliamentary ratification of all grants of natural resource rights. This allows parliament to verify that due process has been followed.

None of these “salvaging permits” were auctioned. None of them were presented to Parliament. There can be no justification for this. As indicated the average allocation by Salvaging permit in 2010 has been 130 trees. However several allocations exceed 300 trees and at least one exceeds 1000 trees. By contrast in the past the FC has held TUC auctions for lots as small as 40 trees! The FC must explain the basis on which it has determined that one Ghanaian company deserves 1800 trees and others deserve none.

3. The FC has deprived the state and forest owning communities of revenue

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The auction system serves not only to ensure fairness amongst companies. It ensures that that the state captures the highest possible share of resource value. Section 13(9) of the Timber Rights Management Regulations provides that timber rights on auction can only be awarded to the bidder who offers the highest “timber rights fee” or in the event that none of the bidders offers more than reserve price to a bidder who is willing to pay the reserve price. It also ensures that resources are fully utilised and not wasted or abandoned as too often happens when through administrative allocations the FC compels resource owners to subsidise companies.

Given the lack of transparency it is difficult to assess the amount of Timber Rights Fees that should have been paid. There is no evidence that the Forestry Commission itself established reserve prices for these permits. We believe the aggregate loss to the state and to resource owners is in the region of 10 million US Dollars.

Way Forward

Forest Watch Ghana calls on the Minister for Lands and Natural and on Parliament to:

- a) procure the immediate suspension or cancellation of all Salvaging Permits issued by the Forestry Commission in 2010;
- b) institute an open public enquiry into the use of Salvaging Permits; and
- c) (based on the findings of this public enquiry) take the appropriate measures to ensure that this practice is not repeated again.

Forest Watch also calls on Parliament to take up its constitutional oversight role in respect of forest permits.



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