SECURITY OF TENURE AND COMMUNITY BENEFITS UNDER COLLABORATIVE FOREST MANAGEMENT ARRANGEMENTS IN GHANA: A COUNTRY REPORT

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Executive Summary

Community forestry in Ghana takes a form known as collaborative forest management; a term used to cover all forms of partnership between State forestry agencies and communities. Although the 1994 Forest and Wildlife policy set the tone for the recognition of community rights to participate in sustainable forest management and benefit from it, the implementation has not fully captured these ideals. Several collaborative arrangements have been piloted, including Community Forest Committees, Forest Forums, Modified Taungya System for plantation development and community management of dedicated forests. Almost all these arrangements devolve some responsibilities to communities. However, the extent to which tenure arrangements to benefit the communities are secured and these responsibilities recompensed has not been systematically assessed.

The objective of the Country Paper is to report on progress made in Ghana's collaborative forest management efforts in these areas, building on two relevant case studies and a host of other works. The study, commissioned by CIFOR/RRI project on Improving Equity and Livelihoods in Community Forestry, was undertaken for about 2 years in the Offinso and Assin Fosu Forest districts, focussing specifically on the Modified Taungya System under CFMP and the Management of the Adwenase 'dedicated' forest, respectively. The empirical data to support the analysis from the two sites were collected from interviews involving 90 farmers engaged in the CFMP, 60 Adwenase forest community members, as well as informants like District Forest Managers, Community Volunteers and Plantation Coordinators. The paper is a synthesis of desk review report on collaborative forestry in Ghana and two site reports for the selected cases mentioned. It introduces the policy and legal framework for community forestry development in Ghana, citing examples of the types of schemes implemented so far. It follows with some conceptual issues that underpin the analysis of tenure rights and benefit sharing under State-community collaborative schemes. Some results of the case studies are presented and general conclusions drawn, built not only on the results, but also on other observations elsewhere in the country. It ends with some policy recommendations.
The paper concludes that in spite of progress made, Ghana's collaborative forest management efforts have been undermined by lack of full tenure security arrangements, and that fail to recompense community responsibilities. Nevertheless, the various experimentation have increased awareness of the need to pay more attention to full tenure reforms that address community-controlled forestry and improve local governance, especially concerning accountable representation and equitable benefit sharing. Several issues raised for immediate policy attention include opening national debate on accountability of community representative and leadership structures, measures to translate community tenure rights into viable economic opportunities, improving benefit sharing of forest revenue, integrating payment for community roles in forest management, and engaging stakeholders in national debates on these issues.

The report seeks audience with policy makers, NGOs, donors, researchers, community activists, and forestry practitioners. In particular, the Forestry Forum, Forest Watch, and donor-facilitated meetings in the sector, such as those anticipated under the NREG, are important targets of the Country Paper.
Chapter 1

Introduction

It is being increasingly recognised globally that before forests can contribute to improved livelihood of forest-dependent people, the need is to pay attention to security of community tenure rights over forests. However, the policy and legal framework of many countries in the past two decades or so did not address the issue. Tenure reforms usually required social and political pressures by a wide range of actors. This gave rise to different models of community forestry practices in which local communities became an integral part of forest management with several rights and responsibilities devolved to them.

In Ghana, the response to these pressures started in the early 1990s when it became obvious that without effective community participation, sustainable forest management would remain an illusion. The sources were varied; some came from forestry officials' own experience of conflict and confrontation from the field, some from community-based NGOs who advocated for the admission of community rights to participate and benefit from 'their' forest, and others from the international forest policy dialogue processes such as the Rio Declaration and the Forest Principles. They all shaped the national forest policy that prescribed collaborative forest management as the way forward for Ghana. In spite of this radical turn in policy direction, the experimentation and implementation of collaboration was incremental so far as the issue of tenure reforms that secures equitable access and benefit sharing with communities was concerned. Since then, several initiatives seeking collaboration with local communities in managing, protecting and developing forest resources in Ghana have taken place. To what extent have these collaborative initiatives brought about tenure reforms, secured community tenure rights and equitable benefit sharing are important questions not well answered. Answering these questions is important and timely, because several initiatives requiring effective community-state-private collaboration are needed for their effective implementation. The implementation of timber tracking, plantation development, potential forest protection schemes under REDD programmes, and fighting illegal
logging under VPA initiatives for example, are actions that will require collaboration with communities.

Several governance opportunities are there to take the debate and implementation of collaborative forest management forward. The formation of the Ghana Forest Watch (GFW), as an umbrella organisation to crystallize the participation and advocacy of green NGOs in forest governance, is an excellent opportunity to champion community interests. Similar efforts were seen with the negotiation of the VPA when the GFW was able to mobilise civil society groups, including farmers, chiefs, academics, researchers and NGOs, to discuss and submit their input for the negotiation process. The preparatory processes toward the REDD also offer some opportunities for collaborative forest management to be on the agenda. It will become paramount how tenure security of communal forests will impact benefit sharing of environmental payments, and the potential confusion that might be translated to distributing these payments under collaborative arrangements. These emerging issues are, therefore, opportunities for the issue of tenure security and benefit sharing under collaborative forest management arrangements to be streamlined in implementation.

The objective of this Country Paper is to attempt to answer the extent to which community tenure rights have been secured and their roles recompensed under emerging collaborative forest management schemes. Finally, the paper hopes to draw lessons that inform the debate about issues of equity and good governance when collaborative programmes are being designed. It is expected that such an analysis will be useful not only for intellectual enlightenment, but also for policy makers, donors, civil society and local communities, especially those engaged in emerging programmes that require collaborative approaches.

It is essentially a synthesis of desk studies on policy and legal framework of tenure rights and community forestry (collaborative forest management) in Ghana and results from two site studies carried out over about 2 years. Thus, the report draws heavily on the site reports, especially observations related to security of tenure rights, community
responsibilities and benefit sharing. The thesis of the paper is that Ghana's collaborative forest management efforts are undermined by reforms that fail to secure tenure rights and recompense community responsibilities.

The paper starts by introducing the context by pontificating tenure rights, policy and legislative framework of collaborative management and the manifestation of their implementation. It highlights the major concerns these have raised in Ghana, bearing in mind the interest on equity and impact on livelihoods. This is followed by a section that briefly introduces the concepts that underpin the arguments and line of thoughts in the paper leading to a brief mention of the methodology, approach and their justification for the empirical investigations of the work. A synthesis of the results from the site studies are presented and discussed with reference to tenure security and benefit sharing under the studied collaborative arrangements. The section finally gives a brief but critical review of the policy context in the light of the empirical observations. This leads to the final section of the paper which outlines the main policy recommendations from the study that should inform some follow-up actions by governments, communities, and civil society.

1.1 History and context

1.1.1 Statutory versus customary tenure systems in Ghana

Land resources in Ghana are governed to a large extent by statutory and customary laws. Article 11 of the 1992 Constitution lists common law as part of laws of Ghana and cites rules of customary law as part of the common laws of Ghana. Article 11(3) states, "for the purposes of this article, 'customary law' means the rules of law which by custom are applicable to particular communities in Ghana". The recognition of customary law presents Ghana as a dual legal political entity where issues of rights can be contested by statutory and customary laws. These systems, as observed by Kasanga & Kotey (2001), 'are poorly articulated and appear to be on collision course'.

According to PNDCL 152 Section 19, the interests which can exist in land in Ghana are the allodial title, the customary freehold or common law freehold, leasehold and a
lesser interest created by virtue of any right under contractual or sharecropping or other customary tenancy arrangement.

Land in Ghana, except public lands, is held by various stools¹ (skins) or families or clans. The allodial title is the highest title in land recognized by law and in many traditional areas acknowledged as being vested in their stools or skins only. This is why the occupants of these stools are usually referred to as landowners. The State holds lands (public lands) by acquisition from these traditional allodial owners in two main ways. First, it acquires land through compulsory acquisition for a public purpose or in the public interest under the State Lands Act, 1962 (Act 125) or other relevant laws. Second, it acquires land that has been vested in the President, in trust for a landholding community under the Administration of Lands Act, (Act 123). With lands that have been compulsorily acquired, all previous interests are extinguished; the legal and beneficial titles are vested in the President and lump sum compensation should be paid to the victims of expropriation (Kasanga & Kotey, 2001). For 'vested lands', the legal title is transferred to the State, whilst the beneficial interests rest with the community; here, the government does not pay any compensation. This customary right of ownership has been observed by the State since the colonial days when permanent forest reserves were created. The land continues to be the property of the community while the government manages it for the collective good of the public. This recognition forms the bases of all benefit-sharing arrangements from revenue accruing to forest exploitation to the extent that they have been clearly defined in the highest statutory law of the land, the 1992 Constitution (Article 267²).

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¹A stool means the seat of a chief of an indigenous state (sometimes of a head of family) which represents the source of authority of the chief (or head of family). It is a symbol of unity and its responsibilities devolve on its living representatives, the chief and his councillors. Land owned by such a state is referred to as stool land (National Land Policy, Ministry of Lands, Accra, 1999). The equivalent of a stool in northern Ghana is the skin.

²Twenty-five per cent to the stool through the traditional authority for maintaining the stool in keeping with its status; 20% to the traditional authority; 55% to the District Assembly, within the area of authority of which the stool lands are situated (Section 9).
Today, the only ways in which allodial title may be acquired, if at all, by persons other than the State is by transfer through purchase or gift (Da Rocha & Lodoh, 1999).3

Another customary land right that has State recognition is the customary freehold. As a right and by virtue of an individual(s) membership to a community with allodial title to a land, that individual(s) holds a customary freehold to a portion of the land he cultivates first or allotted to him by the community. The holder has the right of occupation, which may devolve on his successors *ad infinitum*. Therefore, until his succession has failed, that is, there is no successor to him, the interest and right is of no definite duration (Da Rocha & Lodoh, 1999). Many native people hailing from forest-fringe communities have a customary freehold interest in their farmlands, as have been passed on from their predecessors to them. Even during the creation of forest reserves, portions that were under settlement or cultivation were demarcated as 'admitted farms', and these lands have been cultivated till date.

After 1962, Act 107, s1 provides that if a person acquires land after the commencement of the Act for farming, his title to any part on which he fails to farm within 8 years is to be extinguished. In everyday application, however, a person cannot be said to have abandoned land if he manifests a clear intention to exercise dominion over the land, although he may not be physically in occupation (Da Rocha & Lodoh, 1999).

Notwithstanding, pursuant to State Lands Act 1962 and Administration of Lands Act, 1962, the State can compulsorily acquire land irrespective of proprietor or land-holding interest. However, this does not extinguish the customary freehold and other subordinate titles and interests derived out of the allodial land; it is the community's allodial title which is affected by compulsory acquisition under Section 7 of Act 123.

In another form of customary practice of land tenure, strangers are given portions of land to settle and cultivate by a landowning community, usually acting through their chiefs and elders. Traditionally, the chief and his elders, acting for the natives of the landowning community, can offer the land as a gift; or the stranger pays a 'drink-money' to acquire it.

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For the former, the stranger must perform a 'thanksgiving' ritual like sending a bottle of alcohol, usually with witnesses present, to serve as evidence of acquisition. The stranger is now thought to hold a common law freehold interest in the land, and has the same rights of indefinite occupation and beneficial use as a customary freeholder. Many immigrant or settler farmers have common law freehold interest to their farmlands. This customary right, which is also recognised by the State, is manifested in so many ways. For example, for a logger to be granted a timber harvesting right, he is required to negotiate a social responsibility agreement with the communities living in the area. The State law does not distinguish between native and migrant communities, for example, nor does it discriminate farmlands under customary or common law freehold.

An interest in land, which has not already been granted a conflicting interest, granted by the holder of the allodial title, customary or common law freehold, to a person for a specified period is the leasehold. In all cases of seeking formal title to land, statutory procedures require evidence of possession of the specific right, mostly in the form of allocation letters issued by the original right holder, mostly the community or stool land chief.

Since the allodial title (beyond which no superior title to land exists) was originally held through customary tenure system that vested such interests in stools, skins and families, the fundamental system on which all tenure rights are developed is the customary system. Boni (2005) went far to observe that the only law governing land tenure in Ghana, with particular reference to transfer of title, is the customary law. Not surprisingly, the customary system has been the most robust system in practice, estimated to hold 80 to 90% of all undeveloped land in Ghana, with varying tenure management systems (Kasanga & Kotey, 2001). However, for all practical purposes, when the State machinery is used and enforced, the customary system becomes weakened (Kasanga & Kotey, 2001).

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Notwithstanding its statutory recognition, in practice, the content and meaning of customary laws have often been disputed, complicating the issue. The Interpretation Act defines customary law as follows:

Customary law, as implied in the laws of Ghana, consists of rules of law which by custom are applicable to particular communities in Ghana, not being rules included in the common law under any enactment providing for the assimilation of such rules of customary law as are suitable for general application (1960, C. A. 4, s 1891)

When the content of a customary law is in dispute, the courts have relied on witnesses acquainted with the native customs until particular customs, by frequent proof in the courts, become so notorious that the courts take judicial notice of them (Woodman, 1996:40)

'Any question as to the existence or content of a rule of customary law is a question of law for the court and not a question of fact' (Courts Act, 1971, Act 372, s50 (1)).

The law further required, in Subsections 2 and 3, that an inquiry be held if the submissions of the parties, reported cases, textbooks and other appropriate sources do not determine the question. In practice, Woodman (1996) has shown that judges had used their own knowledge, but retained for them the opportunity to receive evidence of customary law whenever it was desired. The courts have also looked to previous trends as authoritative precedents. Thus, J. A. Sowah, as quoted by Woodman (1996:43), held that:

“Whatever be the content of a custom, if it becomes an issue in litigation and the courts are invited to prononce thereon, any declaration made by the courts supersedes the custom however ancient and becomes law obligatory upon those who come within its confines. To the extent therefore that a declaration is inconsistent with a part of the content of a custom, that part in my view is abrogated”.

In spite of attempts to impute some rigidity of the content and boundary of customary law and to label specific norms and practices as 'traditional' or 'customary', the fluidity of the concept in practice is increasingly being recognised (Kasanga & Kotey, 2001; Boni, 2005). For example, in the context of rights related to access and use of natural resources in Ghana, Boni (2005) observed that:

'while legal studies examine land tenure as 'traditional' and therefore largely static of not subject to legislative innovations, land rights practices have in fact been subject to profound alterations and have undergone a continuous process of redefinition' (p. 9).

The introduction of cash crops has played an important role in diffusing the rigidity of 'customary' tenure system. It has been observed that the traditional tenure, based on usufructuary rights, was replaced by a strengthening of individualized rights, leading to ownership of land and its commodification (Benneh, 1970; Boni, 2005).

1.1.2 Forest reservation and tenure rights

In the early 1900s, several areas were put under permanent protection and management as forest reserves in Ghana. The objective was to conserve and protect forest environment to maintain a micro-climate for producing major agricultural crops and for protecting water catchment areas.

The reservation affected several community rights in land, although the intention was to manage these forests for the benefit of the landowning communities. Most significantly, access and withdrawal rights to forest reserves for commercial purposes were limited by statutory law. The most prominent of these are the offences listed in the Forest Ordinance (CAP 157). In all cases, the position of the State law is that permission from State forestry officials is needed for one to access forest reserves and to use any forest produce. Section 22 of the CAP 157 gives the details (see Box 1).

Box 1: Prohibitions of community access and withdrawal rights in forest reserves by CAP 157.

<table>
<thead>
<tr>
<th>(1)</th>
<th>Any person who, in a Forest Reserve, without the written consent of the competent forest authority</th>
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<tbody>
<tr>
<td>a.</td>
<td>fells, uproots, lops, girdles, taps, damages by fire or otherwise damages any tree or timber;</td>
</tr>
<tr>
<td>b.</td>
<td>makes or cultivates any farm or erects any building;</td>
</tr>
<tr>
<td>c.</td>
<td>causes any damage by negligence in felling any tree or cutting or removing any timber;</td>
</tr>
<tr>
<td>d.</td>
<td>sets fire to any grass or herbage, or kindles a fire without taking due precaution to prevent its spread;</td>
</tr>
<tr>
<td>e.</td>
<td>makes or lights a fire contrary to any order of the Forestry Commission;</td>
</tr>
<tr>
<td>f.</td>
<td>in any way obstructs the channel of any river, stream, canal, or creek;</td>
</tr>
<tr>
<td>g.</td>
<td>Hunts, shoots, fishes, poisons water, or sets traps or snares;</td>
</tr>
<tr>
<td>h.</td>
<td>subjects any produce to any manufacturing process, or collects, conveys or removes any forest produce; or</td>
</tr>
<tr>
<td>i.</td>
<td>pastures cattle or permits any cattle to trespass; commits an offence and is liable on summary conviction to a fine not exceeding 500 penalty units or to imprisonment not exceeding 2 years or 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 2 years or 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 both.</td>
</tr>
</tbody>
</table>

Second, management and exclusion rights of communities over forest reserves were, and are, largely extinguished by various statutory provisions, such as CAP 157, Concessions Act of 1962 and Act 547 (as amended), Act 627. The management right over forestlands is vested in the State and exercised by the Forestry Commission. The same also exercised control over who can have access to reserves, especially for commercial exploitation of forest resources. To date, the State has maintained the right to grant commercial exploitation of forest reserves.
However, the allodial title to the lands on which forest reserves were constituted was still vested in their respective stools. For this reason, the constitution of forest reserves did not change the ownership status of the forests. Hence, as far as interests in land are concerned, the communities still have alienation rights over their lands.

The ownership of land within a proposed Forest Reserve shall not be altered by its constitution as a Forest Reserve [CAP 157, 18(1)]

The statutory law only preserved or recognised 'customary' access and use rights for domestic purposes. In particular, access to forests to collect non-timber forest products to support their livelihood and for cultural purposes were admitted. In addition, farmlands that were in forest reserves were considered as 'admitted farms' and their owners had the right to continue to maintain the same area of land as farmland.

Nothing contained in this section shall prohibit the exercise in a Forest Reserve by any person of any right which under this Ordinance for the time being is, or is treated as, an admitted right (Section 23 of CAP 157)

For agricultural lands, as exists in many cocoa-growing parts of Ghana, land is not sold but usufruct rights are given. The rules governing such rights depend on whether an indigene or a migrant is the claimant. Land tenure is typical of the 'Abunu' and 'Abusa' systems for migrant farmers, although sometimes they are able to acquire land through payment of 'drink-money' for a specified period. Indigenes have usufruct rights and generally farm on their family lands and, therefore, enjoy customary freehold rights.

Today, these forests that were put under reservation still exist. Except those put under permanent protection, they have become production reserves with the main aim of exploiting timber at sustainable levels. Thus, in practice, the original environmental

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8 'Abunu' is a local sharecropping system in which cash crop produce are shared equally between land-owner and his sharecropper. The sharecropper provides all needed farming inputs such as seedlings and labour.
9 'Abusa' is a local sharecropping system in which cash crop produce are shared in the ration 2:1 between landowner and his sharecropper. In this arrangement, the landowner, in addition to giving out his land, also provides the initial capital to start the farm.
objective for putting community lands under permanent reservation has changed to at least include some economic exploitation. Until recently, when some social responsibility payments are made to forest-fringe communities, they did not directly obtain a share of the revenue accruing to forest exploitation. Rather, the revenue were distributed to traditional authorities and District Assemblies, with the assumption that they would undertake projects that would benefit communities. Unfortunately, this is not so.

1.1.3 Tree tenure

The local people depend on trees for several benefits such as medicinal, housing and ecological. Tree tenure has been defined by Fortmann (1985) as a bundle of rights over trees and tree products, each of which may be held by different people at different times. These rights include the right to own, inherit, dispose, use, and exclude others from using trees and tree products. Concerning land, as observed also by Klutse (1973), interest in the land itself is distinct from interests in things on, or attached to, the land. Thus, planted or naturally growing trees are not usually regarded as part of a land in almost all Ghanaian societies (Agyeman, 1994).

Also, differences in tenure occur between trees planted and those growing naturally, and between trees on family land as contrasted with those on communal land.

When a tree occurs naturally on family lands, tenants can harvest it or parts of it, but they are not allowed to sell them. They can, however, dispose of planted commercial trees after consulting with the landlord, who normally requests a percentage of the revenue. Owing to the long production period and unclear documentation of land ownership, tree planting on family lands are not encouraged by landowners. However, rights to ownership of planted trees on family lands are accepted as more secure than those to naturally occurring trees.


Tenural rights vary by the use of naturally occurring trees on communal lands: in general, the more economic a tree becomes, the greater the tenural restriction on tenants and strangers (Agyeman, 1994). Communal land is defined as land that does not belong to any individual or family, and is considered the property of the whole community. Usually, trees and crops planted on communal lands are communally owned and cannot be harvested by individuals without the approval of the traditional head or any other legitimate community-level structures such as the Town Development Committee.

Amanor (1999\textsuperscript{13}) has explained the development of timber tenure in Ghana and has observed that in the 1950s, two distinct timber tenures came into being. In the Eastern and Ashanti regions where most of the land had been converted to cocoa plantation, the farmers claimed ownership of the trees of the land and transacted them with pit sawyers. In the timber-rich new frontier areas of the Western Region, chiefs claimed ownership of timber resources and transacted them with large concessionaires.

It was later in 1962 that the transformation of timber tenure was completed with the passage of the Concessions Act which vested all trees in Ghana in the President to manage for the chiefs.

It has been observed that the most common conflict associated with forest reserves is between the Forest Service and people who enter the reserves to farm illegally or to harvest non-timber produce (Agyeman, 1994). Under the working plans of all forest reserves, communal rights to collect non-timber forest produce are admitted by permit. However, as observed by Agyeman (1994), contrary to the expectation of communities for less restricted access to the forest, this has not been so because of the cumbersome procedure for acquiring permits.

First, timber rights granted by concessions, and lately by TUC, do not affect other rights to the land or non-timber trees. The community or farmer may use non-timber trees and their produce in the concession areas outside forest reserves.

Second, the issue of land and tree tenure rights and timber logging rights is complex, especially in the off-reserve areas of Ghana's high forest zone. As rightly observed by Inkoom (1999:73), "across the tropical high forest zone the general 'customary' law position is that things naturally embedded in, growing on, attached to, flowing through, found on, etc., the land are held in trust for the community and administered by the traditional authority". However, in practice, Klutse (1973) has noted that a distinction exists between interest in the land itself and interests in things on, or attached to, the land. With specific emphasis on trees, several usufruct rights exist, depending on whether the tree is planted or naturally occurring, and whether it occurs in family, communal or rented land. For example, Agyeman (1994) has observed that when a tree occurs naturally on family lands, tenants can harvest it or parts of it, but they are not allowed to sell them. However, they can dispose of planted commercial trees after consulting the landlord, who normally requests a percentage of the revenue.

The passage of the Concessions Act in 1962 vested all trees, irrespective of where they occur, in the President in trust for the people. Consequently, the right to control and manage tree resources, including allocation of logging rights, is vested in the State. Farmers have no role in controlling felling on their farms and have no rights to fell timber trees on their farms, though they continue to exercise judgement over which trees to maintain on their farms during clearing for cultivation, for example (Amanor, 1999). The State now exercises jurisdiction over timber rights allocation, and the revenue accruing to timber sales, irrespective of source of timber, is shared among the District Assembly, landowners (chiefs), Administrator of stool lands (public agency), and Forestry Commission. Ordinary community members or farmers do not have any share of forest revenue because, by customary conventions, the ownership of the land is rather vested in stools (traditional authorities) and, for that matter, the natural trees growing on the land.

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14 Tree tenure has been defined by Fortmann (1985) as a bundle of rights over trees and tree products, each of which may be held by different people at different times. These rights include the right to own, inherit, dispose, use, and exclude others from using trees and tree products.

However, significant tenure reforms occurred with the passage of the Timber Resource Management Act of 1997 (Act 547) and as amended (Act 617). This law redefined lands that were subject to the granting of timber utilisation rights by the State and those that were not.

No timber rights shall be granted in respect of
(a) land subject to alienation holding or
(b) land with farms
without the written authorisation of the individual, group or owners concerned [Section 4 (2)]

Again Section 4 Sub-section 3 of the same amended Act states that:
No timber rights shall be granted in respect of
(a) land with private forest plantation or
(b) land with any timber grown or owned by any individual or group of individuals

These provisions significantly improved the rights of communities and local people over forests on their lands.

1.2 Community forestry and tenure rights in Ghana

Although policy making has been incremental (Asante, 2005), the 1994 Policy was a major turning point. However, developing policy instruments to implement programmes toward effective community forestry has been regressive. Several factors within the political economy of the forestry sector account for this. First, the sector has powerful gatekeepers who have historically protected their interests. Ample evidence suggests that the timber industry in Ghana is a powerful protector of its interests (Kotey et al., 1998; World Bank, 1999; Awudi & Davies, 2001\(^\text{16}\); Asante, 2005\(^\text{17}\); Marfo, 2006). The timber industry has often succeeded in blocking policy reforms that will increase their payments. There has been several attempts by donors to cajole the Ghana Government to update


stumpage rates (from which royalties will be paid to landowning communities), but this has been resisted by industry (Awudi & Davies, 2001). More recently, the Ghana Timber Association (GTA) succeeded in blocking a proposal for stumpage increase by threats of court suit; the Forestry Commission eventually settled the case out of court (Ayine, 2008). Moreover, although the allocation of timber rights, based on competitive bidding, for concession was a fundamental feature of Ghana's 1994 Forest Policy, yet this measure was thwarted in the final stages of approving the Timber Resource Management Act (Act 547). To a large extent, the industry has been able to block policies that enhance community benefits because the Ghana Forest Service and the political parties have remained dependent on clientele relations with timber interests (World Bank, 1999\textsuperscript{18}).

On the other hand, chiefs and traditional authorities, as representatives of communities, have often fought for increased share of forest revenue without yielding to pressures for increased accountability of the use of their revenue. The elite capture of community benefits is significant (Marfo, 2004; Opoku, 2006\textsuperscript{19}; Ayine, 2008\textsuperscript{20}); but this has not translated into increased energy for these elites to fight for devolution of rights to their people. More recently, responding to pressure from traditional authorities, the share of timber revenue from off-reserve areas, for example, to traditional authorities and District Assemblies was increased from 40 to 60%. In spite of the increase, there has not been any systematic policy toward institutionalising a system of accountability, except a public declaration of the amounts involved.

The important economic role of forest to the national economy has created the tendency for central State control that prohibits devolution of authority and decentralisation of administration, especially to communities. Historically, there has been fairly consistent pattern of growing central government control and regulation of the sector, as well as of

government collection and distribution of timber revenues (Ayine, 2007). The forestry sector contributes about 6% to GDP, directly employs about 100,000 people, and ranks fourth in foreign exchange earnings for the country. Between 2002 and 2007, Ghana earned an average of Euros 174 million from export of wood products.

Therefore, attempts to follow through the 'policy' promise of locally controlled forestry or effective collaboration are yet to achieve enough momentum to overcome the substantial barriers presented by government, traditional authorities, and large-scale businesses.

1.2.1 Policy framework
Since the establishment of forest reserves, forest management had been the sole preserve of the State Forestry Department and communities were alienated. The only management practice with community involvement was the Taungya system. In this system, farmers are allowed to cultivate crops in forestlands, while tending timber seedlings, until they grow to cover crops when the farmer is required to harvest his crops and leave the land. Increasingly, the awareness of the need to involve communities in forest management resulted in establishing the Collaborative Forest Management Unit (CFMU) within the then Forestry Department in 1992. The 1994 Forest and Wildlife Policy of Ghana responded to the need for recognising community rights to access and benefit from forest resources:

The Government of Ghana recognizes and confirms the right of people to have access to natural resources for maintaining a basic standard of living and their concomitant responsibility to ensure the sustainable use of such resources (3.2.1)

A share of financial benefits from resource utilization should be retained to fund the maintenance of resource production capacity and for the benefit of local communities (3.2.8)

Additional supporting actions in the policy document set the tone for developing social forestry:
The need to develop a decentralized participatory democracy by involving local people in matters concerned with their welfare (3.2.15)

The urgent need for addressing unemployment and supporting the role of women in development (3.2.16)

Two concrete strategies were laid out to provide a basis for some power and benefit sharing in forest management:

Encouragement of local community initiative to protect natural resources for traditional, domestic and economic purposes, and support, with the reservation of such lands to enable their legal protection, management and sustainable development (5.3.10)

Development of consultative and participatory mechanisms to enhance land and tree tenure rights of farmers and ensure access of local people to traditional use of natural products (5.5.5)

1.2.2 Implementing collaborative forest management in Ghana

After the 1994 Policy, the legislations that were passed did not fully address devolution of existing rights held by the State to the local communities. The main concept of community forestry that followed was Collaborative Forest Management (CFM).

The CFM concept is defined by the Forestry Service as any form of management involving the partnership of local people with the State forestry agency for the sustainable management of forests. Even with this, no legislation was passed to clearly define the tenure arrangements and what rights are specifically devolved to communities. Thus, several CFM arrangements evolved through the initiative of the Forestry Service and some communities, which did not have a clear legislative framework. For example, a concept, known as Community Forest Committees (CFCs), was mooted to establish a multi-stakeholder body at the community level to assist in educating and monitoring timber operations to ensure that they fall within the law. This has been piloted in several
communities, but to date, the legal backing for this institution is questionable. Their legitimacy has sometimes been challenged, and no legal basis exists for them to claim compensation for their time and energies (Adjei-Sakyi, 2005).

There have been other cases in which communities have sought the cooperation of the Forest Services Division (FSD) to have 'their' ancestral lands that are under threat of invasion to be managed under the umbrella of CFM. This concept of 'dedicated forest' has now been piloted only in Adwenase (215 ha) and Namtee (190 ha) where ancestral lands are being co-managed by the community and the FSD. The Adwenase forest was selected as one case for the study, and will be fully discussed in Chapter 3.

The CFM concept has also been used in the area of forest restoration and plantation development. More recently, plantation development in some degraded forests in Ghana, under the Community Forestry Management Project (CFMP), has used the Taungya System under modified conditions of tenure rights over the trees planted. The Modified Taungya System (MTS) was also selected as one case for the study, and will be given more attention in Chapter 3.

The Government of Ghana has adopted a concept of Forest Forums, and has been using its National Forest Programme Facility benefits from the FAO mainly to pilot the initiative. The Forest Forum is a multi-stakeholder dialogue process organised at the district, regional, and national levels in which issues of policy concerns are discussed and consensus built to feed into higher level decision-making process. This initiative, being considered as an aspect of collaborative forestry, has been coordinated by the CFMU of the Forestry Commission. So far, district, regional and national level forums have been piloted, and steps are being taken to seek for their institutionalisation and legal recognition as platforms for stakeholder consultation and forest policy dialogue in Ghana. If this is realised, the Forest Forum has the potential to drive the implementation of community forestry or CFM interventions at all levels. The Forum has two unique advantages. First, its multi-scaled structure from district, to regional, to national level means that it can be an effective channel to follow through issues raised at all levels.
Second, the admission of key stakeholders to the forum means that the policy community will be potentially opened, and that more room will be created for collective voice and concerns to be tabled. This will break the hegemony of community elite capture and create an effective by-pass for issues, which can address tenure security and equitable benefit sharing, to reach policy makers.

Collaborative Forest Management in Ghana represents a somewhat generic terminology to describe any intervention that involves communities in forest policy planning, management, and operations. So far, the CFM interventions have been mainly State-driven, and have mainly focused on programmes that secure the integrity of forest resources and not so much as an instrument to devolve power, reform tenure rights, and fight poverty. This has resulted in issues of forest product development and market by communities being almost non-existent.

In spite of the pursuit of the CFM regime, these have not significantly influenced the pre-1994 tenure rights, especially on alienation and management, over forestlands and resources. The State still holds the right to grant timber utilisation rights. The significant tenure-related rights that have evolved are as follows:

- The right of landowners or farmers to be consulted and their consent sought for the granting of timber harvesting rights over their lands (Act 547/LI1649, as amended).
- The right to own a planted tree, manage it and exclude others from using it [Act 547 (as amended) Act 617; Forest Plantations Development Fund Act (as amended) of 2002, Act 623].
- The right of local people (private) to co-own, co-manage and exclude others with regards to trees planted in forest reserves. This right is purported to be secured under mutual agreements such as the Modified Taungya Agreement (MTA).
- In association with the MTA, local people have increased access to forestland for the cultivation of food crops of which all proceeds go to the people concerned.
1.2.3 Tenure security, community responsibilities, and benefit sharing

With natural forests, CFM has not really brought tenure reforms that transfer important rights, such as management, alienation and use, to local communities. However, with restoring and developing secondary and degraded forests, CFM has brought some tenure reforms that transfer, partially or fully, some rights to communities, though the security of such rights is still uncertain. To what extent are these 'new rights' secured to serve as important economic avenues for communities to use to support their livelihoods and deal with land use conflicts?

Collaborative Forest Management in Ghana has been designed as an instrumental programme to pursue specific management objectives. For example, the MTS has been designed to use community involvement to restore and improve the integrity of productive forest reserves to maintain their capacity to produce timber on a sustainable basis.

These CFM schemes have been associated with responsibilities under the guise of participation. Communities are expected to attend meetings, do monitoring over illegal operations (timber theft, for example), assist officials in inventories and fire prevention, and so on. It is not quite clear how the transaction cost of these responsibilities under CFM is translated into benefits based on tenure reforms that redefine rights and secure them. The question is: Have these CFM interventions been designed and implemented to recompense for community responsibilities to ensure equitable cost-benefit balancing? These questions are explored using case studies from the two study sites in this study.

Above all, one issue that is significant in Ghana about community benefits under collaboration has been how local structures of authority interface with the collective in distributing benefits. Underpinning this is the debate on who actually holds the customary rights that are recognised by the State and to what extent can community representatives be held accountable.
Article 267 of the 1992 Constitution of Ghana prescribes a formula for distributing the net benefits (after deducting stool land administration cost) from exploiting natural resources:

(a) twenty-five per cent to the stool through the traditional authority for the maintenance of the stool in keeping with its status;
(b) twenty per cent to the traditional authority; and
(c) fifty-five per cent to the District Assembly, within the area of authority of which the stool lands are situated.

To appreciate how local communities come into this picture, one needs to understand the nature of the local administrative and political governance system that prevails. First, the relationship between chieftaincy, as a traditional institution, and land tenure is so complex that this paper cannot fully cover the subject here. Typically, communities in the high forest zone belong to traditional areas that are a collection of villages and towns or communities under the traditional jurisdiction of a paramount chief or Omanhene (literally meaning the chief of the state). Each of these communities may have their own chiefs who are subordinate to the paramount chief. The status of these chiefs are not the same; they follow some hierarchy. The lowest status is called the Odikoro, a caretaker chief who is normally appointed as a traditional leader in a village by the chief who 'owns' the land of the village. Next in the hierarchy is the Apakanhene (palanquin chief, literally meaning the chief who is qualified to sit in a palanquin), or commonly known as 'Ohene' or chief. A palanquin chief occupies a stool with its own stool land. The paramount chief and all the sub-chiefs (palanquin and caretaker chiefs) and their elders in a traditional area constitute the traditional council, which is presided over by the paramount chief. Although chiefs are the traditional heads of the geographical territory of their stool lands, they do not exercise absolute ownership rights over the land, in particular alienation rights.

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21 For some accounts on this, see Berry (2001) and Marfo (2006).
22 A traditional area is an area within which a paramount chief exercised jurisdiction (The Chieftaincy Act, 1961, Act 81). The exception is the Asanteman, which is headed by a super-paramount chief who is also the King of Asanteman called the Asantehene. Asanteman is the geographical entity for all territories that fall under the Asantehene. This includes the whole of Ashanti and part of Brong Ahafo regions of Ghana.
'Any transaction purporting to alienate or pledge any stool property shall be voidable unless made or entered into with the consent of the Traditional Council concerned (The Chieftaincy Act, Act 370 art. 37)

However, customarily and in practice, paramount chiefs do not have absolute right over all stool lands under their traditional jurisdiction (Owusu, 1996; Berry, 2001). Thus, while all chiefs are traditional authorities, their domain of jurisdiction is limited when it comes to rights over land. This makes it difficult to simply label a particular chief as a landowner. It is for this reason that royalties from timber and mineral exploitation from particular stool lands are distributed to the particular chief of the land and the paramount chief of the territory within which that land is located.

Second, all communities belong to particular politico-administrative districts which in turn belong to regions. These are created by the statutory law under the decentralisation structure of the country. Again, the political leadership structures within districts are hierarchical. At the village level, electoral areas are represented by unit committees consisting of appointed and elected members of the community. The committee is headed by an Assemblyman who represents the electoral area (which can be a whole village or parts of it, depending on population size) at the District Assembly. The District Assembly, the highest deliberative and legislative body at the District, formulates bye-laws and executes central government development programmes. The Assembly is headed by the District Chief Executive, who is nominated by the President and endorsed by the Assembly.

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Therefore, traditional areas and District Assemblies represent two sets of areas governed by customary and statutory laws with parallel jurisdictions and autonomy. Thus, the (forest) land area of a community may be in an area which may fall within a traditional area, which is also within a particular district, or within a traditional area or district outside the other. Thus, traditional and, administratively speaking, local communities may fall under different sets of statutory and traditional areas of jurisdiction. This is especially complicated because till today, traditional areas continue to be created owing to the 'promotion' of some chiefs to paramount status. These make it important to elaborate the concept of community and to define its various conceptual boundaries and scope of application concerning tenure rights, responsibilities, and benefits.

**Conceptualising community**

The term community can have several definitional interpretations (Lee et al., 1990). In Ghanaian forestry parlance, it has often been used to describe groups of people living within or close to the forest, groups of people who use forest products, those who become affected by changes in the forest, and people who provide resources toward managing the forest (Asare, 2000). Its common usage in referring to human settlements fringing forests in Ghana has oversimplified its manifestation in practice, especially when it comes to rights and benefit sharing. For example, a legislative provision requires timber contractors to negotiate a Social Responsibility Agreement (SRA) with communities before timber rights are granted.

"To provide specific social amenities for the benefit of the local communities that live in the proposed contract area (L.I.1649, s10d) and “An undertaking by the holder to provide social facilities and amenities for the inhabitants of the contract area (L.I. 1649, s14(1)l)"

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The question is, 'Which of the numerous communities in specific forest areas are to benefit'? In practice, implementing the SRA has been a problem, and Marfo (2001) observes that this has provided grounds for multiple interpretations and segregation of the 'natives' and 'migrants' when it comes to who should benefit. Here, it is admitted that the community is a heterogeneous phenomenon and will be used to describe all the people in the locality of the forest who belong to the human settlements that have been targeted for the collaboration.

**Benefit sharing**

In Ghana, the main forest revenue has been royalties paid from the stumpage fees and land rent that are paid by commercial loggers, and for which the Constitution has prescribed the formula for sharing. When it comes to sharing or distributing the royalty (as an example of benefit) to the local communities, the critical issue has been who should benefit. This raises the question of whether local people should directly benefit from the allocations to their traditional authorities, or from their District Assemblies, or not at all. This is when the issue of equity and accountable representation is mostly debated. The problem has not been resolved because the connection of local people (ordinary citizens) and their tenure rights to land has not been well established, as a bundle of tenure rights to land and forest resources exist. However, a significant reiteration of the principle of trusteeship or custodianship in land provokes demands for chiefs to be accountable to their people. For example, the Constitution states that:

> The State shall recognize that ownership and possession of land carry a social obligation to serve the larger community and in particular, the State shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people of Ghana, of the stool, skin or family concerned and are accountable as fiduciaries in this regard (Art 37, s 8 of 1992 Constitution)

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At the core of issues, however, is the fact that there is no explicit legal requirement that the 25% of revenue received by stools should be reinvested in the community. This is especially problematic as the law encouraged that it should be used for the 'maintenance of the stool in keeping with its status'. Wily et al. (2001) have strongly argued that the law on revenue sharing from stool lands is contradictory and fails to protect individual rights. For example, while a farmer may exercise the right to clear a timber tree during farming on his land, he does not benefit economically when such a tree is left and felled by a commercial logger. The stumpage paid by the contractor on such a tree is paid as a royalty that ends with the traditional authorities and District Assemblies. Often, the assumption is that the District Assemblies will use the fund in developmental projects that benefit all.

The tradition of assuming the individual and community rights, as contained in and being exercised on their behalf by 'their' traditional and administrative structures, transcends almost all cases of land benefit-sharing arrangements. For example, the Forestry Commission (2001) and Marfo (2001) have observed some problems with the communities' SRA negotiation with timber contractors; and, to some extent, the SRA has, de facto, become an extension of the royalty payment system that benefits traditional authorities. Opoku (2006) observed that today, chiefs tend to appropriate royalties for their personal or household use and have often claimed that this is the meaning of 'maintenance of the stool in keeping with its status', and that it is only the royalties allocated to the District Assemblies that belong to communities. However, Opoku (2006) argued that as land is communal property, it follows that royalties (compensation to landowners) belong to the community as a whole and not to chiefs. The 'status' of the stool can, therefore, only refer to the well being of the community that it symbolizes; chiefs, in customary law, are custodians of the community interest and not feudal lords.

The discussion on community representation and benefit sharing under tenure reforms is central to the several emerging policy discourses in Ghana, as it determines the extent to

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which reforms will actually impact the life of ordinary people. There is increasing advocacy to rethink the community arena and create governance culture that can allow redefinition of community representation. Marfo (2004) observed that community members may prefer other structures such as community development or elected committees to represent them aside their chiefs. Ribot (1999), after studying some West African Sahelian countries, concluded that chiefs are not necessarily representatives of, or downwardly accountable to, their people; and usually they are only a semblance of local representation. What this discussion is inviting is that tenure reforms that grant rights to community benefits are good but not enough, unless an accountable system of decision-making and representation exists to guarantee that benefits flow down for individuals to benefit. Although the MTS benefit-sharing agreement in Ghana seeks to work toward this goal, the lessons from the distribution of forest revenue and SRAs do not inspire much hope for real community benefits. Some observations support this.

Concerning revenue distribution, Opoku (2006) has provided a general overview of community representation and elite capture, particularly observing that stools present a more serious and complicated problem. He summarises the problems as two. First, some subordinate stools complain that payment of royalties through the traditional authorities, in practice, enables paramount stools to appropriate part or all of these monies. Thus, the contention has been: Who should receive the revenue for the stool land community? For example, in a case between Juasohene and the Dwaben paramount chief reported by Marfo (2006), the Juasohene has argued that he and his elders constitute the traditional authority over the Juaso stool land; and, therefore, the Administrator of stool lands must channel the Juaso stool revenue directly into its account. On the contrary, the paramount chief has argued that, customarily, all lands, in the traditional area over which he exercises jurisdiction are owned by him; and as such lands cannot be alienated without his consent, the practice of paying stool revenues through the traditional council's account is valid. In personal communication with several stool land chiefs, similar sentiments have been observed, though it is not easy to openly challenge paramount chiefs by cultural practices. It was observed from the OASL\textsuperscript{30} office in Kumasi, in personal communication,

\textsuperscript{30}Office of the Administrator of Stool Lands
that many chiefs have been reporting on either not receiving their revenue from the
traditional council for some time, or they suspect that the amount received does not reflect
the actual value paid by the Administrator. Thus, assuming that stool land chiefs
representing their communities would even use forest revenue for the collective interest,
the structure of representation within the customary political system can potentially limit
the flow of benefits to communities. Second, by allocating 20% of royalties directly to
traditional authorities, the Constitution (statutory law) further blurs the customary law
distinction between 'ownership' and 'political leadership'. Opoku (2006) concludes that
this condones State sponsorship of elite chieftaincy institutions in a way that gives them a
stake in the system whereby timber companies exploit community resources.

Several issues concerning the SRAs have been raised. First, the Forestry Commission, in
its own review in 2001, observed that the negotiations of most SRAs were fraught with
problems. Specifically, Marfo (2001) studied SRA negotiations in five communities in
the Dome Forest Reserve and observed that chiefs and traditional leaders exerted
substantial influence and control in decision-making, and sometimes their opinions
silenced the views of elected community leaders. More recent studies have supported
this. For example, a study by Mayers & Vermeulen (2002) found that local groups saw
little positive impact from timber operations. A common opinion was that any profits
returned to the area, through *ad hoc* agreements with timber companies, had gone to the
stool chief or elders rather than to ordinary citizens. More recently, Ayine (2008) studied
nine SRAs, and his several observations corroborate the potential of representative
authorities to block community benefits. In seven out of the nine cases, the SRAs were
concluded by traditional authorities; and in five cases, no mechanism for the
representation of community interests, other than the traditional authority, in the contract
was involved. He further observed that sometimes provisions for marginal side-payments
to chiefs and other community leaders were included in the Agreement, citing an example
of USD 600 to be paid every month to one paramount chief. Ayine (2008), attempting to
follow the SRAs of the 173 licensed timber operators in Ghana, concluded that while the
legal framework provides an enabling environment for negotiating SRAs, the actual
practice of negotiating and implementing these agreements to benefit community (my own emphasis) leaves much to be desired.

It is important to conclude that the established structures of representation of the communities as a collective by chiefs and local political structures potentially hinder community benefits under collaborative management schemes, even if explicit provisions are there for that. Thus, the Ghanaian context exemplifies a system that legitimises the representation of the collective and, to a large extent, has taken for granted the accountability of those who hold collective rights in the trust of the people. The system, therefore, threatens the security of individual and collective rights to benefit from an intervention that may impose responsibilities on them.
Chapter 2

Conceptual Framework and Methods

2.1 The legal basis of rights

The legal recognition of statutory and customary laws as legitimate institutions governing land and natural resource tenure presents a legal pluralistic situation. It is within that context that tenure reforms and their associated demands on rights, responsibilities, and benefits must be discussed. Ghana's legal framework on tenure is not exceptional, and a plethora of studies have observed such legally pluralistic governance regime over resource tenure (Benda-Beckman, 1997; Ros-Tonen & Dietz, 2005). Therefore, it can be argued that whether one is seen as having the right of participation in management decision-making, access to natural resource, withdrawal or use of a forest or tree, considered a citizen or stranger, or can claim benefits from forest use depends on the specific normative construction chosen. It has been observed that in such legally pluralistic situations, people engage in what Benda-Beckman (1997) terms forum shopping and shopping forum, drawing on specific legal norms to engage others in claiming specific rights. Typically, aside statutory laws, customary, religious and other legal orders have all been mobilised in defining rights and legitimising social actions. There has been a long debate in the legal literature concerning whether we should accept only one form of legal order and others considered subservient, or they should all be given equal currency. It is not intended to go into this debate, but so long as these other normative orders are used as legitimate resources in social conflicts, as observed by Benda-Beckman (1997:6), 'some construction of the interrelationships between these systems becomes necessary'.

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Alden Willy (2008) observed that a related paradigm shift concerns the statutory-customary law relationship. She argues that pursuance of statutory or customary legal regimes is not an either/or. Some commentators prefer to avoid the term 'customary tenure' in favour of broad concepts of community and non-State land relations. They argue that 'customary tenure' suggests an inappropriately static distinction between 'custom' and 'the State', in circumstances in which most post-colonial land relations are characterized by a dynamic interplay between State authority, local power relations, and inter-group resource competition (see, for example, Lavigne-Delville, 2000: 102). Alden Willy (2008) further observed that, “The customary rights of the majority, including common property rights, depend profoundly upon the support of statute - national or state laws deriving from acts of elected parliaments. Assurance that customary regimes may operate in designated spheres and that the rights they deliver will be upheld as private property rights needs constitutional or at the very least modern land law support”. To this extent, Alden Willy (2008) concluded, legal integration rather than legal dualism or pluralism, must be the objective. This will require that collaborative forest management initiatives be built on statutory and customary tenure structures and, as far as possible, attempt to harmonise these to play complementary roles.

In the face of a call for legal integration in the context of legally pluralistic settings in which are land tenure arrangements, the question is whether there can be a 'best practice' for the legal recognition of customary tenure. Fitzpatrick (2005) presents four models of approach concerning the degree of recognition of customary laws by the State.

The Minimalist Method is the situation in which the State 'just' recognises customary laws and does not intervene in the internal matters of the community. The second is the Agency Method in which the State intervention may take the form of identifying agents

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4Here, the term 'legal' has been used to impute subservience to customary or non-State legal systems. The term legal is thus used in normative legal sense.

to represent their customary groups. Seidman & Seidman (1994:11) observed that a common colonial solution to conflict resolution in customary areas was to recognize the authority of group leaders first, whilst providing for rights of appeal wherever their decisions offended 'conscience, justice and equity'. The agency method of recognizing customary tenure has considerable disadvantages, particularly arising from the fact that representatives may not always be trusted to act in the interests of their group. This observation is particularly noted in some recent discussions on the role of chiefs in forest resource governance in sub-Saharan Africa (Ribot, 1999; Marfo, 2004). Thus, it is not surprising that no sub-Saharan African countries now retain colonial mechanisms based on unalloyed agency models (Fitzpatrick, 2005). Most are now moving toward land boards or village committees on which traditional chiefs may (or may not) sit in an *ex officio* capacity (Alden Willy, 2003a).

The third method is **Group Incorporation** in which principals and agents combine in an incorporated legal entity. An important advantage is that because agreements are between two legally recognised entities, any dispute arising becomes an internal issue within groups and does not affect the validity of the agreement. Thus, an essential element here is the internal regulations that define internal decision-making procedures and systems of accountability. However, commentators on this model (e.g., Cousins & Hornby; Fingleton, 1998) have made two essential observations. First, the need to ensure that interventions should not aim at forcing social change within a customary group or entity, and that they are not subordinated to external legal order. Second, that the interventions should not be overprescriptive to lead to people ignoring them in practice.

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A fourth approach to recognizing and managing customary tenure, adopted by several countries in Africa, is to establish a decentralized system of **Land Boards**. Here, authorities of traditional leaders and representatives are transferred by law to elected land boards on which these traditional leaders may be *ex officio* members; or, in extreme cases, may not have positions. The significant advantage is that State-sanctioned security of tenure exists for outsiders, while avoiding the transaction cost of dealing directly with customary groups. Three main disadvantages are observed. First, the agency cost implications of separating authority over land decisions from customary right holders themselves. Second, the possibility of excessive formalisation that may lead to dispossession of subsidiary right holders and complete disassociation between State law and local practice. Third, where institutional capacity is lacking to deal with the cumbersome demands of appropriate data and information management, it may lead to conflicts.

The Ghanaian situation largely reflects the agency model. The extent to which the group incorporation and land board models can be used to structure collaborative arrangements has not been systematically explored and has not featured in official discourse. Following land rights history in Ghana, any model that attempts to diminish the powers of traditional authorities' control over land will be difficult to implement. It is well documented that the colonial masters had to use indirect rule with substantial recognition of chiefly authority and control to be able to establish forest reserves in Ghana (Kotey *et al.*, 1998). Any time in the history of Ghana that government has attempted to usurp the authority of chiefs over land, chiefs have resisted. This makes the feasibility of adopting the land board model very impractical unless it is handled at a very high political cost, given the political power that chiefs wield in Ghana. Although sometimes land, for example, is allocated by a committee comprising representatives of traditional leaders and local political representatives, it is by no means close to a situation in which chiefly authority has been subordinated.

The complexity of landownership rights and the multiple levels of traditional authorities involved will make the group incorporation model somewhat difficult to use. First, there
will be a fundamental hitch about who constitutes the 'Group'. However, the strong recognition of traditional authorities as representatives may facilitate the use of such a model, but will not solve subsidiary tenure security problems existing now. Whatever is true, collaborative management requires that internal accountability and security of subsidiary tenure rights within communities be streamlined.

2.2 Tenure rights and claims for benefits

2.2.1 Bundle of rights

The useful conceptual terminology that has been popularly applied to differentiate the various rights associated with natural resources is the so-called 'bundles of rights' (Schlager & Ostrom, 1992\textsuperscript{39}). Generally, these rights are categorised as use right (e.g. access, withdrawal or exploitation), control right (e.g. manage and exclude others from accessing the resource), and alienation right (e.g. rent, sell or transfer the rights to others) (Figure 1). 'Ownership' is often taken as holding the complete bundle of rights over particular resources such as forests. Unlike the case of the State and individuals in which complete holding of ownership right is often true, in most cases of common property, the collective may not have alienation right (Barry & Meinzen-Dick, 2008\textsuperscript{40}). A rigid understanding of the State, collective and individual as agents of rights is increasingly noted as unhelpful (Sikor, 2008\textsuperscript{41}). Instead, we need to have clear manifestations of the State, collective and individual in practice. Rather than seeing them as three distinct categories, Barry & Meinzen-Dick (2008) argue that they can be found more in a continuum. Using the tenure box, the shifts in right holdings as a result of tenure changes or reforms can be mapped and depicted more clearly.


\textsuperscript{40}Barry, D. & Meinzen-Dick, R. (2008) The invisible map: Community tenure rights. Paper submitted at 12\textsuperscript{th} Biennial Conference of the International Association for the Study of Commons, Cheltenham, UK.

2.2.2 Distribution of benefits within the collective

Within the broad legal framework of forest management in Ghana, one can argue that, to a large extent, Ghana's collaborative forest management (CFM) models are typically decentralisation mechanisms. Under the laws establishing Forest Reserves, for example, the management rights of these forests are vested in the Forestry Commission (FC). Many CFM models that have been, or are being, piloted involve the FC delegating some 'management' responsibilities to communities. For example, with the CFC concept, key roles such as monitoring of timber operations (including illegal activities) and public education are part of the responsibility of the FC. Under the piloting of CFM, it has delegated part of this role to the community, using the CFC structure. Even for cases in which the communities 'dedicate' their forests for co-management, it can still be argued that some form of delegation of management powers has taken place. This is because the FC has statutory responsibility for managing ALL forestlands, including off-reserve areas in which most of communal forests such as sacred groves occur. Thus, in so far as statutory law vests management and development of all forest resources in the State, any
form of collaborative management is a special model of decentralisation as the State cedes some powers to actors and institutions at lower levels of the political-administrative system, for example community (Ribot, 2004).

However, increasing evidence suggests that decentralisation processes can increase the vulnerability of local people when burdens of responsibilities are transferred without resources (Ribot, 2004). Clearly, all forms of collaborative forest management interventions involving communities in Ghana have some responsibilities transferred to them, including those that involve some tenure reforms. Resources can be conceptualised here in a broader sense to mean all means of gaining the capacity to exercise power or influence (Marfo, 2006). These can be categorised into economic (access to means of production), orientational (access to information), institutional (access to rights and laws), and social (access to important networks) resources (Marfo, 2006). In the end, all these resources must be able to deal with the relative economic deprivation of communities if they can benefit from 'their' forests.

Such benefits can be manifested in several forms. First, it can be argued that collaborative interventions must include mechanisms to offset the often high transaction cost of participation (Adjei-Sakyi, 2005; Bennecker, 2008). It has been observed that participation is good, but it comes with a cost. Local people must sacrifice their time and energy, forfeiting some economic activities, to participate. Collaboration must recompense such sacrifices if it is to become an empowerment tool.

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Second, above recompensing responsibilities, it is argued that collaboration must be able to ensure equitable distribution of benefits to all parties if the efforts involved are to be considered as true partnership. In the Ghanaian forestry context, for example, some observers use the term partnership to refer to any form of interaction between forestry service and the local people, which improves the flow of benefits to the local people and enhances forest management (Boateng et al., 2002\textsuperscript{46}; Ngugi, 2007\textsuperscript{47}). The argument that partnerships are effective if the partners uphold the principles of transparency and equity, share risks and benefits, adapt well to change, and work toward empowerment (Oliver & Whelan, 2003\textsuperscript{48}) is a critical bedrock to discussing tenure reforms under collaborative management and how they impact benefit sharing, especially to communities. Concerning this, Berge & Stenseth (1998\textsuperscript{49}) observed that the distributional concerns of the various parties in partnership or negotiation must be considered if collective action is desirable.

**Who represents the collective?**

In Africa in general, and Ghana in particular, the issue of benefits to communities under any form of community-State or community-private collaboration is highly linked to the institutions that govern community representation, how they are structured, and to what extent such structures have statutory recognition. This is especially crucial as it defines the contours through which resources from the collaboration are channelled to the community as a collective. In particular, how such structures are linked to tenure rights that serve as a basis for claims or recognition by the State, and how they define the


\textsuperscript{48}Oliver, P. & Whelan, J. (2003) *Literature review: Regional natural resource governance, collaboration and partnerships*. Grithth University, Queensland, Australia.

relationship between representatives and the collective are critical. Ribot (1999:29) observed that “once forestry laws indicate which resources and decisions are in the local public domain, the structure of accountability of public or community representatives shapes whether those decisions are indeed being placed in 'community' hands”.

In many African countries, customary systems of governance largely determine the structure of community representation. Usually, as in Ghana, chiefs, as traditional authorities are custodians of the gods and properties of the community. In areas where the allodial title to land is vested in such traditional authorities (in southern Ghana, chiefs), they are often assumed to be representatives and acting in the interest of the community as a collective (Ribot, 1999). In particular, the role chiefs have played in reserving lands as forest reserves and the substantial influence they wield has made them, through the colonial period to the present, somewhat an extension of the State administrative system. Traditional authorities have, therefore, evolved to have double allegiances; upward to the State and downward to their people. In spite of the fact that a customary system exists that 'imposes' the representation of communities on chiefs, a role they have effectively played even in modern democratic dispensations in many African countries, their accountability to the people has come under significant criticism (Ribot, 1999; Marfo, 2004).

2.3 Selection of cases and sites

2.3.1 Selection of cases

From the foregoing discussion, it is argued that a focus on communities is crucial in deliberating on tenure reforms under collaboration and their impact. Thus, the empirical research focused on communities under some form of collaborative forest management arrangement, looking at the extent to which their responsibilities are recompensed and

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the tenure rights 'granted' to them secured. Two cases were selected because of their inherent connection to this focus. The first case is the Modified Taungya System as an arrangement that seeks to provide improved land access to local people and offer opportunity to invest in their future through plantation development in degraded forests whilst ensuring forest conservation.

The Taungya System is a method of plantation establishment in which farmers are allotted parcels of degraded forest reserves to produce food crops and to help establish and maintain timber trees. Agyeman et al. (2003) have well-documented genesis of the system in Ghana. The Taungya System was introduced in the country in the early 1920s with the primary aim of obtaining a mature crop of plantation timber in a short time. The technique was started in Ghana when it was realized that some communities bordering forest reserves were experiencing land scarcity in their farming ventures, whereas portions of such reserves were poorly stocked in commercial timber species. Under such circumstances, the farmers would apply for portions of such reserves for Taungya purposes and, after verification from field staff, areas would then be allocated to the farmers. Crops such as plantain, cocoyam, vegetables, and other annuals are normally cultivated for 3 years after which the overcast shade from the trees prevents any further reasonable cultivation of the crops. Farmers are, therefore, urged to discontinue cultivating any fresh crops on the allocated plot; but they are allowed to harvest from the previously planted crops for about 2 years, beyond which harvested produce may trickle down to insignificant levels, and the farmers accordingly quit the plots permanently. Given the type of arrangements governing the Taungya scheme, farmers were not entitled to any rights of benefit whatsoever in the benefits accruing from the planted trees, apart from the produce from the crops at the initial stages of the plantation establishment.

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Genesis of the design of the MTS as a collaborative intervention for forest management

The tendency for farmers to pay more attention to their crops to the neglect of the tree crops made the system unreliable in the past, resulting in its being discontinued in 1985 (Agyeman et al., 2003). Other reasons for suspending the Taungya System included the inability of the Forestry Department (now Forest Services Division of the Forestry Commission) to provide effective supervision, among others, and the lack of an equitable benefit-sharing framework among the key stakeholders. These reasons led to the abuse of the system by the participating farmers, which included the following:

i. Farmers deliberately killing planted seedlings to extend their tenure over portions of land, because a successful plantation meant discontinuing cultivation on allocated plots. The only incentive for Taungya farmers was their continued access to the allocated land for farming purposes; thus, the successful establishment of the planted trees posed a threat to their incentive.

ii. Farmers failing to weed around the tree seedlings, thereby retarding their growth.

iii. Illegal farming of other degraded and undegraded areas, which were not allocated for Taungya within the forest reserves.

iv. Farmers planted food crops, which were incompatible with the tree crops.

v. Farmers were not extending this principle of agroforestry on their own land outside the reserves, suggesting that the system had not had the desired impact on the communities (Agyeman et al., 2003).

In responding to these difficulties, the Taungya System has been reformed to improve tenure security and benefit-sharing arrangements. The key change in the “Modified Taungya System” is that farmers are now fully involved in establishing and maintaining the plantations. The farmers tend food and tree crops that are planted in a mixture on the same plot until the canopy closure of the growing trees makes it impractical to continue with crop cultivation. After canopy closure, the farmers continue to tend the trees until
maturity. The farmers are, therefore, eligible for a share of the profits and benefits accruing from the plantation according to a benefit-sharing framework, which ensures greater benefit flows to participating farmers. Table 1 summarises the responsibilities of the various parties in the MTS as specified in the Modified Taungya Benefit-sharing Agreement document.
Table 1: Summary of responsibilities of parties to the MTS Agreement

<table>
<thead>
<tr>
<th>Forestry Commission</th>
<th>Farmers</th>
<th>Community</th>
<th>Traditional Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Supply of good quality seedlings to the farmer group</td>
<td>• Provision of labour including site clearing, pegging, planting, weeding and pruning over the tree rotation period</td>
<td>• Assist FC with labour for wildfire prevention and control</td>
<td>• Provide land within the degraded forest</td>
</tr>
<tr>
<td>• Provision of training and extension services</td>
<td>• Provision of labour for wildfire protection strategies</td>
<td>• Prevention of members from setting fires</td>
<td>• Guarantee uninterrupted access to the allocated land for the FC and other parties</td>
</tr>
<tr>
<td>• Marketing and accounting of the plantation products</td>
<td>• Bear financial cost to recruiting additional labour to assist them (if need be)</td>
<td>• Assist FC to prevent illegal activities within the plantation</td>
<td></td>
</tr>
<tr>
<td>• Manage, oversee, and see to day-to-day supervision of activities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Provide financial resources and equipment to fulfil its own obligations</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The highlight of the institutional arrangements is establishing Land Allocation and Taungya Management Committees at the community level. The Committee is responsible for allocating degraded lands to farmers, monitoring farmers and FC performances, instituting sanctions, and settling disputes (Agyeman et al., 2003).

Under the MTS, the Forestry Commission keeps 40% of revenue while the community groups keep 60%, all worked out in specific benefit-sharing agreements. A detailed register of participants is supposed to be kept by the Forestry Commission, and copies of agreements, in the form of bonds, are to be lodged with the Attorney-General's Department.

Table 2: Comparison of benefit-sharing frameworks under the old and Modified Taungya Systems in Ghana

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Old Taungya System</th>
<th>Modified Taungya System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public agencies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forestry Commission</td>
<td>60</td>
<td>40</td>
</tr>
<tr>
<td>District Assembly</td>
<td>20</td>
<td>0</td>
</tr>
<tr>
<td>Administrator of tribal lands</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Subtotal</td>
<td>84</td>
<td>40</td>
</tr>
<tr>
<td>Local community groups</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>Tribal landowners</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Forest-adjacent community</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Farmers</td>
<td>0</td>
<td>40</td>
</tr>
<tr>
<td>Subtotal</td>
<td>16</td>
<td>60</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

(Source: cited from Agyeman et al., 2003

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The benefit-sharing agreement under the MTS represents a significant tenure reform in which for the first time in post-colonial Ghana, local communities and individuals have direct ownership right over trees in State forest reserves and the benefits specifically prescribed through mutual agreement.

The second case is a unique situation in which local communities bring their forest under a collaborative management arrangement with the State forestry service. This builds on the so-called 'dedicated forest' concept. Unlike the conventional cases in other parts of the world in which the State is giving back forests to local communities, the reverse seems to be happening. Thus, the case is of interest because of its unique nature, as it presents a scenario to see what forms of tenure shifts occur; to what extent they are secured by the collaboration, and how responsibilities are shared and recompensed.

2.3.2 Selection of sites
The site selection was purposive, based on existing community forest sites in Ghana and past work in such sites under the Phase 1 of the study. The first phase of the empirical study focussed on identifying areas implementing collaborative forest management, with issues of tenure, access, market and community organisation being important aspects of implementation. Site 1 studies took place in Assin Akropong, Subinso No. 1 and Subinso No. 2, all in the Assin Fosu Forest District. Site 2 studies took place in three communities fringing the Afram Headwaters, viz. Asempanaye, Ada Nkwanta, and Kwapanin.

**Site 1: The Adwenase 'dedicated' Forest, Assin Fosu**
The Adwenase community forest is one exceptional case in Ghana; for a very long time, forest management had exclusively been under the control of the owners (the people of Akropong community) for historical reasons. Until 1995, the forest patch, which covers an estimated land area of 171 hectares, was under customary management as a sacred grove and royal burial place. The place was once the settlement of the ancestors of the people of Akropong. They moved to their current location (Akropong) because of Ashanti tribal wars. The people of Akropong preserved the Adwenase forest as a sacred place in memory of their ancestors. A lot of taboos prevented the destructive use of the forest; but
migrant settlers moved in and settled very close to the forest. The migrants and some natives started subjecting the Adwenase forest to destructive use. Such use included timber exploitation and conversion of parts of the forest into cocoa and oil palm plantations, and food crop farms. To save the forest from total destruction, the Assin Fosu District Forest Office stepped in at the request of the people of Akropong, addressing all the interest groups at a meeting held at Akropong in 1994. It was at the meeting that a firm decision was taken that the Adwenase forest would be conserved for the benefit of the whole community, rather than allowing only some few individuals to benefit from it. With technical assistance from the Forestry Commission, the community developed a 10-year management plan for the forest in 1995. The management plan changed the status of the Adwenase forest, from a sacred forest exclusively managed by the traditional authorities of Akropong to a dedicated community forest reserve being managed by the people of Akropong in collaboration with the Forestry Commission and, to a very limited extent, some settler communities fringing the forest.

At the community level, the management structure consists of the traditional authorities at the top, followed by a 13-member Management Committee, and finally a 40-member Volunteer Team. The traditional authorities, occupying the topmost tier, consist of the Chief, *Abusuapanin*⁴, the Queen Mother, and elders of Akropong. They have the responsibility of giving sanctions for non-compliance with rules governing the use of the community forest. The Management Committee, occupying the second tier, consists of three representatives from the CFC, two representatives from the traditional authorities, two representatives from the forest Volunteer Team, two representatives from the security services, two representatives from the Assembly/Unit Committee, one representative from the local teachers union, one youth representative, and one settler farmers' representative. The Management Committee has the mandate of deliberating on issues pertinent to the Adwenase community forest reserve. The Management Committee also takes reported cases to the traditional authorities for possible sanctions. The Volunteer Team, occupying the last tier, comprises 39 indigenes of Akropong and one migrant farmer.

⁴*Abusuapanin* literally means family head. In the absence of a chief, he assumes the duties of a chief.
The Volunteer Team is responsible for the on-the-ground forest management activities like enrichment planting of timber and non-timber forest products (NTFPs), border patrols, surveys, and enumerations. Members of the Volunteer Team have been trained in forest management practices like mensuration, survey mapping, and tree identification by the Forestry Commission. The volunteers were instrumental in writing up the management plan. They also act as guides to visitors and researchers who work in the forest.

The main emphasis of the Adwenase community forest management plan is managing the forest patch in a manner that will enable the community realize tangible benefits. This has been highlighted in the management goal quoted below:
'The ultimate goal of managing this land as Adwenase Community Forest Reserve is to use this communal resource to contribute to the development of the Assin Akropong community'.

**Site 2: The Afram Headwaters Forest Reserve, Offinso**

The MTS has been used to pilot Ghana's Community Forest Management Projects. The Afram Headwaters Forest Reserve in the Offinso Forest District is one of the project sites. It was selected because it forms part of the first areas where the MTS was piloted and, therefore, expected to have significant experiences that the study can draw on. The Reserve, covering an area of about 76.231 square miles, is named after the Afram River, which drains the eastern part of the Reserve. The total area of villages and farmland is about 1.426 square miles, as recorded in 1950. It is at the Kumasi-Techiman motor road where it shares border with the Opro Forest Reserve. The Reserve has external boundary of 54.25 miles, and is maintained by forest guards and labourers. The Reserve falls within the stool lands of four traditional authorities, namely Kumasi, Offinso, Ejisu and Agona. It is administratively in the Offinso South District and within the management control of the Offinso Forest District. The Reserve was constituted by the Agona Native Authority (Afram Headwaters Forest Reserve) Rules, 1950; Offinso Native Authority (Afram Headwaters Forest Reserve) Rules, 1950; Ejisu Native Authority (Afram Headwaters Forest Reserve) Rules, 1950; and the Kumasi Native Authority (Afram Headwaters Forest Reserve) Rules, 1950. These rules revoked the original respective Bye-laws formulated in 1928.

The following rights were admitted by the Native Rules:

a. **Communal:** the right to shoot, hunt, fish, and collect snails or deadwood on any Native Authority permit issued on the written advice of a forest officer.

b. **Farming:** the right to cultivate any area that was under cultivation at the time the Rules of the Reserve came into force; these areas have been demarcated by the Forestry Division as admitted farms.
The past management of the Reserve has been essentially protective and restrictive, with an administrative plan to be revised every 5 years. The Reserve is now highly degraded and has been enriched with teak plantation. Wildfire incidence and illegal logging operations are prominent, and it hosts about 210 acres of experimental plots for forestry research.

The three forest-fringe communities studied were under the Community Forest Management Project in which MTS has been adopted as a collaborative mechanism for enriching the Forest Reserve through plantation development. The communities were Asempanaye, Ada Nkwanta, and Kwapanin, all in the Offinso District of Ashanti Region. They are respectively populated by about 600, 200 and 1500 people, being mainly dominated by migrants (about 90%) of the Basaare, Kusasi and Frafra tribes. These migrants mainly farm on the lands of natives, most of whom live outside the communities, under the 'abusu' terms. The main occupation of the people is farming. Outside the Reserve, they cultivate cocoa and food crops. Generally, the fertility of lands outside the Reserve has depleted because of overuse and limited availability of virgin lands. Besides, as most lands are rented or cultivated based on shared cropping system, migrant farmers have restricted access to lands.

2.4 Data collection
Data for the empirical analysis of tenure reforms and their impact, specifically on benefit sharing and compensation for responsibilities, were collected through two field studies. The study spanned 2 years, starting from 2007. The first used desk studies and interviews with the communities and officials to assess the tenure, access, community organisation, and marketing aspects of the collaboration. It also identified suitable sites and communities for the study. This led to a preliminary report that served as a background

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55These were the flexible research and thematic research components of the CIFOR/RRI study on the impact of tenure reforms on livelihoods.
for a more focused thematic study. It became clear that the issue of tenure security and benefit sharing and flows to the community under the tenure arrangements in the collaborative forest management programme was crucial for a more detailed investigation. For the thematic study, 90 farmers involved in the MTS from the three communities fringing the Afram Headwaters Forest Reserve were randomly selected. A focus group discussion was held for the farmers in these communities, and then each interviewed with the help of a semi-structured questionnaire. Secondary data on the programme from the District Forestry Office were also collected besides the interview with the coordinator and supervisor of the programme. A former Assin Fosu District Forest Manager, under whose term the Adwenase forest was dedicated as a community forest reserve, was interviewed as the main informant. In addition, a focus group discussion was held with the traditional authorities of Akropong, the Forest Management Committee, and the Volunteer Team. Lastly, semi-structured questionnaires were administered to 60 respondents in Akropong, Subinso No.1 and Subinso No. 2\textsuperscript{57}, using stratified random sampling whereby 20 respondents were randomly selected from each of the three communities.

In both cases, the study used an interview, a focus group discussion, and questionnaire administration to collect data on the extent of devolution and security of community rights under the collaborative arrangement, the roles being played by the community, the extent to which these responsibilities are being recompensed, and the extent to which respondents agree with the study thesis. The data collected were subjected to appropriate quantitative and qualitative analyses, using the Statistical Package for Social Scientists (SPSS), and the relevant deductions made\textsuperscript{58}. The data and results from both studies are synthesised and presented here.

\textsuperscript{57}Subinso No.1 and Subinso No. 2 are settler communities and, therefore, inhabited mainly by migrants. They are, however, important by virtue of their being close to the forest. Moreover, the two communities and some others fringing the Adwenase forest have been recognized by the Adwenase forest management plan as communities that will receive part of benefits from the forest, as they are situated on Assin Akropong stool land.

\textsuperscript{58}Details of the results from the thematic study can be found in the second site reports by Marfo & Osei Tutu (2008).
Chapter 3

Results and Findings

3.1 Tenure models

The collaborative forest arrangements in both study sites enabled some shifts in the rights and tenure arrangements governing access, withdrawal, management, exclusion, and alienation in the sites (Figures 2, 3, 4 and 5).

<table>
<thead>
<tr>
<th>Access</th>
<th>Performance of cultural rights</th>
<th>Free entrance for leisure</th>
<th>Free entrance for leisure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawal</td>
<td>Collection of NTFPs and timber especially for domestic use</td>
<td>Open collection of NTFPs</td>
<td>Open collection of NTFPs</td>
</tr>
<tr>
<td>Exclusion</td>
<td>Grant permission to migrants</td>
<td>Can prevent migrants and outsiders from the forest</td>
<td></td>
</tr>
<tr>
<td>Management</td>
<td>Decide on what activities are carried out in the forest and consent needed for timber exploitation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alienation</td>
<td>Sole authority to alienate portions of the forestland</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

State (Forestry Commission) | Traditional authorities | Akropong people | Migrant settlers

Figure 2: Tenure box showing types of rights and right holders of the Adwenase forest before it was dedicated as a community forest reserve.
<table>
<thead>
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<th>Management</th>
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<tbody>
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<td>Collection of NTFPs</td>
<td>Collection of NTFPs</td>
<td>Free entrance for leisure</td>
<td>Withdrawal Collection of NTFPs and timber especially for domestic use</td>
</tr>
<tr>
<td>Performance of cultural rights</td>
<td>Grant permission to migrants</td>
<td>Can prevent migrants and outsiders from the forest</td>
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</table>

State (Forestry Commission) Traditional authorities Akropong people Migrant settlers

Collective

Figure 3: Tenure box showing types of rights and right holders of the dedicated Adwenase community forest reserve. Text in red signifies lost rights and green signifies new rights.
<table>
<thead>
<tr>
<th>Access</th>
<th>Performance of cultural rights</th>
<th>Free entrance for leisure</th>
<th>Free entrance for leisure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawal</td>
<td>Collection of NTFPs for domestic use</td>
<td>Collection of NTFPs for domestic use</td>
<td>Collection of NTFPs for domestic use</td>
</tr>
<tr>
<td>Exclusion</td>
<td>Patrolling and keeping boundaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Management</td>
<td>Issue of timber harvesting permits for natural and planted trees</td>
<td>Receive 16% of all timber revenue</td>
<td></td>
</tr>
<tr>
<td>Alienation</td>
<td>Monitoring and supervision FC retain 60% of all timber revenue; others retain 24%</td>
<td>Sole authority to alienate portions of the forest</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State (Forestry Commission and Others)</th>
<th>Traditional authorities</th>
<th>Communities</th>
<th>Individuals (farmers)</th>
</tr>
</thead>
</table>

Collective

Figure 4: Tenure box showing types of rights and right holders under the old Taungya System of collaboration in the management of the Afram Headwaters Forest. Text in red signifies lost rights and green signifies new rights.
<table>
<thead>
<tr>
<th>Access</th>
<th>Withdrawal</th>
<th>Exclusion</th>
<th>Management</th>
<th>Alienation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Patrolling and keeping boundaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Free entrance for cultural rights</td>
<td>Collection of NTFPs for domestic use</td>
<td>Patrolling and keeping boundaries</td>
<td>Issue of timber harvesting permits for natural and planted trees</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Collection of NTFPs for domestic use</td>
<td>Monitoring and supervision of all operations</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Free entrance for leisure</td>
<td>Receive 16% of natural timber revenue and 15% of planted timber revenue (lost 1% of planted timber revenue)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Free entrance for leisure</td>
<td>Receive 5% of planted timber revenue</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Free entrance for leisure</td>
<td>Receive 40% of planted timber revenue</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

State (Forestry Commission and Others)  
Traditional authorities  
Community  
Individuals (farmers)  
Collective

Figure 5: Tenure box showing types of rights and right holders under the Modified Taungya System of collaboration in the management of the Afram Headwaters Forest. Text in red signifies lost rights and green signifies new rights.
Concerning access rights, some form of tenure reforms were observed in both sites, which purported to improve access of the 'community' to the forest. The collaborative programme improved community access to fertile land for farming in the MTS. For example, about 1,320 hectares of land were 'freed' for crop cultivation; this access right would be enjoyed for about another 4 years, as long as planted trees have not fully shaded the land.

For the experimentation of 'dedicated forest', the collaborative arrangement limited access to 'outsiders' and secured, in principle, access rights of natives and recognised migrants. For example, before the Adwenase forest was dedicated as community forest reserve in 1995, both natives (Akropong people) and migrant settlers had almost unregulated access to the forest to collect non-timber forest products (NTFPs) like medicinal products, pestles, snails, canes, building poles, wrapping leaves, and firewood. After the forest was dedicated as community forest reserve, restrictions were placed on the extent of access to the forest to collect NTFPs. The management plan specifies how the people of Akropong and settler communities fringing the forest could exploit the NTFPs in the forest.

However, it became clear that such access and withdrawal rights, although defined in 'community' terms, were in fact limited to some defined group in the community. *De jure*, access right was clearly limited to community members who were interested in 'joining' the collaborative project in Offinso, while *de facto*, it was limited to natives in Adwenase. Thus, the observation from Adwenase shows that while tenure reforms under collaborative arrangement can specify certain rights to a category of people within the community, in practice, these rights may not be enforced in their favour. The practice of exercising withdrawal rights of NTFPs by migrants in Adwenase, for example, was reported to be problematic because they are often restricted by Volunteers, contrary to admission of the right in the management plan for the dedicated forest.

It was further observed that the tenure reforms under the collaborative arrangement in both cases limited community access by defining the scope of their rights. For example, although the farm families admitted to enter the Forest Reserve under the MTS had access
rights, their rights were limited to the use of the forestland allocated to them and did not give them any other benefits. In Adwenase, community access to the dedicated forest was limited to withdrawal of NTFPs. This more or less only 'formalised' rights that were already enjoyed by the people; this time, securing it for the natives and limiting 'others' from exercising the right.

For management rights, the collaborative arrangement in both cases purported to establish the concept of co-management in which the communities are involved in decision-making. It is observed that management right seems to be the type of right that has been somehow well devolved to the communities. For the MTS in Offinso, communities participate in deciding which tree species they would plant, which crops they would cultivate (but within the technical limitations, such as the use of chemicals or some type of crops that do not match well with the trees planted). The Taungya headmen (leaders of the farming groups in the community) often attend meetings with forestry officials and are involved in data collection, monitoring and evaluation operations. In Adwenase, for example, the collaborative arrangement for managing the dedicated forest has brought more people and entities on board in managing the Adwenase forest. Aside the traditional authorities of Akropong (the sole managers before the collaboration), management rights are now shared with the Forestry Commission and members of the Management Committee (comprising representatives of relevant groups at Akropong and migrants, to a very limited extent). Thus, under the collaborative arrangement, the scope of the community, as having management rights, has shifted from the customary definition that imposed the embodiment of the community in traditional authority structures to one that recognises other community members such as ordinary natives and migrants. Thus, the management right that was solely vested in traditional authorities is now shared and held by structures defined by custom and statutory laws.

Owing to semi-formalization of forest management under the collaborative arrangement, the traditional authorities of Akropong have lost the 'illegal' timber extraction rights they used to have before the forest was dedicated as a community forest reserve in 1995. Before dedication, the Adwenase forest was fully managed by the traditional authorities.
and in the process, it was reported that they 'managed' to sell timber trees although it was illegal under Ghanaian statutory forest laws. However, the enforcement of these laws was weak because of the prominence of customary control over such community forests. However, under the collaboration with management rights being jointly 'shared' between the community and the Forestry Commission, the FC can now invoke statutory regulations on timber harvesting rights and insist on them. The 'loss' of this right was evident in 2007 when the Akropong community had to pay full stumpage fee\textsuperscript{59} to the Forestry Commission to process 30 wind-blown trees under a pilot LOGOSOL improved chain-sawing project. An important aspect related to the issue of rights under both collaborative arrangement systems seems to be how these rights are secured. Using the perception of the respondents in the studies, the tenure security or insecurity and how they manifest in both cases is discussed.

For the Offinso MTS, it was observed that the process of completing the signing of the MTA between the community and the Forestry Commission was not completed. Twenty-four per cent of the respondents indicated that the processing of their Agreement had just started as compared to 76% whose Agreements were under processing. Thus, in strict legal sense, no legal document guaranteed any tenure rights or benefit-sharing arrangement.

Concerning the question of whether the absence of the MTA poses a problem, it was observed that about 80% of respondents indicated 'yes'. Only 19% thought it was not a problem, and 1% unsure. The result on the extent to which their level of motivation for participation in the programme has been affected in relation to the MTA generally reflects this response (see Figure 6). About 22% indicated that the absence of the Agreement had not influenced their level of motivation. Compared to those who did not see it as a problem or were unsure (total 20%), it can be deduced that about 2% of the respondents

\textsuperscript{59}The statutory fee paid for harvesting timber trees to cover management cost and revenue to the State and landowning communities. It is calculated as a product of the tree volume, the timber price (which is 35% of the free-on-board value of air-dried lumber of the species), and a stumpage rate defined by the Minister.
were unaffected, though they might have seen it as a problem. However, about 31 and 47% were slightly and significantly affected, respectively. Thus, it can be concluded that the level of motivation of almost half of the respondents was negatively affected, because tenure security arrangements were lacking under the collaborative programme.

![Pie chart](image)

**Figure 6: A chart showing the proportion of respondents and the extent to which the absence of MTA has affected their level of motivation under the collaborative programme.**

It is significant to note that when asked about the extent to which a full tenure security (signified by completing the signing of the agreement) will increase their motivation, over 100% boost was indicated (see Figure 10). To some extent, tenure insecurity, in the form of management rights that do not allow communities to exploit timber or for their responsibilities to be recompensed, negatively affected the motivation of the Adwenase communities. For example, Figure 7 indicates that in all the three communities, people's level of motivation to participate compared to the time of dedication had dropped.
Reasons for the drop in motivation were lack of tangible benefits from the dedicated forest, lack of compensation for roles being played by members of the Volunteer Team and the Management Committee, encroachment on the forest, anticipated assistance from donor bodies and NGOs that were not forthcoming, and an anticipated vehicle that never came. For the settlers, the drop in motivation was due to reasons like the restriction on their access to the forest to collect NTFPs and their non-involvement in managing the forest. A few respondents, however, expressed no change in their level of motivation in protecting the Adwenase forest. Reasons for motivation levels remaining unchanged were the hope to realize tangible benefits soon, collection of NTFPs from the forest, and frequent rains attributed to the forest.

Figure 7: A graph showing responses in the studied communities on respondents' average vote on level of motivation for participation before and after the dedication of the Adwenase forest.
3.2 Regulatory framework and implications on benefits

The regulatory framework of the collaborative arrangements in both sites largely set the limit for community benefits, either realised or expected, while at the same time imposing some responsibilities on them. For example, the MTA requires that communities undertake weeding, pegging, nursery, and planting activities related to the Taungya System. This is expected to constitute their contribution. The farmers bear their own cost of transportation to the forest and undertake the necessary labour for planting tree seedlings and cultivating their crops. For Adwenase, the community has a responsibility for operations such as patrolling and prevention from fire and invaders. Members of the community Volunteer Team have been responsible for enrichment planting of timber and NTFPs, border patrols, surveys, and enumerations. The volunteers were instrumental in writing up the management plan. They also act as guides to visitors and researchers who work in the forest.

The MTA, the main regulatory instrument governing the collaboration, clearly stipulates the benefits that go to the community, its individual members and as a collective. Unlike the MTS arrangement in Offinso, no benefit-sharing arrangement has been instituted for sharing any revenue that may accrue from the forest, or for recompensing the community for the numerous roles assigned under the collaboration. The management plan only states which settler communities will also benefit from any revenues that may accrue from the forest without stating percentage for sharing revenues that may accrue. It was only gathered from the study that the next review of the management plan would focus on arrangements for equitable distribution of revenue. This anticipation did not even seem to consider outlining plans to pay for community roles in day-to-day management operations.

To have an indication of the extent to which community responsibilities under the collaborative programme are compensated, volunteers' (in Adwenase) and farmers' (in Offinso) own assessment were used. For example, at Offinso, comparing their expected benefits to their transaction cost, about 97% expected the benefits to be adequate (see
This is especially significant observation because at least 95% of the respondents also indicated they had adequate knowledge about the content of the MTA.

The Plantations Coordinator also agreed that comparing the transaction cost of the programme to farmers and their expected benefits, the community still stands to benefit, although the extent of benefit was perceived as 'satisfactorily slight' on a scale that ended with 'very beneficial'.

In Adwenase, baseline information on benefits was lacking to assist volunteers to even make a comparison. As high as 65% of the community members did not have any idea about whether a benefit-sharing arrangement existed. Members of the Management Committee and the Volunteer Team, as the main community structures for the collaborative management, however, indicated that no benefit-sharing arrangement existed.

None of the 17 volunteers involved in patrolling received any compensation, and only 22% of volunteers involved in tree planting had ever received some form of payment; many of them (78%) did not receive any compensation. The local forestry officials maintained that the community volunteers would only be paid when some revenue accrues from the forest, and that capacity is lacking now to fully recompense members of
the Volunteer Team and the Management Committee for the roles they are playing toward managing the Adwenase forest. However, it has to be noted that even when some revenue flows in, the lack of a regulatory framework that defines benefit sharing is a problem. Perhaps one may argue that the statutory formula in sharing timber revenue could be applied, but this is still problematic because the scheme does not pay now for any direct benefit of community roles. Thus, while a regulatory framework (MTA in the Offinso Modified Taungya case) provides some hope and reference point from which benefit sharing under the collaborative arrangement can be discussed, the lack of such a framework in Adwenase weakens any positive potential of such collaboration. Thus, while the management plan was drawn to spell out community roles and also create structures to oversee those roles, it failed to establish specific compensation scheme to reward them. Although it could be understood that because the forest was put under convalescence for 10 years, no significant timber revenue would flow in, it is still not clear why the Forestry Commission did not work out a compensation payment scheme to recompense community management cost.

This is an important observation as collaboration here also means investment on the part of government. Many State forests exist under the same conditions of protection, but they are managed by forestry officials at a cost to the State. Therefore, if the Forestry Commission (the State) retained economic interests in the future yield of the forest, it should be prepared to pay the management cost of activities that are being carried out by the communities. Therefore, it makes one wonder whether such collaborative arrangements that only 'devolve' responsibilities without direct resources to carry them out would work and, indeed, sustain the community's continued commitment.

This is not to suggest that a benefit-sharing agreement in Offinso means all is well, and that this has guaranteed effective community participation. The communities mentioned three major associated problems, namely financial, poor roads and road networks, and high transportation cost (Figure 9). Other problems mentioned were delays in supplying seeds, lack of incentives such as supply of boots and farm implements, accessibility to water, and marketing of foodstuffs.
These reasons are important for the discussion, because the regulatory framework of the collaboration does not permit them to use their 'future' investment to overcome problems, even those that are directly constraining them from playing their role in the collaborative agreement. For example, farmers cannot trade their future trees on the market to get income to support their labour cost. It was realised that some farmers were unable to maintain their plots well because of the huge labour involved in cultivating food crops and at the same time maintaining trees planted. The farmers indicated that if they had the opportunity to secure some loans, using the trees they had planted as security for the loan, they could do a better job by hiring additional labour to assist them. The collaborative arrangement does not even allow the FC to provide such assistance, even when the farmers agree that the FC can consider such investments as loans that can be taken from the sale of their future trees. Related to this limitation, farmers expressed concerns about what they would depend on when the trees took cover and they could no longer cultivate the land. Although they may have an investment that will yield substantial returns in future, they are still limited to trade this now to help them meet their livelihood challenges.
3.3 Impact of the arrangement
For the community forest management project using the MTS, the direct impact of the reform on forest condition could be the area of degraded forestland replanted through community participation. Figure 10 shows the details of official targets and actual planted areas since the project started to date. One can generally conclude that there has been some positive impact because the actual planted areas closely match targets, and in fact overtook them in 2 years.

![Chart showing planting target and achievement over years]

**Figure 10:** Comparing targeted and actual planting areas in forest reserves from 2005 to 2008 at the Afram Headwaters under the MTS.

Using a vote of 10, the official estimation of general improvement of the forest condition concerning wildfire incidence and illegal logging, comparing before collaboration and after scenario, was 4 and 6. Figure 11 shows the perceived impact of the collaborative programme on community participation in illegal logging and wildfire protection. It also shows the extent to which communities perceived that their level of motivation for participation would improve when legal agreements were signed.
The Coordinator estimated that 96% of the farmers had adequate knowledge about the Agreement. In his final assessment, the Coordinator agreed to the assertion that collaborative forest management schemes had been undermined by lack of security of tenure and adequate compensation for community responsibilities.

Asked to assess their level of knowledge about the content of the Agreement, 4, 41, and 55% of the respondents, respectively, admitted they had poor knowledge, adequate and very good understanding of the MTS and the Agreement. Thus, at least 95% understood the terms of the collaboration. This very much confirmed the official assessment by the Coordinator that 96% of the farmers had adequate knowledge about the Agreement. However, it could be argued that this understanding did not necessarily motivate participation, as shown by two corroborative assessments. First, the communities indicated that their level of motivation would move from an average of 3 to 7 (see Figure 10) when the Agreement was finally signed to secure their rights in the venture. Second, this was officially endorsed as the Coordinator indicated that signing the Agreement would significantly boost the level of motivation of the community.

Figure 11: A graph showing the assessment of farmers on the potential improvement of their level of motivation when agreement is signed, and protection from wildfire and illegal logging incidences before and after the intervention.
At Adwenase, it was observed that the natives themselves had encroached the forest land, contrary to the spirit of the dedication. Encroachment was mentioned as the biggest factor undermining the collaborative effort. According to the local forestry officials, the encroachment is mainly for farming purposes by a section of the Akropong royal family living in Brofoyeduru, a neighbouring village. It seems that the other part of the royal family was not involved in the movement for the reforms to dedicate the community 'property'. Thus, the exercise of a collective right by a section of community has resulted in a reaction that is undermining the collaboration. In effect, the 'dedication' process can be said to have been incomplete in mobilising the collective will of the community or the section that holds alienation right. The consequence is that the management and supervisory rights that were effectively transferred to the Management Committee and the forestry service is insecure. Thus, although the chief of Assin Akropong and his elders exercised a *de jure* authority by alienation, the behaviour of the other royals, indicates how, *de facto*, his domain in exercising that right was limited. In this sense, whether the act of farming on a traditional communal land by these royals is 'encroachment' depends on the legal norm that one may want to mobilise. Customarily, as the alienation could not be complete without the consent of the collective (traditional right holders), it can be assumed that they exercise their right over their land. In effect, the agreement to dedicate the forestland by subjecting it to supra customary rules and, therefore, democratising the customary rights over the land was immaterial. Viewed from the documents that covered the collaboration (e.g. the Management Plan), the behaviour of the other royals was illegal and, therefore, an encroachment. From whichever angle one may look at it, a sense of tenure insecurity is either on the part of the other royals or the other parties.

Using the level of motivation as an indicator to assess the chances of community’s continued commitment, it became clear that the collaborative arrangement could be undermined soon. Among the native community members interviewed, about 74% indicated that their motivation to help protect the forest, since the dedication, had dropped. Reasons for this included lack of tangible benefits from the dedicated forest, lack of compensation for roles being played by members of the Volunteer Team and the Management Committee, encroachment on the forest, anticipated assistance from donor
bodies and NGOs that was not forthcoming, and an anticipated vehicle that never came. For the settler community, the drop in motivation was due to reasons like the restriction on their access to the forest to collect NTFPs and their non-involvement in managing the forest.

3.4 Conclusions
From the observations for the two site studies and the status of implementation of other collaborative interventions discussed in Chapter 1 in the light of Ghana's quest for using CFM as a means of achieving sustainable forest management and development, several issues emerge that are worth reflecting on critically.

First, in spite of several efforts to create a collaborative arrangement that improves community tenure rights over forest and their participation in forest management, almost all the schemes suffer some form of legitimacy crisis, because the schemes have been piloted and implemented without appropriate statutory recognition by law. The only exception is plantation development schemes, such as the MTS, in which explicit law vests ownership of planted trees in those who planted them. Even with this, the plantation development on public or community lands, such as pertain to the MTS, is fraught with some degree of uncertainties that potentially threatens full tenure security. For example, under the MTS, farmers cannot transfer their rights without the agreement of the other parties (Section 11.2 of Agreement). Thus, to some extent, the farmer does not have total control to exercise a right that he has secured through his own investment. Under the CFC concept, communities are assigned responsibilities for monitoring roles without a legal recognition that admits their right to demand wages or insurance from threats of illegal operators, for example. Although these can undermine the collaborative effort soon, it is important to legitimise such collaborative schemes through explicit regulations that are legally tenable to protect community interests and the rights that are secured thereof.

More specific to the observations of the study is the issue of securing important rights, especially those that allow communities to economically benefit, directly or indirectly. For example, although some farmers engaged in private plantations in Offinso indicated
that they could access credit facilities using their investment as collateral, those involved in the MTS could not do so. This seems to be a general problem with the Agreement\textsuperscript{60}. The argument has been that once the Forestry Commission has a responsibility under the Agreement to insure the plantation, it should be possible for farmers to use the future value of their investment to secure capital. This is especially crucial because in areas where fertile lands for farming outside forest reserves are scarce (e.g. the transition zone between forest and the savannah), farmers are likely to face problems in 4 or 5 years’ time when their cultivated land under the MTS is no longer available for farming. The questions community members have often posed are the following: 'What do we depend on when the trees cover the land and we can no longer have land to cultivate'? 'If it is true that we have 40\% of the future value of the trees (revenue expected in some 20 years on the average), why can't we get loans from the Forestry Commission or government, or use the investment as collateral now'? While answers to these questions could not be explicitly provided by officials, they point to the fact that rights that can be used to improve livelihood now are as important as Agreements that define rights of benefit in the future. This is especially important if without such economic utility of the right, it could affect holders' level of motivation to protect the investment and to see tangible benefits. A similar observation is made with the so-called 'dedicated' forest experiment through collaboration of the Adwenase community forest. Without explicit rights to grant timber rights or benefits from timber exploitation, the study suggests that the collaborative effort may be futile; because there seems to be no tangible economic benefits from timber that can be demanded as a right by the community.

The case points to a situation in which collaboration brings responsibilities and burdens to communities and only admits user rights that do not significantly change their economic situation. It will be argued that the situation in Adwenase is inconsistent with the spirit of the benefit-sharing arrangement endorsed by statutory law; because the FC has a responsibility of managing all forest resources, in and outside permanent reserves.

\textsuperscript{60} In an evaluation study of the CFMP in the Yaya Forest Reserve, Marfo & Nutakor (2008) observed that farmers mainly had problems with the signing of the Agreement as well as the inability to trade their investment for capital.
For doing this, it retains 40% of timber revenue from off-reserves. If such management responsibilities have been devolved (wholly or partially) to the community (Management Committee and Volunteer Team), it is unconvincing why the State cannot distribute the 40% of timber revenue that may be generated from the forest. Quickly, the official response is that the forest is not under exploitation now, and that no real revenue is generated. Although this is justifiable at face value, it is argued that it does not address the fundamental principles underlying effective partnership. It fails to address the setting-specific problems that the absence of any compensation scheme for management roles can cause, leading to progressive decline in level of motivation and eventually a return to the same problem that called for dedication, invasion! Thus, if the FC is truly interested in collaboration and sustainable management of the forest, it can still negotiate a compensation scheme now that can be financed by the future revenue from the forest. In a broader sense of the argument, a question that feeds into the global debate is, 'who pays for conserving tropical forests'? The issue is: 'Should tenure reforms under collaborative forest management interventions lead to recompensing communities for their role only when tangible benefits are immediately realised; or should it also address the problem even for situations in which the benefits are not directly realizable now'? Based on the Adwenase case, it is argued that the latter must also be so. This naturally calls for innovation in designing collaborative management schemes to move from creating agreements and structures, defining roles and responsibilities to working out transaction and opportunity costs into the scheme.

Third, both studies show that lack of tenure security can undermine efforts at ensuring collaboration for sustainable forest management. For example, the way communal informal rights are formalised under the guise of collaboration can be problematic and leave communities worse off if not well worked out. One saw how migrants effectively lost some rights they had enjoyed with natives after 'rights' were formally defined in management plans. It has also been pointed out that though tenure rights may be well defined in agreements such as the MTS, the absence of its physical possession by beneficiaries was able to affect their level of motivation. This is even more crucial in a context such as the CFMP-MTS in which a history of mistrust has existed between the
collaborators (FSD and communities)\textsuperscript{61}, and in which some uncertainties about the use of the right in the future as well as the inability to easily trade with the right have been pointed out.

In sum, defining and recognising specific rights are important in any collaborative effort; but these rights are inadequate unless mechanisms are there to secure them for social and economic benefits. Related to this, collaborative efforts can be undermined if tenure reforms fail to secure rights and recompense responsibilities.

\textsuperscript{61} Kote\-y \textit{et al.} (1998) give a good account of the development of conflict and a culture of mistrust that has characterised the evolution of forest policy in Ghana, particularly between communities and timber loggers and forestry officials.
Chapter 4

Policy Recommendations

It has been shown that completing the signing and lodging of the Benefit-sharing Agreement is important to guarantee security of community tenure rights under the collaborative programme (i.e. MTS). It is recommended that the process be expedited to finalise the Agreement. Additionally, as effective collaboration is built on trust, it is important for the FC to show evidence of its commitments under the Agreement. For example, as wildfire is a major threat to forests, it may be important to show evidence of insurance commitment as an obligation of the FC to secure the investment of the local communities. The issue is not about whether it has been done or will be done, but prove to serve as a moral force to build trust and to sustain their motivation for participation. Depositing these with community leaders may not be enough because there could be a significant communication gap between them and individual farmers. To overcome this, it is recommended that all relevant documents that fully commit the parties be put together and given to the communities and individuals concerned. To improve the transparency of the process, it is suggested that the FC publish a list of the MTA, stating farmers involved, size of their planted farms, type of insurance coverage and location, for example, similar to what is being done now for stumpage sharing. This will open up the process and allow civil society the opportunity to monitor the extent to which the terms of the Agreement are being implemented. Moreover, tenure security of individual rights in collaborative schemes need proper documentation, especially in cases like the MTS in which benefits from investment are expected in about 20 years. It will be appropriate to include such documentation in the proposed official publication.

Second, the urgent need is to take a look at provisions in the MT Benefit-sharing Agreement that create a sense of insecurity and hinder the utility of the Agreement as an economic tool, especially those related to the sustainability of the forest due to present economic limitations of farmers. Urgent and conscious efforts must be directed toward
making the Agreement a collateral tool that farmers can use to negotiate opportunities for business alliances and access credit to engage in other economic activities to support their livelihood. This is particularly crucial if no direct government financing will be provided to support farmers' livelihood after tree cover of the land. Although opportunities for community partnerships do not necessarily improve returns to communities, it has been recommended that the way forward centres on creating more equal partnerships by raising community bargaining power, fostering the roles of brokers and other third parties, and developing equitable, efficient and accountable governance frameworks. Thus, while streamlining community rights of using their agreements, equally crucial are the role of third parties such as NGOs in brokering deals, building individual capacity for bargaining, and an advocacy for institutionalising accountability mechanisms at the community level. Building accountability mechanisms within communities is important in the Ghanaian context, as most small and medium-scale investment funding opportunities target organised locals and groups. Unfortunately, communities in Ghana are poorly organised to engage in conflict and negotiation, and capacity building in this area seems to have become a development issue.

Several specific recommendations are provided. First, it is recommended that green NGOs focus their engagement with communities on building their capacity to organise, network, and negotiate. Advocacy efforts toward recognising community rights to benefit from 'their' forests will be inadequate if they cannot seek opportunities offered by interventions such as the MTS to translate the right into economic well-being. Second, the need still is to integrate accountability measures in collaborative interventions. It is not enough to state that 5% of timber revenue from Modified Taungya farms will go to communities. It has to be spelled out who receives it and what can be done with it. It is advocated that Ghana starts experimenting with community trust fund account that would be managed by a board selected and governed through a transparent process. All

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monies purporting to go to communities for their collective welfare would then be
deposited and managed from the trust fund. Otherwise, such funds will always end up
with either the District Assembly or traditional authorities; the same agents who have not
proven accountable to communities regarding timber and mineral royalties. This effort
will largely reinforce the point that the local elites are fiduciaries and only custodians of
community property, including land and natural resources. It will essentially lead to the
'private' purse of local leaders and the 'community' purse being separated; both
sometimes float together under governance arrangements. The modalities for such a trust
fund can be taken up as one of the substantive issues by green advocates and donors.

Third, the study has enlightened that the issue of benefit sharing cannot be loosely
touched, and that it should not be a secondary matter in designing collaborative schemes.
The need is to negotiate a benefit-sharing scheme for all collaborative schemes, be it
CFCs or management of dedicated community forests that anticipates payment of
compensation for community roles. The existing practice in which community roles have
been taken for granted under the guise of 'voluntarism' cannot help forest mitigate
poverty; it only siphons community energy and makes them worse off. The need is for a
policy action to begin a strong advocacy toward this goal. For natural forests, one area
that has already been pointed out is distributing the percentage of revenue retained by the
Forestry Commission to cover its management operations cost. This should include
clarifying the distribution of the revenue to possibly take care of local people's role in tree
and forest management in farm and communal lands (off-reserves). This is essentially an
issue that requires a paradigm shift to recognise that collaboration also involves sharing
cost and benefit and not just transferring responsibilities. If the FC thinks that using CFC
will be an effective tool for monitoring illegal forest operations, it has to work out a
budget from its revenue to pay for the service.

The multi-donor budget support programme on natural resource and environment
governance (NREG) offers an opportunity for piloting benefit-sharing schemes under the
various collaborative forest management interventions. Researchers have a crucial role to
play here. Estimating the operational and transaction costs of community inputs needs to
be worked out. Another area that needs immediate research attention is some cost-benefit analysis of proposed collaborative schemes. What is the cost of efforts in community fire prevention to fire volunteers as against the environmental and economic benefit (value) that can be gained? How can the benefit be measured and estimated in monetary terms? These will require expertise in environmental valuation and research as part of the first practical steps to finally deal with equitable benefit-sharing issues under CFM schemes. Clearly, this can form a whole research project or programme for the Forestry Research Institute of Ghana; and these are areas in which some NREG funds can, for example, be channelled to support research.

Fourth, the need is to start a national debate and clarification of position on benefit flows to communities that will lead to institutionalising structures of accountability from traditional and local government authorities. Although significant resources flow to these authorities, a mechanism for downward accountability is lacking now. The need is to discuss the issue in the context of whether traditional authorities are fiduciaries or hold the rights to revenue for their own 'individual' benefit. How should the phrase 'in keeping with its status' in the law (Article 267 of the Constitution) be interpreted in this context, and what further regulations are needed to ensure that benefits indeed flow to the communities? A mechanism to seek the legal interpretation of Article 267 and reconcile it with other provisions such as Article 37 of the Constitution will be useful. Although the utility of such an interpretation transcends forestry, to a large extent it can lead to significant improvement in the flow of resources for collective community well-being. If the national poverty reduction strategies are serious about the role of forest in meeting the millennium development goal on poverty reduction, this is one area to address. Most of the funds that go to communities through traditional authority and local government structures are from natural resources; it will, therefore, not be out of place if some funds from the NREG are committed to organising a national workshop on the subject. The meeting could involve National House of Chiefs, Judiciary Service, Administrator of Stool Lands, donors, Forestry Commission, Minerals Commission, and development and environmental NGOs.
These issues emerge strongly from the study and are fundamental to the discussion of how potential tenure reforms can impact local livelihood under collaborative arrangements. With the emergence of opportunities under climate change and REDD discussions, these issues need to be attended to before one can expect that communities stand any chance of benefiting.
Annex

Summaries of Site Reports

Site 1
This case study forms part of a broader study to determine the extent to which community benefits from Ghana's initiative toward collaborative forest management has been undermined because of failure of reforms in the Ghanaian forestry sector to secure tenure rights and recompense responsibilities. The case studied is the collaborative management of the dedicated Adwenase community forest reserve in the Assin Fosu Forest District of Ghana. An interview was held with Mr Oware, a former Assin Fosu District Forest Manager, under whose term of office the Adwenase forest was dedicated as a community forest reserve. In addition, a focus group discussion was held with the owners of Adwenase forest (traditional authorities of Akropong) and members of a Management Committee and a Volunteer Team at Akropong. Questionnaires were also administered to 60 respondents in Akropong and two migrant settler communities fringing the Adwenase forest (Subinso No.1 and Subinso No.2), using stratified random sampling in which 20 respondents were randomly selected in each community. The study also reviewed some relevant documents such as the Management Plan of the community forest.

The Adwenase forest, covering an estimated land area of 171 hectares, was once the settlement of the ancestors of the people of Akropong. After their departure to Akropong, where they are now, they preserved the forest as a sacred grove and royal burial place in memory of their ancestors. Thus, the forest was under customary management until 1995 when it was dedicated as a community forest reserve. Before then, management rights were exclusively held by the traditional authorities of Akropong. The rights to exclude some people from accessing the forest and withdrawing products from it were also exclusively held by the traditional authorities of Akropong. Likewise, the right to alienate a portion of the forest to any person or entity was exclusively held by the traditional authorities. The people of Akropong and those in communities on Akropong stool land
had unregulated access to the forest to collect Non-Timber Forest Products (NTFPs) like medicinal products, pestles, snails, canes, building poles, wrapping leaves, and firewood. Though illegal, according to statutory laws of Ghana, the traditional authorities authorized the extraction of timber from the forest on at least two occasions.

After the forest was dedicated as community forest reserve, a collaborative arrangement was instituted for managing the community forest. The collaborative arrangement has brought on board more people and entities in managing the dedicated forest. Besides the traditional authorities of Akropong, management rights are held by the Forestry Commission, some ordinary members of Akropong community and, to a limited extent, some migrant settlers who are members of a Management Committee. The Forestry Commission is essentially playing technical support roles in the collaboration. At the community level, the management structure consists of the traditional authorities of Akropong at the topmost tier, a 13-member Management Committee at the second tier, and a 40-member Volunteer Team at the last tier.

The dedication of the forest as a community forest reserve has restricted access to the forest for NTFP collection, particularly by the migrant settlers. The rights of exclusion are now held by the traditional authorities and members of the Management Committee and Volunteer Team. The rights of alienation are still exclusively held by the traditional authorities of Akropong.

The collaborative management of the Adwenase community forest reserve offers secured rights of access, NTFP withdrawal, management, exclusion, and alienation to the resource owners (the traditional authorities and people of Akropong). However, the forestry laws of Ghana offer the people of Akropong no authority to exploit timber or grant rights to harvest timber from the Adwenase forest. Owing to semi-formalisation of management, the owners have lost a previously illegal authority they had to grant rights to harvest timber from the Adwenase forest. Anticipated revenues from the dedicated community forest for community development are not forthcoming and roles being played are not being recompensed. However, benefits derived from the dedicated forest
are in the form of NTFPs, frequent rains, training in forest management principles and practices for members of the Management Committee and Volunteer Team, and recognition of the Adwenase community because of the dedicated forest. The level of motivation of community people to partake in protecting the Adwenase forest has dropped drastically. No new members have joined the Volunteer Team, though some old members have left. However, the Volunteer Team has highly devoted members who derive their motivation to protect the dedicated forest from their allegiance to the community. The volunteers have stood their ground firmly against an encroachment problem the dedicated forest is facing from a section of the Akropong royal family living in a nearby village of Brofoyeduru. The encroachment is for farming purposes. The motivation for encroachment is deep-rooted in claims over chieftaincy and forest title, and not merely because of hunger for farming land.

Clearly, until the necessary policy and legislative reforms are formulated to give the Akropong community the legal authority to exploit timber or grant timber rights, the community stands very little chance of experiencing tangible economic benefits [timber revenues] from the dedicated Adwenase community forest as anticipated in the management plan.

Devolving authority to harvest timber or grant timber rights to community forests is expected to be associated with challenges like the definition of a community, roles to be played by the Forestry Commission under such an arrangement, and sustainability of community forests. However, cases like the Adwenase community forest reserve, with a long history of dedication to forest preservation and high dedication of community members to the welfare of the community, offer opportunities for devolving authority to communities to harvest timber or grant timber harvesting rights or both with technical support from the Forestry Commission.

The existing division in the Akropong royal family over chieftaincy and forest title claims needs to be resolved because communal homogeneity (social cohesion among user group) is an essential requirement for managing communal resources.
Site 2
A preliminary study on tenure, access, and benefit issues under community forestry in Ghana showed issues that made the implementation of the Modified Taungya System an interesting one. Tenure security and benefit sharing emerged as crucial issues that need further investigation under Ghana's collaborative effort.

The Afram Headwaters Forest Reserve was selected to investigate the subject, using the MTS under the CFMP as a case study. The MTS represents an intervention with significant tenure and benefit-sharing reform component, and seems to be dominating as the primary mechanism used to reforest and rehabilitate degraded natural forest estates in Ghana. Thus, it was an important case study in its conceptual appeal to the project objectives and policy relevance to the Ghanaian situation.

The CFMP is to provide support for implementing a sustainable livelihood scheme. The objective of the Sustainable Livelihood Support Scheme is to raise the household incomes of project beneficiaries. Under the project, feeder roads from the reserves to the participating communities and also footpaths to link the communities would be constructed. So far, about 62% progress has been realised with the construction of 28.45 km of footpaths (CFMP Progress Report, 2008). At Afram Headwaters, planted area in the Reserve is 2584 ha and off-reserve is 81 ha, totalling 2665 ha (CFMP Report, 2008) from 2005 to 2007. In 2008 alone, total planted area in on and off-reserve areas is 965 ha.

The Reserve, covering an area of about 76.231 square miles, is named after the Afram River, which drains the eastern part of the Reserve. The total area of villages and farm-land is about 1.426 square miles, as recorded in 1950. It is at the Kumasi-Techiman motor road where it shares border with the Opro Forest Reserve. The Reserve has external boundary of 54.25 miles, and is maintained by forest guards and labourers. The Reserve falls within the stool lands of four traditional authorities, namely Kumasi, Offinso, Ejisu and Agona. It is administratively in the Offinso South District and within the management control of the Offinso Forest District. The Reserve was constituted by the Agona Native

The following rights were admitted by the Native Rules:

a. Communal: the right to shoot, hunt, fish, and collect snails or deadwood on any Native Authority permit issued on the written advice of a forest officer.

b. Farming: the right to cultivate any area that was under cultivation at the time the Rules of the Reserve came into force; these areas have been demarcated by the Forestry Division as admitted farms.

The past management of the Reserve has been essentially protective and restrictive, with an administrative plan to be revised every 5 years. The Reserve is now highly degraded and has been enriched with teak plantation. Illegal logging operations are prominent, and it hosts about 210 acres of experimental plots for forestry research.

Three communities involved in the CFMP were purposively selected (Kwapanin, Asempaneye and Ada Nkwanta/Apenteng) to ensure that native and migrant communities were captured. Besides the MTS, other collaborative programmes that existed included wildfire protection projects involving community fire volunteers.

The MTS is governed by a benefit-sharing Agreement (Modified Taungya Agreement) that outlines the responsibilities and benefits of the partners. In the studied case, these were the farmers from the participating communities, traditional authorities, and the Forestry Commission. The objective of the study was to identify the extent to which community tenure arrangements within the MTS were secured and the responsibilities of communities recompensed. In all, those randomly selected were 90 participating farmers involved in the MTS from the three communities fringing the Afram Headwaters Forest.
Reserve. A Focus Group Discussion was held for the farmers in these communities and then each interviewed with the help of a semi-structured questionnaire. Secondary data on the programme from the District Forestry Office were also collected besides interviewing the coordinator and the supervisor of the programme.

Under the collaborative programme, access to farmlands in the reserve was limited to the participants of the project. In the CFMP, only 50 farm families were selected to cultivate 1 hectare of land for the first 3 years. Several mechanisms were used to give access to communities. Unlike the arrangements under the CFMP, the national plantation programme organised access to forestlands through groups. Individual community members were asked to mobilise themselves into groups and then see the Taungya Headman for allocation of plots. In this context, access was largely dependent on the extent to which motivated individuals could organise themselves and create their own rules for cooperation and performance. Concerning gender dimensions of access, it was observed that women who were involved were mainly family heads; because the allocation of the plots was based on farm families. As men traditionally head these families, it was only when they were absent that a woman could have access to forestland. This was unintentional, but something related to culture. It should also be noted that women's continued access and participation depended on the participation of their husbands. It could also be said that the MTS did not fully demonstrate equitable access of communities to lands. The selection of farmers was not very open, and the conditions for participation did not make it possible for all groups to participate.

The marketing issue that was observed was related to pricing of the trees. Most people interviewed, with the exception of the Headmen, indicated that they were unaware of how the trees would be marketed and to what extent they could influence prices. They were only informed that the government would pay them 40% of the revenue accruing from the harvest. The few leaders who seemed to have some insight showed that the government would look for a buyer of the trees at maturity and then the Forestry Commission, together with the community, would negotiate with the buyer. For food crops, marketing is a big challenge. The main problem is access roads and means of transporting food.
produce from the reserves to the communities.

Some selected executives, led by the Taungya Headman, have been assigned to manage the programme at the community level. At Asempaneye, the CFMP Group had seven elected leaders. At Kwapanin, the forestry officials selected 10 trustworthy members of the community to organise the formation of the group, one of whom was appointed as the Headman. The selection depended on farmers' past experience with the Taungya System. Written regulations are lacking, and the Group is governed by common understanding for cooperation.