Forest law compliance and enforcement

the case of on-farm timber extraction in Ghana

Hansen, Christian Pilegaard

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The study

The study investigated the compliance of timber firms, chainsaw operators (illegal operators) and farmers to rules pertaining to on-farm timber extraction in Ghana. Three rules were investigated: (1) the rule that requires timber firms to obtain informed consent from the farmer prior to tree felling; (2) the rule that requires timber firms to pay appropriate and timely compensation to the farmer for crop damage caused by the extraction; and (3) the ban on the use of chainsaws to convert timber trees to lumber for domestic or commercial purposes. Data were collected through semi-structured interviews with 337 farmers who had timber felled on their farms by either timber firms or chainsaw operators over the past five years, 20 timber firms and 24 chainsaw operators.

Context/background

Ghana relies on its natural timber resources to meet domestic and export demands for wood products. Plantation forestry in the country is still in its infancy. The timber resources are located in the High Forest Zone, which constitutes the southernmost third of Ghana with an extent of approximately 85 000 km^2. Around 16 000 km^2 are gazetted as forest reserves, i.e. permanent forest estate. The area outside the reserves is denoted as "off-reserves", and has been con-

Policy Conclusions

- The study documents a low level of forest law compliance.
- The low compliance level may be attributed to a legislation, and enforcement, that is considered unfair and which, perversely, generates huge financial incentives for non-compliance.
- Additional law enforcement efforts are unlikely to result in sustained higher compliance. Rather, deeper forest policy reforms that reconsider the rights of trees (tree tenure) are required.

verted to farmland dominated by perennial crops like cocoa and oil palm. Timber trees scattered across this agricultural landscape are either remnants of the tropical high forest that used to cover the zone, or trees that have been nurtured and integrated into the farming systems.

Timber trees are vested in the President in trust of the Stools, i.e. the traditional and officially recognized land-owning communities. In practise, the Minister of Forestry and the Forestry Commission have the authority to grant felling rights to timber companies and define management rules, and are responsible for rule enforcement. A share of the fees that the timber companies pay to the Forestry Commission goes to the Stools. Since 1998, legislation has banned operators who produce lumber with the use of chainsaws directly at the felling site (chainsaw operators) from obtaining timber rights.

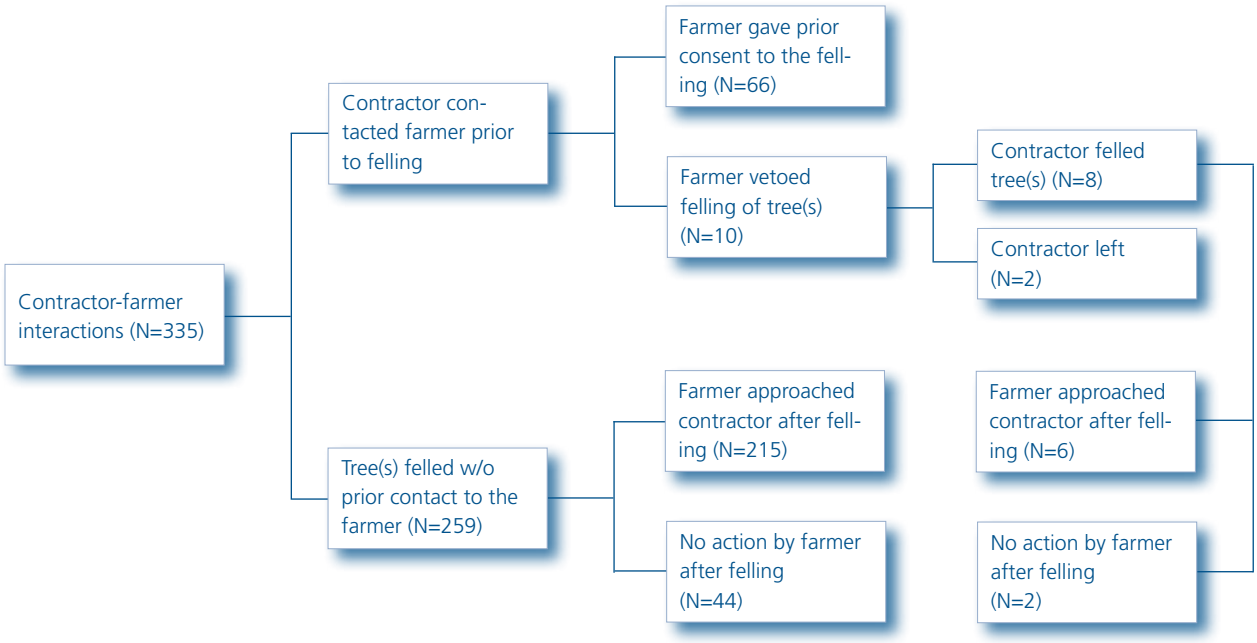
All trees for felling must exceed species-specific minimum felling diameters. The timber firm and the Forestry Commission undertakes a pre-felling inspection of trees identified by the timber firm for felling, and felling can only commence once the firm has received a felling permit from the Forestry Commission. The regulation stipulates that the person who holds the farming right on the land where the tree(s) are located must be consulted and must give prior and informed consent to the felling. Further, the farmer is entitled to appropriate and timely compensation for any damage to crops caused by the felling and hauling.

Results

Compliance with farmers' prior and informed consent

The study included 335 farmer narratives on interactions with timber firms gained from 291 individual farmers (Fig 1). In 23% of the farmer/operator interactions (76 incidences), the timber firm informed the farmer of the intention to log in accordance with the regulation. In 66 cases, this contact resulted in the farmer giving consent. Yet, in 17 of these the farmer indicated that it was much more a matter of being

Figure 1. Overview of interactions between timber firms and farmers.



informed than of giving consent. In 10 narratives, the farmer vetoed felling. The veto was accepted in only two cases. In 259 cases (77%) the timber firm went ahead with the felling without prior interaction with the farmer. Add in the 8 narratives where a veto was ignored, there were 267 cases (80%) of timber trees felled without prior consent of farmers. In 46 of these cases (17%), there was no further action by the farmer because the farmer for various reasons considered it useless, while in 221 cases (83%), the farmer subsequently approached the timber firm to obtain compensation, c.f. below.

Investigated from the timber firm side, 13 timber firms (65%) reported that they always consult the farmer prior to the logging operation, while five operators (25%) admitted that this practice is not always followed, because considered too time consuming and costly.

Compliance with compensation payment

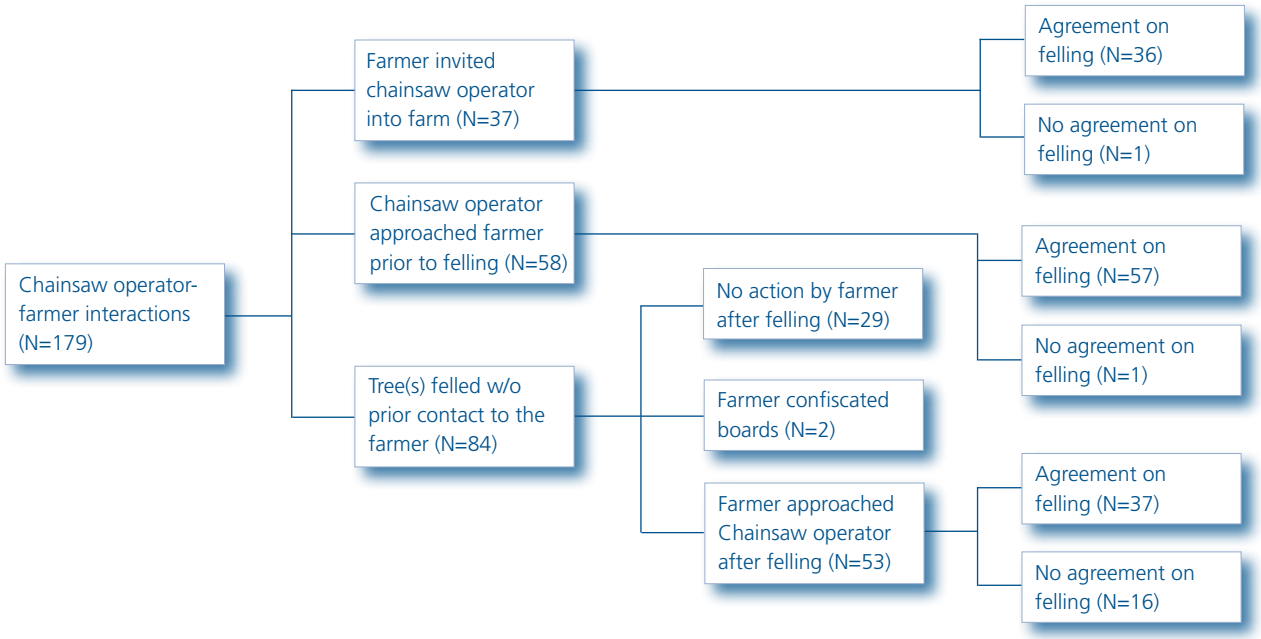
The study also illustrated that various compensation/payment arrangements are applied beyond the per damaged crop rate compensation stipulated in the legislation. These arrangements include lump-sum payments, payments for the trees (not compensation per se), and non binding, verbal types of agreements such as "will come and settle issue later". Importantly, the study illustrates that the fulfilment of agreements is much higher when negotiated prior to the felling. Of the 221 cases where the farmer approached the timber firm after felling, 136 cases (62%) ended without compensation/payment received by the farmer. The amount of compensation/other payments was also higher when negotiated prior to felling. The interviews with timber firms confirmed the variable compensation/payment arrangements although, unsurprisingly, the timber firms denied not fulfilling agreements.

Compliance with ban on chainsaw lumbering

Finally, the study documented a high level of on-farm chainsaw lumbering. The study includes 179 cases of on-farm tree felling by chainsaw operators (Fig. 2). The study shows that in 37 cases (21%), the farmer actively invited the chainsaw operator onto the farm. In 58 cases (32%), the chainsaw operator approached the farmer and negotiated the felling, while in the remaining 84 cases (47%) the trees were felled by the chainsaw operators without prior agreement. Here the farmer was able to reach an agreement with the chainsaw operator in 37 cases. Again, while cash payment is the typical agreement, there are also other arrangements especially when felling is negotiated prior to felling. As was the case for timber firms, fulfilment of agreements by chainsaw operators was higher when negotiated prior to felling. Moreover, the payments from chainsaw operators were significantly higher than those from timber firms; the level of damage was also lower.

Chainsaw operators asserted that they negotiate with farmers prior to felling. The results on agreement types and payments largely confirm the assertions made by the farmers.

Figure 2. Overview of interactions between chainsaw operators and farmers.



In relation to law enforcement, only one of the interviewed farmers reported being sanctioned for his engagement with chainsaw operators; the punishment was the relatively mild confiscation of produced lumber (as opposed to fines or a prison sentence). Yet, the interviewed chainsaw operators all report that they are frequently caught by the Forestry Commission staff or other law enforcing agents and coerced into paying substantial informal fees for the release of their equipment.

Discussion and conclusions

In sum, the study documents a low compliance level for the three studied rules and a low level of rule enforcement. When rules are enforced, it is typically through informal sanctions towards chainsaw operators.

The study illustrates that farmers have a large financial incentive to engage with chainsaw operators, and that the risk of and from sanctions is minimal. Further, farmers are likely to perceive current tree tenure, and the way it is implemented, as unjust. Farmers' engagement with chainsaw operators may thus be interpreted to involve resistance or protest. Famers may thus have both instrumental and normative reasons for non-compliance.

The non-compliance of chainsaw operators can be understood from a material perspective. Yet, while chainsaw operators acknowledge that their trade is illegal, they consistently argue that the ban is unfair, and that they should be allowed to operate on terms similar to the timber firms. Also the timber firms have huge financial incentives for non-compliance, and may further consider the current legislation and its implementation as unfair, since it does not effectively stop chainsaw lumbering.

In conclusion, the study suggests that isolated efforts to strengthen enforcement of the contemporary on-farm timber extraction regulation are unlikely to be successful, as non-compliance is widespread and is rooted in both material and normative perspectives. Eliciting compliance requires fundamental changes to the current incentive structures and tree tenure rights, i.e. giving farmers further rights to the trees on their farms, and an arrangement that legalizes chainsaw operators and allows them to compete for trees/timber rights. Unfortunately, the Voluntary Partnership Agreement (VPA) between Ghana and the EU under the Forest Law Enforcement, Governance and Trade (FLEGT) programme does not show promise of bringing about such changes, at least not in the short term, since most contemporary efforts appear to be focused on strengthening the enforcement of current legislation.

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Author

Christian P. Hansen (cph@life.ku.dk), associate professor at Forest & Landscape, University of Copenhagen

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Jens Friis Lund
Danish Centre for Forest, Landscape and Planning
Rolighedsvej 23
DK-1958 Frederiksberg
Denmark
Tel. +45 3533 1500
www.sl.life.ku.dk

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