



global witness

Making the Forest Sector Transparent

Annual Transparency Report

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Making the Forest Sector Transparent

Making the Forest Sector Transparent is a four-year programme supporting civil society groups in forest-rich countries to advocate for greater transparency and good governance. An important part of the programme is the production of annual report cards by independent NGO partners to monitor the forest sector in their countries. The number of NGO partners has increased year-on-year, starting in Cameroon, Ghana, Liberia and Peru in 2009, to including Ecuador in 2010 and Guatemala and the Democratic Republic of Congo (DRC) in 2011.

The 2011 Report Card consists of 20 key indicators on important provisions of the legal and regulatory framework that applies to the forest sector governance. The partners collected data between July 2011 and August 2011. Each indicator includes an 'objective' assessment of whether clear provisions exist and information on them is publicly available, resulting in a 'yes', 'partial', or 'no' overall. This is combined with a more 'subjective' assessment of whether there is evidence of change in the last year (where a report card was produced in 2010) and analysis of whether the provision enables transparent access to information and/or decision-making. Data collection was largely carried out through office-based research, for example by searching the websites of government institutions and other official sources of information, supplemented where appropriate by contacting key informants and requesting specific information. The data presented on each indicator is organised as shown in the Table below.

Indicator assessment

Does it exist?	Is it available?	Indicator	
Yes – specific provision in current laws and norms that have been passed by state and applies to the forest sector	Yes – available to public from official sources (websites, publications, media)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
Partial – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	Partial – some information provided but not complete (e.g. only parts of manuals)	Yes	
	Partial – some information provided but not complete (e.g. only parts of manuals)	Partial	
	No – although evidence that exists, it is not available (includes when only unofficial sources)	No	
No – no current provision or plans to establish (even though needed)		No	
Not applicable - not relevant to the country-specific context		N/A	

Specific questions guided the determination of the existence and availability of the provisions for each indicator. In order to receive a 'yes', the provision needed to both exist in the legal and regulatory framework and information needs to be publicly available on it, whereas a 'partial' or 'no' indicator reflected that either one or the other criteria (or both) was partially or not met.

The change in the last year was assessed against the following scale:

-  Significantly Improved - major development such as new law or information system
-  Improved - steps forward such as initiatives with potential to improve transparency
-  No Change - no evidence of major change in the conditions for transparency
-  Worsened - steps backward such as activities taking place without transparent processes
-  Significantly Worsened - major deterioration such as termination of laws or systems

Specific information was provided on the full titles of the applicable laws or other norms, the names of the authorities or institutions responsible for them, the dates when they were passed, and the website or other official sources where they can be accessed.

For further information please go to www.foresttransparency.info.

Freedom of Information Law

-  Is there a Freedom of Information Act, which has been passed by the government and established in law? Is the Act publically available in full from official sources (websites and/or offices)?

The Freedom of Information (FOI) Act was enacted in 2010 but the Independent Information Commissioner (IIC) has not yet been appointed by the President (Chapter 5). As a result, no information exists on whether responsible personnel have been designated in each public or private entity to which the law applies, as required in Section 3.6 of the law. It would be difficult to measure at this stage the level of transparency related to the process of accessing public information. When the IIC is appointed by the President it will be his/her responsibility to summarise the Act into simple English for the wider Liberian audience to use. The Act is not yet publicly available on an official website.

The FOI law is legally operational even though the IIC is not yet appointed. Section 3.7 provides that “Every public authority and private entity shall promptly respond to all requests”. The IIC will arbitrate if requests for information are turned down and in addition facilitate implementation of the FOI law.

Both the Carter Center and the Center for Media Studies and Peace Building (CEMESP) have ongoing campaigns to raise awareness on implementing the FOI law, which includes the appointment of the IIC (for example, see article in The Analyst Newspaper, Liberia; September 7, 2011) to develop the steps involved in the process.

Title:	An Act To Establish the Freedom of Information, Republic of Liberia
Organisation:	Executive Branch of Government and National Legislature
Date:	October 6, 2010
Source:	Ministry of Foreign Affairs, Ministry of Information. Unofficial copy from http://www.cemesp-liberia.org/foi-act.pdf

National Forest Policy

-  Is there an explicit current document described as the national forest policy? Is the policy document available in full to the public from official sources (websites and/or offices)?

The National Forest Policy in 2006 broadly aims to integrate and balance commercial, conservation and community (the “3Cs”) forestry activities in order to optimize economic, social and environmental benefits from the forest resources. The World Bank commissioned Strategic Environmental Assessment report in September 2010 of the forest sector states that “Despite a stated policy of coherence between the 3Cs, currently there remains a severe paucity of economic data on the “community” and “conservation” aspects, and the data on commercial aspect is questioned. Lack of data makes it very difficult to plan future activities reliably... The implications of these findings are that, often, the economic decision making excludes the actual and potential benefits of forest management options, resulting in the undervaluation of forest resources”. It is very critical now to undertake a holistic forest use survey which will further inform and trigger a review of the policy to include different options.

The policy was developed in 2006 in the same year that the National Forest Reform Law was produced and does not seem to offer any directions for addressing the current competing interests related to REDD+, agriculture, mining and other land uses that impact on forests. It would be prudent for a review of the policy to address these issues and provide mitigating actions. For example, two large agriculture concessions granted in western and southeast Liberia will impact on the forest ecosystem. Currently, rubber wood is being processed as a forestry product but there is no explicit policy covering it. The development of the REDD+ program has implications for forests, but it is being undertaken in a national policy vacuum.

Title: National Forest Policy and Implementing Strategy

Organisation: Forestry Development Authority (FDA)

Date: 2006

Source: <http://www.fda.gov.lr/doc/LiberiaForestryPolicy.pdf>



Codified Forest Laws and Norms



Is there a codified forest law and lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative? Are the law and supporting norms available in full to the public from official sources (websites and/or offices)?

The National Forest Reform Law and Ten Core regulations were adopted in 2006 and 2007 respectively, but they have not yet been translated into community languages. However these can be downloaded free from the Forestry Development Authority (FDA) website and a copy of the law can be obtained for at the FDA central office in Monrovia. There is currently no mechanism for communities to access these at the regional level, since such information is not available at the four FDA regional offices. The least the FDA can do is to open an information desk in each local office where members of the public may go to request for information.

The National Benefit Sharing Trust regulations has been approved by the FDA Board of Directors for use by the National Benefit Sharing Trust Board (NBSTB) to govern the disbursement of 30% land rental fees to affected communities. It clearly lays out the functions and responsibilities of the Trust Board which includes to hold and manage land rental fees funds received for the benefit of affected communities and to establish a project review committee to ensure that projects benefit the targeted affected communities

Liberia has made efforts to develop a chain saw regulation. Following a series of regional consultations, a national workshop was held in September to validate a regulation on chain saw milling. The draft starts the regulation process with the aim of recognising and regulating chain saw milling in order to optimize its positive benefits and also mitigate its negative effects.

The regulations for the Community Rights Law 2009 also underwent a similar exercise of consultations earlier in 2011. Though they were approved in June, the FDA has not yet uploaded them to its website. The CRL regulation attempts to check the role of law makers serving on community management bodies, which has been a concern for both communities and civil society.

The current law and supporting regulations are inadequate to specifically address carbon rights and benefits related to REDD as well as mining and agriculture impact on the conversion of forest. The NFRL definition for degraded land needs to be revised in order to contribute to sound forest management and greater reduction of emissions from deforestation.

Title: (a) An Act Adopting the National Forestry Reform Law, 2006;
(b) Ten Core Regulations 106-07: Regulation on Benefit Sharing;
(c) Community Rights Law Chapter 3;
(d) Draft regulation on chain saw milling
(e) Regulation on Benefit sharing Trust

Organisation: Forestry Development Authority

Date: (a) 2006

- (b) 2007
- (c) 2009
- (d) 2011
- (e) 2011

Source: (a) www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf
 (b) <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>
 (c) <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>
 (d) <http://www.fda.gov.lr/doc/fda%20web%20site.txt>
 (e) Available from the Forestry Development Authority

Signed International Trade Agreements on Forests

 Has the country signed an international trade agreement that relates to forest products (logging and other products)? Are the agreements, including official discussions on their content, available in full to the public from official sources (websites and/or offices)?

The Voluntary Partnership Agreement (VPA) provides information on the trade in timber products between Liberia and European Union (EU), and also covers domestic timbers and those designated to countries outside the EU. It provides a way by which Liberia can address problems associated with illegal logging, improve forest management, and strengthen opportunities for trading timber products in European and other markets. What remains to be seen is whether the VPA implementation addresses issues and areas of governance and law enforcement that are critical to strengthen key institutions and improve their functionality as well as firmly establish the rule of law that delivers benefits to stakeholders, especially rural communities.

The VPA Liberia signed with the EU in May 2011 promises to address the verification problem through a licensing system which is expected to be operational in 2013. The VPA provides a framework for a broad reform agenda to help ensure that revenues realized from the timber sector will be distributed fairly. In addition, Liberian exporters will be obliged to supply verified legal and certified sustainable timber products in line with the current trends in requirements in the US and EU. In order to achieve this EU will have to provide both technical and financial support to the Liberian Government to address the large gap between intended functions and actual capacity of government services, private sector operators and civil society to fulfil their regulatory and law enforcement functions before a Forest Law Enforcement Governance and Trade (FLEGT) License can be issued.

Title: FLEGT Voluntary Partnership Agreement between Liberia and European Union

Organisation: Forestry Development Authority, VPA Secretariat, and European Commission

Date: May 9, 2011

Source: VPA Secretariat

Provisions for Transparency in Forest Laws

 Are there any forest-specific written laws and regulations that develop the right to access public information on the sector? Are the provisions in laws and regulations available to the public through official websites and other sources?

Section 18.15 of the National Forest Reform Law (NFRL) provides for public access to a range of forest sector information including all contracts, due diligence reports, minutes of Board meetings, etc. Regulation 108 Section 61 makes all information in the chain of custody system public. The Community Rights Law (CRL) Section 4.1 provides transparency and accountability in management of community forestry funds and compliance with the Extractive Industries Transparency Initiative.

In spite of these provisions and World Bank funding to set up an info centre at the Forestry Development Authority (FDA) central office and the four main regional offices, including training of website managers, there is no clear mechanism for public access to information at the FDA. The FDA is gradually improving its response from selective to full provision of information requested by civil society and communities on forest-related issues. Even though the info centre has not yet been established at the FDA, requests made to the management are responded to more efficiently than in the past. It is important for the FDA to be more proactive and put electronic copies of all public information related to forest issues on its official website and hard copies at a centrally located place in Monrovia and its four regional offices. Additionally, an official should be designated to specifically receive and respond to information requests in accordance with Section 3.6 of the Freedom of Information law.

The FDA needs to be proactive and create the conditions wherein information accessed through the forestry provisions is contributing to improving transparency and accountability in forest governance. One way to do this is for the FDA to translate into community languages forest-specific provisions that provide for transparency within the NFRL, CRL and their implementing regulations.

Title: (a) An Act Adopting the National Forestry Reform Law, (Section 18.15);
(b) Forestry Development Authority Regulation 108 on Chain of Custody (Section 61)
(c) Community Rights Law (Chapter 4, Section 4.1g)

Organisation: Forestry Development Authority

Date: (a) 2006
(b) 2007
(c) 2009

Source: (a) www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf
(b) <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>
(c) <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>

Legal Recognition of Customary and Traditional Rights

 Are customary and traditional rights recognised in codified forest law and norms? Are the provisions in the law and norms available in full to the public from official sources (websites and/or offices)?

The organic law (Constitution) of the country recognizes customary and traditional rights. According to the Constitution, civil law and customary law of the formal legal system govern all Liberians. Article 65 of Chapter VII of the Liberian Constitution states that the courts are empowered to apply civil law as well as customary law in accordance with the standards enacted by the Liberian Legislature. However, the extent to which the national government allow local communities to enjoy this recognition remains a challenge.

Customary and statutory laws are in conflict with each other. The customary law gives local communities full rights over their traditional forest lands and they are therefore the owners of these lands. However, the statutory law gives the national government the authority to determine formal recognition through a range of legal processes before communities can be considered or called owners of their traditional forest lands. The lack of harmonization of the civil law (statutory and judicial) and customary law poses conflicts with legal recognition of community land rights.

This conflict necessitated the establishment of the Land Commission which has a clear mandate to propose, advocate, and coordinate reforms of land policy, laws, and programs in the country. In order to implement its mandate the Land Commission is holding consultations nationally and regionally with local communities, civil society organizations, government agencies including local governance structures and international partners, to enable it to recommend policies and laws which may recognise customary rights in law.

Title: (a) The Constitution of Liberia, (Article 2);
(b) An Act to Establish the Land Commission

Organisation: The Land Commission, Ministry of Lands, Mines and Energy

Date: (a) 1985
(b) 2009

Source: (a) Ministry of Foreign Affairs, Ministry of Internal Affairs
(b) <http://legislature.gov.lr/sites/default/files/Land%20Commission.pdf>

Legally Recognised Procedure for Consultation on New Forest-Related Norms

 Are there any documented procedures (in the form of regulations, official guidance etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc (for example on REDD)? Are the reports from consultation processes available?

The Forestry Development Authority (FDA) has taken steps to implement Regulation 101 – 07 on Public Participation by conducting country-wide consultations following the adoption of the 10 core regulations in 2007. Regional and national consultations are held on new regulations. For example, country-wide consultations were conducted on the implementing regulations for the Community Rights Law (CRL) and Benefit Sharing Trust regulations, approved by FDA Board in 2011. There are ongoing regional and national level consultations on the chain saw regulation.

However, information about consultation and reports following consultation is not available to the public. There is no system in place to facilitate sharing information related to public consultation processes. For example, reports from the consultations mentioned above have not been made available to stakeholders. Also, the Liberia REDD+ Readiness Preparation Proposal (R-PP) development process, which is forest specific, has adopted a parallel consultation process. The World Bank team on the Liberia R-PP has emphasised the need to ensure full participation of Liberian stakeholders, civil society and cross-sector agencies including the Ministries of Agriculture, Lands Mines and Energy and the Land Commission to make sure that the solutions are owned by everybody and benefit the communities. Though reports of regional and national level consultations are contained in the R-PP, it was not vetted publicly for the 60 day period as prescribed in the forestry law (NFRL Section 19.2) before submission to the World Bank Forest Carbon Partnership Facility for approval in June 2011.

Since their formation began in 2008, Community Forest Development Committees have assisted the FDA in organizing community level meetings on forestry issues including new regulations and the Voluntary Partnership Agreement. The National Forest Forum has been suggested by most stakeholders to anchor all forums in order to serve as a platform for sharing information and reducing duplication.

Title: (a) NFRL (Section 19.2)
(b) Regulation 101-07:(section 23)

Organisation: Forestry Development Authority

Date: (a) 2006
(b) 2007

Source: (a) <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>
(b) <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

Law Recognising Right to Free Prior Informed Consent

 Is there any law that recognises the right to consent of indigenous peoples and communities on forest uses? Is the law available in full to the public from official sources (websites and/or offices)?

Ten Core Regulation 102 requires that in order to undertake commercial use on customarily held Forest Land, a Community Forestry Development Committee (CFDC) must grant free, prior and informed consent. The Community Rights Law (CRL) defines customary land as “land, including forest land, owned by individuals, groups, families, or communities through longstanding rules recognized by the community. To be recognized as customary land, it is not necessary for the land to have been registered under statutory entitlements”.

To support the Forestry Development Authority to undertake outreach work on the CRL, national and international non-governmental organizations including Sustainable Development Initiative (SDI), Save My Future Foundation (SAMFU), Environmental Relief and Development Research Organization (ERADRO) and Associates of Rural Development (ARD) have summarized, printed into smaller size and widely distributed copies of the CRL to communities throughout Liberia in 2010 and 2011.

The existing Forest Management Contracts (FMC) and Timber Sales Contracts (TSC) were allocated in 2008 and 2009 before CFDCs were established to represent the interests of communities affected by logging operations. This means that while the rights of local communities are recognised in consultation on new regulations, they did not have the ability to exercise free, prior and informed consent in final decisions on these initial logging concession allocations. Most or all of the land under these contracts does fall into the CRL definition of customary land

Title: (a) Community Rights Law Section 1.3
(b) Ten Core Regulation 102 Part Six section 61 (c) (3)

Organisation: Forestry Development Authority

Date: (a) 2009
(b) 2007

Source: (a) <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>
(b) <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

National Land Tenure Policy

 Is there an explicit current document that sets out the national policy on land tenure, including forest tenure? Is the policy document available in full to the public from official sources (websites and/or offices)?

The Land Commission was initially established two years ago (August 2009) but it was launched in March 2010 and only started functioning later in 2010. It is developing a land tenure policy that will include forest tenure, which it aims to make available in early 2012.

Issues related to land are complicated by the legacy of evolving laws associated with successive governments since the country gained independence in 1847. The current Public Land Law treats 'unoccupied' land as public land while the Community Rights Law treats land owned by individuals and groups through longstanding rules recognized by the community as private land, whether or not the individual or group has a deed. The situation regarding 'forest tenure' is unclear. The 2010 annual report of the Land Commission hosted on its official website notes that "there is unclear relationship between statutory and customary laws related to land. There are tensions between claims of state ownership of land and natural resources and claims of customary ownership of land long utilized by traditional communities".

In its first year of operation the Land Commission documented over 100 land disputes cases in circuit and magisterial courts in five counties including Bomi, Montserrado, Margibi, Nimba and Lofa.

The Land Commission had the following targets for 2011:

1. Completion of interim land policies (urban policy, public land policy, concessions, disputes, etc)
2. Completion of interim land laws (public land law, property law, adjudication, etc)
3. Start national land use mapping/planning

While these activities were ongoing in 2011, the Land Commission was at the same time lobbying the Executive to place a moratorium on concession allocation in order to avoid compounding the problem.

Organisation: Land Commission

Source: [www.lc.gov.lr, Annual report for 2010 available on http://www.lc.gov.lr/doc/AnnualReport2010.pdf](http://www.lc.gov.lr/AnnualReport2010.pdf)

Land Ownership and Forest Use Maps

 Are there official maps showing current forest ownership by title and/or forest areas where concessions, permits and other authorisations have been granted? Are the maps available in full to the public from official sources (websites and/or offices)?

Contract documents for logging and other concessions include maps and geo-reference points. Small maps give an indication of the locality of concessions, protected areas, and forests considered suitable for community use, which are produced by the Forestry Development Authority mapping unit and have been published in forestry contracts and various official documents such as the 2010 Strategic Environmental Assessment of the Forest Reform Law.

Maps for mineral deposits and agricultural areas are found with the respective line ministries. However, there is no indicative or definitive map of customary or deeded private land. In addition to making specific maps available from each responsible government agency, it would be a useful exercise to produce maps of land ownership and hold them centrally with a public institution, because this would help to clarify the situation and reduce existing conflicts over competing claims.

Organisation: Ministry of Lands, Mines and Energy, Forestry Development Authority

Source: Forestry Development Authority



Regulated Permit System for Commercial Logging Operations



Is there a formally regulated system of permits for commercial logging operations? Are the contracts/permits granted under the system publically available from official sources (websites and/or offices)?

The National Forestry Reform Law specifically provides that logging contracts are public documents. All logging contracts are available at the Forestry Development Authority (FDA) and can be accessed upon request, but they have not yet been proactively published, such as on the FDA website. Despite World Bank funding to increase public access to forest sector information, the changes have not yet been put in place at the FDA. Making the Forest Sector Transparent has pointed out over the last two years that it is important to develop information management policies and systems to improve information provision, as well as measures which strengthen citizen's understanding of their role in making sure that information is available, accessible, and useful.

The Liberia Extractive Industries Transparency Initiative Act requires publication of all extractive contracts including forestry, and the LEITI Secretariat has uploaded six of the seven Forest Management Contracts and four of the nine Timber Sales Contracts to its website. This is commendable but the LEITI Secretariat needs go a step further and put in place a system that ensures all concession contracts, including forestry, are hosted on its website once they are ratified or come into effect.

No further logging concessions have been allocated since 2008/09, but Private Use Permits (PUPs) have been issued. These include three that the FDA has confirmed exists and an additional 14 whose existence the agency has neither confirmed nor denied. The PUPs are not subject to bidding. The transparency of these permits is a concern since some of them may qualify as a Forest Management Contract, which needs to meet all due diligence requirements

Title: (a) National Forestry Reform Law
(b) Liberia Extractive Industries Transparency Initiative Act

Organisation: (a) Forestry Development Authority
(b) Liberia Extractive Transparency Initiatives

Date: (a) 2006
(b) 2009

Source: (a) <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>
(b) <http://www.leiti.org.lr/doc/act.pdf>



Legal Requirement for Stakeholder Consultation before Allocation of Commercial Logging Permits



Is there a requirement in the forest law and norms for stakeholder consultation prior to the allocation of commercial logging permits? Are the reports from consultation processes available?

Regulations on public participation require consultation prior to contract allocation. The contracts that were issued in 2008/09 did not meet this requirement. Also companies that were awarded concessions in 2008/09 were meant to negotiate and sign social agreements with affected communities, but these agreements were hastily concluded and there have been sustained requests by Community Forest Development Committees (CFDCs) in 2010 and 2011 to renegotiate them.

The consultations carried out by the Forestry Development Authority (FDA) for the first round of concession allocations in 2008/2009 did not always follow the requirements provided in the forestry legal framework. Making the Forest Sector Transparent reported in 2010 that implementation was fraught with poor facilitation and documentation.

Section 5.2a (iii) of the National Forest Reform Law provides for specific regulations regarding pre-qualification of companies wishing to operate Private Use Permits (PUPs), in order that they be subject to a measure of transparent, consultative scrutiny that Timber Sales Contracts and Forest Management Contracts are as a result of being competitively tendered. However, the FDA has not yet recognised this important distinction, and has played down the need for developing specific prequalification procedures for PUPs. As a result, critical information regarding the size, location, ownership and legitimacy of PUPs remains opaque.

Title: Regulation 101-07: Public Participation

Organisation: Forestry Development Authority

Date: 2007

Source: www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf

Verification Process (Due Diligence) of the Eligibility of Permit Applicants

 Prior to the allocation of permits for logging or other extractive use (e.g. mining) of forest land, is there a formal process in the regulations for independent “due diligence” checks to verify the eligibility, suitability and capability (technical and financial) of applicants? Are the findings and conclusions of the verification process made available to the public?

The allocation process as stipulated in the law is transparent and includes safeguards to ensure checks and balances, but information on the process to verify applicants was not made accessible to the public prior to the award of logging concessions in 2008/2009. Due Diligence Reports have also had little impact on the allocations, as none of the four large concessions allocated in 2009 met the minimum requirements.

For example, the UN Panel of Experts in its report of 12 December 2008 (http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/785) noted: “the due diligence committee found problems with all nine provisional winners of contracts. It found that none of the companies bidding on the three forest-management contracts had all of the technical and financial capabilities required by law and that there had been material changes in ownership of three companies, rendering their pre-qualification certificates invalid”. The contracts were nevertheless awarded disregarding the findings of the due diligence

Liberia’s Chain of Custody contract with Société Générale de Surveillance (SGS) is primarily limited to tax collection. The Voluntary Partnership Agreement with the European Union is expected to expand the scope of SGS to cover legality verification.

Title: (a) Public Procurement and Concession Act
(b) National Forestry Reform Law

Organisation: Forestry Development Authority

Date: (a) 2005
(b) 2006

Source: (a) <http://www.ppcc.gov.lr/document/Approved%20Final%20Law-Act.doc>
(b) www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf

Forest Management Plans

-  Once a permit or concession has been issued, is there a formal requirement for the completion of forest management plans on the operations? Are the forest management plans available to the public from official sources (websites and/or offices)?

Forest Management Plans are not available on the Forestry Development Authority (FDA) website, and neither are they available to local communities. It not known if they exist. The forestry law requires that concession holders should not be issued a harvesting certificate until the holder has an approved forest management plan. Local communities affected by the planned forestry operations do not have access to management plans, including the Annual Operational Plan for a Forest Management Contract (FMC) and the Harvesting Plan for a Timber Sales Contract (TSC). Communities do not have information on periods, locations and volumes of the operations in the concession. In the case of a FMC, no management plan has been made available for civil society organisations and communities to scrutinise. Management plans constitute a key pre-felling requirement for an FMC before any timber is felled.

In a letter in August 2011 about the existence of Management Plans for Private Use Permits, FDA responded: “the preparation of a 5 year Management Plan technical document begins with the first Annual Operation of a concession. However, the Annual Operational Plan serves as baseline information for the preparation of the five year plan, which is a process and not an event”. Requests by affected communities for these documents have not been responded to.

Title: National Forest Reform Law of 2006; Section 5.3: Forest Management Contract

Organisation: Forestry Development Authority

Date: 2006

Source: www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf

Regulation of Environmental Services

-  Is there a formally agreed system for the regulation of environmental services, such as water, carbon and biodiversity, as it affects forests? Are the regulations for the system available to the public from official sources (websites and/or offices)?

The country has no legislative framework covering environmental services. Current attempts to grant carbon concessions are occurring in a policy vacuum. The only indication of a Government plan to set up a system for regulating environmental services is the establishment of the National Climate Change Secretariat (NCCS). The NCCS has however not initiated any policy discussion on legislation for environmental services covering water, carbon and biodiversity related to forests.

Organisation: National Climate Change Secretariat (NCCS), Forestry Development Authority

Strategic Environmental Assessment of Development Priorities

-  Is there a formal strategic process set out in policy to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands? Is the policy available in full to the public from official sources (websites and/or offices)?

In September 2010 the result of a donor-driven Strategic Environmental Assessment conducted in 2008/09 was published, which broadly highlighted the lack of inter-agency coordination and specifically pointed out the lack of a framework for strategic decision making regarding conflicts and trade-offs between development options. The current situation has not changed and the existing National Forest Policy does not address the issue of competing claims over forest. There is currently no discussion about reviewing the policy.

The existing Forest Management Contracts and nine Timber Sales Contracts were all awarded before the Strategic Environmental Assessment was published. The results did not affect the allocation of over one million hectares of the forest to concessionaires.

Currently there exists no tenure policy framework to address barriers to strategic land uses and forest tenure. The current trend is that mining, agro-industry, infrastructure and other projects that may impact on forests are being developed without any strategic oversight. For example, in 2010 two palm oil plantation companies were granted concessions with little apparent regard to their impact on forests and communities: Golden Veroluem, next to the Sapu National Park in Sinoe County and Sime Darby, in Gbarpolu, a forest rich county.

Title: Mainstreaming Social And Environmental Considerations Into The Liberian National Forestry Reform Process – A Strategic Environmental Assessment for Implementation of the 3Cs of the Forest Reform Law 2006

Organisation: Forestry Development Authority

Date: 2010

Source: <http://siteresources.worldbank.org/EXTARD/Resources/336681-1285969000707/LiberiaForestSEA.pdf>

Independent Monitoring of Forest Governance and Operations

-  Is there an independent monitor, auditor, ombudsman or any other body with an officially recognised role to scrutinise forest governance and operations? Are reports by the independent body available to the public?

Despite Regulation 108-07 anticipating the establishment of a formal system of Independent Forest Monitoring, there has been little progress since then. As a complementary framework, the Voluntary Partnership Agreement (VPA) with the European Union is expected to partially address the need to monitor the existing legal system, including commercial activities in the forestry sector. For the first time monitoring by civil society has been given attention, and the government has made a commitment to integrate self-mandated monitoring roles into forest governance. The civil society and community feedback mechanism initiated during the negotiation phase was a critical element of Liberia's VPA and needs to be incorporated during the implementation phase.

As the VPA includes a verification system and an occasional Independent Audit, there is perhaps an expectation by the FDA and the EU that formal and continuous independent monitoring will not be necessary, although this assumption is yet to be tested in any VPA country. Just as civil society (and the EU) initiated the VPA process; it will

require similar non-state efforts to pressure the government to provide resources and recognition for independent monitoring in line with Regulation 108-07.

Under the VPA there is scope for civil society to conduct its own self-mandated monitoring, the reports from which will be considered by an Independent Auditor, and then by the Liberia and EU authorities who jointly implement the VPA.

Title: Ten Core Regulation 108-07 on Chain of Custody; Part Seven Section 72 on Independent Forest Monitoring

Organisation: Forestry Development Authority

Date: 2007

Source: <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

Forestry Tax Collection and Funding Systems



Is there a regulated fiscal system to collect taxes and redistribute royalties from forest operations, or provide subsidies and funding to support forest operations? Are figures on the amounts collected and distributed available to the public from official sources?

The National Forest Reform Law (NRFL) allocates thirty percent of Land Rental Fees to communities entitled to benefit sharing under Forest Resources Licenses. Section 14.2 (b) (ii) defines Land rental fees as “ ...fees associated with the use of Forest Land, including administrative fees and area based fees tied to Forest Resources Licenses”.

The National Benefit Sharing Trust Board was formally constituted in January 2011 comprising of representatives from the key forest stakeholders including communities, private sector, government and civil society. Regulations for benefit sharing were approved in June 2011 by the FDA Board of Directors.

Information on the taxes and fees collected and distributed has been partially made available to the public. Société Générale de Surveillance (SGS), the chain of custody contractor, circulates weekly payment updates to forest stakeholders on its email list. This information is not proactively published in any other way, but international and local NGO partners are assisting to provide this information to community groups like the Community Forest Development Committees. However, SGS calculations of community share of land rental fees do not include Land Rental Bid Premium which is also an area based fees and no explanation has been provided for the exclusion.

Communities are using the information to justify their current demand for access of funds for their communities from logging operations. At least two affected communities have received payments related to fees per cubic metre from volume of logs extracted from concessions.

Title: (a) NFRL section 14.2: Forest fees
(b) Ten Core Regulation 106-07: Regulation on benefit sharing
(c) Community Rights Law: Chapter 3: Community Rights and Responsibilities

Organisation: Forestry Development Authority; Community Forestry Department

Date: (a) 2006
(b) 2007
(c) 2009

Source: (a) <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>
(b) <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>
(c) <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>

Forest Infractions



Is the Forest Authority obliged under the norms to collect information on any infractors of the forest law? Are lists of infractors available to the public from official sources?

It is a legal requirement for the Forestry Development Authority (FDA) to annually report all violators of forest law to the Board of Directors and to the public, including the time of violation and progress on penalties and payments through FDA or other judicial system within the country, but regular and up-to-date details have not been made publicly available. In practice, the limited involvement of the Ministry of Justice has increased barriers to publishing details on infractions.

While there is transparency provision within the forestry law and the FOI law, the FDA and related government institutions including the Ministry of Justice lack the ability to provide appropriate oversight of the sector. For example, the UN Panel of Experts reported in December 2010 that “Documented problems include non-payment of fees related to some concessions; cases of non-competitive allocation of large concessions; corruption; and lack of consultation with county authorities, district authorities and affected communities. In addition, government capacity to monitor commercial concessions is extremely limited in relation to the scope of the agreements being allocated and information is often difficult to obtain”.

Liberia has signed a Voluntary Partnership Agreement in May 2011 and the framework for Independent Auditor is expected to assess how reported infractions are addressed or not addressed by the relevant authorities, which is expected to improve law compliance.

Title: NFRL section 20.11 a (i-vi)

Organisation: Forestry Development Authority, Ministry of Justice

Date: 2006

Source: <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>

Annual Forest Authority Report



Is there a requirement set out in the norms for the Forest Authority to produce an annual summary of its activities? Is the report available in full to the public from official sources (websites and/or offices)?

Even though the National Forest Reform Law, Section 20.1, sets out the requirement for an annual report, this is one area where the Forestry Development Authority (FDA) has performed poorly for the past three years. It has not published a complete annual report in this time and the only report on its official website is a draft report of 2008 which has not been finalized. The draft report only shows a table of contents, an introduction and an incomplete executive summary. It contains neither details of activities nor a financial report even though an audit is listed in the contents.

The lack of annual reports makes it difficult to evaluate the performance of the FDA, or even to know the basis on which it evaluates its own work. Monitoring by other stakeholders including civil society and UN Panel of Experts on Liberia provides an insight into how the forestry sector is being managed, but it would be useful to have comparable information from the FDA.

Title: Draft Annual Report, Forestry Development Authority, Monrovia, Liberia
January 1 – December 31, 2008

Organisation: Forestry Development Authority

Date: 2009

Source: <http://www.fda.gov.lr/content.php?sub=Publications%20and%20Documents&related=Media%20Center>
