



global witness

Making the Forest Sector Transparent

Annual Transparency Report

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Partner: Sustainable Development Institute (SDI)

Year: 2009

Language: English

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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.

Is there a Freedom of Information Act?

Press Union of Liberia presented a draft Freedom of Information Act to the National Legislature in September 2008. The draft Act has not yet been enacted into law. In November 2009 some key leaders in both houses indicated enacting it when they return from their break in January 2010, and the Ministry of Information included its passage as a component of its ninety day deliverables during a cabinet retreat.

Source: Carter Center delegation seeks passage of Information Act, November 16, 2009 hosted at www.starradio.org.lr/content/view/13848/380/

What other rules provide for transparency?

In addition to any specific freedom of information laws, are there references to transparency in the Constitution, general laws, regulations, decrees etc. that all public institutions must adhere to (the next indicator is specifically about the forest sector)

The Liberia Extractive Industries Transparency Initiative (LEITI) Act (July 2009) provides for public access to information relating to the extractive industries including forestry. Liberia is the first country to include forestry in its EITI implementation. The Act also includes other requirements, such as monitoring sharing of revenue from the extractive sector between the state and communities, in addition to the more traditional revenue transparency.

Title: Liberia Extractive Industries Transparency Initiative Act

Date: 2009

Source: www.leiti.org.lr/doc/act.pdf

Are there any forest sector specific laws / rules / statements that provide for transparency?

Are there any forest-specific written laws and regulations, key announcements or speeches that develop the right to access public information on the sector, for example a Service Charter.

The National Forestry Reform Law of 2006 (Section 18.15) provides for broad public access to information including contracts, revenue related documents, and production data. Forestry Development Authority Regulation 108 on Chain of Custody (Section 6'1) provides that all information in the CoC database is a matter of public record. Chapter 4, Section 4.1g, of The Community Rights Law of 2009 also provides that community forest management bodies shall "ensure LEITI compliance".

Title: An Act Adopting The National Forestry Reform Law of 2006; Regulation 108-07 Chain of Custody; An Act to Establish The Community Rights Law of 2009 with Respect to Forest Lands.

Date: September 2006 (NFRL); September 11, 2007 (Regulation 108); and October 20, 2009 (CRL)

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

Language: English

Is there any settlement process for disputes regarding access to information?

Are there clear, documented, and understood steps for resolving conflicts between transparency and confidentiality norms, or where / when authorities fail or refuse to provide information?
If so, is this dispute-settlement process well-advertised, not prohibitively costly and therefore realistically accessible to most people?

There is no dispute resolution mechanism to address conflict between transparency and confidentiality norms related to forestry information.

Do communities have legal standing?

Does any part of the codified law recognise 'a community' as 'a legal person', for example able to hold property titles or sue and be sued?

The Associations Law of Liberia gives any group of citizens that have completed and duly filed Articles of Incorporation with the Ministry of Foreign Affairs legal standing; this includes Community Forestry Development Committees that have completed and filed their Articles of Incorporation with the Ministry. The Community Rights Law specifically addresses the rights of communities in forestry. Various forestry regulations including Regulation 106 (Benefit Sharing) also recognize 'Affected Communities' represented by their CFDC.

Title: FDA Regulation 106-07:Benefit Sharing

Date: 1976 and 2007

Source: Liberian Codes of Law Revised, Vol. II: Part II
CRL - <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>;
Regulation - www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf

Completeness: The specific references to Affected Communities could be interpreted to exclude communities that are not directly affected by logging or the creation of a protected area.

Do NGOs have legal standing?

Does any part of the codified law recognise NGOs as 'a legal person', for example able to hold property titles or sue and be sued?

The Associations Law of Liberia gives Not-For-Profit Corporations Legal standing. There are also provisions in the forestry regulations which acknowledge NGOs as having rights to information and to conduct independent monitoring of forestry activities.

Title: Liberian Codes Revised, Vol. II Part II; FDA Regulation 108-07: Chain of Custody

Date: 1976 & 2007

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

Language: English

Is there a national forest policy document? Is it available?

Is there an explicit current document described as the national forest policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it up-to-date or does it require revisions in the light of REDD, mining, or other threats and opportunities?

The National Forest Management Strategy (NFMS) summarizes the Forestry Development Authority philosophy for managing Liberia's forests in line with the National Forest Policy. It outlines the FDA approach to forest management, its long-term goals, key objectives and classifies all forests according to their legal status and potential suitable use.

Title: National Forest Management Strategy

Date: 2007

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

Accuracy: Questions have been raised about the accuracy of some of the data (ex. Extent of forest cover) presented and assertions (employment and revenue generation capacity of the logging industry) made in the strategy.

Timeliness: The strategy is due for review and revision

Completeness: The strategy failed to classify ALL forest according to legal status and suitable use. It is not entirely in line with the forest policy of an integrated or balanced 3C (commercial, conservation and community forestry).

Is the forest law available?

It is hosted on FDA website; free copies have been distributed to several Community Forestry Development Committees and NGOs. Copies have also been on sale at FDA for more than two years now.

Title: An Act Adopting the National Forestry Reform Law, 2006

Date: 2006

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

Completeness: The NFRL failed to adequately address community forestry and conservation in line with the vision laid out in the National Forest Policy.

Are all forest regulations, procedures, decrees, etc. available?

Are all lower level norms (regulations, procedures, decrees, technical directives etc) that make the forest laws operative available? (This indicator refers to rules directly related to forest operations. See next indicator for rules related to other operations affecting forests).

A document of ten regulations is hosted on FDA website. Free copies have been distributed to CFDCs and NGOs, and copies have been on sale at FDA for more than two years now. This includes regulations on Public Participation, Pre-qualification, Tender, Award and Administration and Chain of Custody. The Guidelines for Sustainable Forest Management is also publicly available.

Title: Ten Core Regulations, 2007; Guidelines for Sustainable Forest Management, 2009

Date: 2007

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

Completeness: The Ten Core Regulations focused entirely on logging operations. The National Forest Management Strategy also focuses logging. To date no regulation exist for REDD related business ventures even though some projects are at advance stages of their development.

Are forest-related policies, laws, agreements etc public?

Are all other significant regulations, procedures, decrees, technical directives etc. that affect forests available (for example norms related to carbon and REDD; agriculture and biofuels; conservation and national parks; roads, energy and other infrastructure)?

The acts establishing various protected areas are public but not hosted on the FDA website. Liberia also submitted a REDD Project Information Note (R-PIN) to the Forest Carbon Partnership Facility of the World Bank but has not hosted the R-PIN on its website. This is in spite of the fact that the R-PIN is already hosted on the FCPF website.

Discussions about agriculture concessions for plantation development and biofuels are within the purview of the Ministry of Agriculture even though activities in this sector affect forests.

Source: http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Liberia_FCPF_R-PIN.pdf

Language: English

Has the country signed up to international agreements?

Which forest-related international agreements or processes has the country signed up to? (See www.foresttransparency.info/report-card/downloads/ for the list of agreements monitored.)

None of the international forest-related agreements to which Liberia is a signatory is hosted on FDA website. They are however accessible on the internet on the various secretariats and other websites.

Title: UN Declaration on the Rights of Indigenous People (UNDRIP); Kyoto Protocol; WB Forest Carbon Partnership Facility; UNREDD Programme; UN Convention Against Corruption (UNCAC); Convention on Biological

Source: www.un.org/esa/socdev/unpfii/en/declaration.html
<http://maindb.unfccc.int/public/country.pl?group=kyoto>
www.forestcarbonpartnership.org/fcp/node/203
www.un-redd.org/
www.unodc.org/unodc/en/treaties/CAC/index.html
www.cbd.int/countries/
www.ilo.org/dyn/natlex/country_profiles.home?p_lang=en
www.cites.org/eng/disc/parties/alphabet.shtml
www.unccd.int/php/countryinfo.php?country=CMR
www.illegal-logging.info/uploads/Falconer0609.pdf
www.mdgmonitor.org/factsheets.cfm

Language: English

Is there a national forest forum?

Is there any form of government-recognised national level roundtable dialogue which meets regularly (annually or more often) to allow citizens to raise issues of concern with the national forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

There is a plan to set up a National Forest Program that would organize and facilitate stakeholder forums on forests.

Are there local forest forums?

Are there any government-recognised local roundtable dialogue forums which meets regularly (annually or more often) to allow citizens to raise issues of concern with the forest authorities? If so, what is the status of any discussions or decisions made (are they documented; are they legally binding in any way)?

There is nationally mandated local forum on forests. However, several CFDCs have been organizing forums in their communities to discuss forest related issues and communities relationship with logging companies.

Is there an established, government-recognised list of stakeholders?

Is there an official list of individual stakeholders or stakeholder types whom the government is obliged to consult or to share information with?

The FDA is required under Regulation 101 - 07 on Public Participation to establish a Forest Management Stakeholder List of individuals, groups and institutions interested in forest management in Liberia. At the time of preparing this report this list did not exist.

Title: Regulation 101-07: Public Participation

Date: 2007

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

Language: English

Are reports on consultation processes public?

Does government publish the results of any forest-related consultation processes?

Section 18.5 of the NFRL requires FDA to “grant and facilitate public access to read and copy all documents and other information in its possession”. This includes reports on consultation processes. Regulation 101-07 Section 42 requires the FDA to grant public access to all Supporting Documents and Information, which include public comments generated during consultation processes as well as reports on those processes.

Title: NFRL 2006 and Ten Core Regulation (Regulation 101-07)

Date: 2006 (NFRL) and 2007 (Regulation 101-07)

Source: www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf (NFRL 2006)
www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf (Regulations)

Language: English

Is there a procedure for consultation on new norms?

Are there any documented procedures (in the form of regulations, official guidance notes etc) that lay out the methodology for consultations that should take place regarding new forest-related policies, laws, regulations etc? If so, is it implemented?

Regulation 101 - 07 on Public Participation provides for public involvement in forest-related policy and rule making processes, It is the first ever forestry specific step towards fully implementing the provisions of Article 7 of the Liberian Constitution, which mandates the maximum feasible participation of the public in natural resource management

Title: Regulation 101-07: Public Participation

Date: 2007

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

Language: English

Is there a published policy on forest tenure?

Is there an explicit current document which defines or describes land and forest tenure policy? If so, has it been used to inform the forest law and other norms (or has it been produced after the forest law)? Is it up-to-date or does it require revisions in the light of REDD, mining, tenure conflicts, or other threats and opportunities?

The Public Land Law treats 'unoccupied' land as public land while the CRL 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.

Is there a register of private forestland owners? Is it accessible to the public?

Where private forestland ownership is possible within the Constitution and legal framework, can the ownership of each area of forest be publically accessed?

No.

Is there a difference in law between ownership and use?

Does the law make a clear difference between owners and users of forests / forest products? If so, please explain it.

The Community Rights Law provides that all forest resources on community forest lands are owned by local communities while the NFRL 2006 state that all forest resources are 'held in trust' by the state. The CRL also grants FDA the powers to regulate the use of all forest resources regardless of proprietorship.

Title: An Act to Establish the Community Rights Law With Respect to Forest Lands of 2009

Date: 20 October 2009

Source: <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>;

Language: English

Completeness: There are series of drafting errors in the CRL that need to be addressed. The apparent conflict between policy and practice (interpretation and implementation) need to be clarified.

Is the ownership of different forest products clear?

Is it codified and understood who has rights to timber, minerals, non-timber forest products, wildlife, water, carbon etc? Are all these types of product available to all, or is there some form of differentiation (for example, private forest owners can issue the right to log, but only the state can issue the right to mine; or only the state can issue the right to log, but local communities who own the land can issue the right to collect non-timber forest products).

The right to timber on public land is held by the state while the right to timber on private land is held by the land owner. However all commercial activities are regulated by the state while non commercial use of timber and other forest products from private land do not require state permission. However, the manner in which the law has been interpreted and implemented has created confusion and is therefore unclear if it is indeed 'understood'.

Title: NFRL 2006

Date: 2006

Source: www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf (NFRL 2006)

Language: English

Can you provide examples of forest tenure disputes?

What information can you provide on the extent of disputes over either (i) the right to land, (ii) the right to forest use or products, or (iii) the ways in which these rights are administered?

The NFRL 2006 clearly forbids FDA from allocating contracts on private land. FDA has however allocated concessions for more than 1million hectare of forest lands without clearly mapping and separating private land. This has led to dispute in at least one instance. This was only resolved following the personal intervention of the President.

Is there a dispute-settlement process for tenure conflicts?

Are there clear, documented, understood and accessible steps for resolving tenure conflicts?

There is no dispute settlement for conflict process in the forestry law. In fact the law states that where the government has allocated forest use permit no one has the right to 'block' such use.

Are ownership and forest land use maps available?

It is possible, at national or sub-national level, to view or obtain maps indicating forest ownership and current permit-holders for different forest use? So, for example, it is possible to calculate what proportion of forest land has documented title, or what proportion is under logging concessions? Are such maps digitised?

No.

Do permits exist for all uses / services?

In addition to logging permits, are there any permits for conservation activities, environmental services (e.g. water conservation, or carbon storage), or eco-tourism services provided by forests?

To date only logging permits have been allocated.

Is information on any forest land unallocated or not under any type of concession published?

Is there a 'pool' of forest, owned by the state or others, for which permits or user-rights are potentially available?

The FDA estimates that more than 3million hectares of forest are available for commercial use. Only a third of this amount has been allocated.

Title: National Forest Management Strategy

Date: 2007

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

Language: English

Completeness: The data used in the strategy has come under question.

Is it clear how the decision to start a round of permit allocation is made?

The first step in the allocation of permits is to decide where: Are there clear, documented, and understood steps for deciding to allocate permits, for example when to allocate which parts of the state forest to logging, mining, carbon, ecotourism or other concessions?

The process for allocating logging permit is clear. For ecotourism, carbon concessions and others the process is less clear.

Is there a stakeholder consultation process prior to permit allocation?

At the time an area of forest is identified for allocation to any sort of concessionaire, are stakeholders (other than the forest owner) consulted, for example on any conditions to be attached to the permit?

Regulation 101 – 07: Public Participation lays out a clear process for public consultation for validating suitability of a particular land use proposed by FDA.

Title: Regulation 101-07: Public Participation

Date: 2007

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

Timeliness: In practice, local people are only informed when the area has already been allocated to a permit holder or have been announced.

Completeness: Implementation has been fraught with poor facilitation and documentation. FDA failed to demonstrate it is properly conducting these meetings when they were challenged by a community group to present evidence that consultation did take place with their communities.

Are the areas assigned for each round of permit allocation advertised?

When an area of forest is identified for allocation to any sort of concessionaire, is this publicly advertised so that the opportunity for new permits / user rights is open to anyone?

The forestry law and regulations specifically require this for logging concessions. The Public Procurement and Concessions Act also provide for opened and competitive bidding processes for most public procurement activities.

Title: National Forestry Reform Law, 2006; PPCC Act, 2005

Date: 2005 & 2006

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

Language: English

Completeness: The PPCC Act allows for sole sourcing under certain conditions. This is however being used often, especially regarding large-scale agricultural concessions

Is there transparent independent verification (due diligence) of the eligibility of any applicants for forest permits?

Prior to the final allocation of any area of state forest to logging, mining, carbon, ecotourism or other concessions are there "due diligence" checks on the eligibility, suitability, or (technical and/or financial) capability of applicants, and is this analysis made public?

The allocation process, as prescribed by law, is transparent and allows for series of checks and balances. The FDA receives sealed bids, which are then opened in public and presented to a Bid Evaluation Panel (BEP). The BEP evaluates the bid and a due diligence is conducted by a body independent of the BEP. The results of the BEP and due diligence are forwarded to an Inter-Ministerial Committee on Concession who then awards contracts based on the recommendations of the BEP and the findings of the due diligence. The FDA signs the contract after negotiation with the IMCC. The contract goes to the Legislature for ratification and then to the President for signature.

Title: PPCC Act and National Forestry Reform Law, 2006

Date: 2005 & 2006

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

Language: English

Completeness: The process, if followed, has sufficient safeguards to ensure transparency and accountability.

Is the final permit allocation decision-making process transparent?

Is the final decision to allocate any permit made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

The Legislature conducts public hearings before ratifying contracts. Votes are then taken to determine whether or not the contract should be ratified.

Has the permit allocation system improved?

Have there been recent attempts to make improvements to the permit allocation system? Have there been recent changes to the system to accommodate 'newer' forms of permits such as conservation, carbon storage, or ecotourism? If so please give details. Were these successful?

The current system was designed in 2006 and was first implemented in 2008. It is still in its testing phase and no changes have been made to it.

Are the final permit / contract documents made public?

Are all contracts / concession agreements / permits in the public domain? If so, which law or regulation specifies that they should be? Are they entirely in the public domain or are certain 'commercially confidential' clauses hidden?

All logging contracts once ratified by the Legislature become laws and therefore become public documents. The LEITI Act specifically requires all contracts related to the extractive industries, including forestry be made public. The National Forestry Reform Law also specifically provides that these contracts are public documents.

Title:	National Forestry Reform Law; 'Liberia Extractive Industries Transparency Initiative Act'
Date:	2006 & 2009
Source:	www.leiti.org.lr/doc/act.pdf http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf
Language:	English
Completeness:	CFDC members that regularly attended the Community Benefit Sharing Mechanism meetings requested copies of contracts affecting their areas; we are not aware that any of them were given copies.

Are any environmental / social impact assessments for forest operations available to the public?

Where an EIA or similar is a requirement for any concession, is it published? Is there any public consultation during the EIA, or any public presentation of the conclusions and recommendations?

The National Forestry Reform Law requires EIA for forestry contracts. The Environmental Protection and Management Law require all EIAs to begin with a public consultation referred to as a scoping process to “ensure public participation early in the EIA process”. The Law also mandates public hearings during the EIA process and requires the Environmental Protection Agency to facilitate public access to all EIA related documents and to take duly take public comments into account.

Title: The Environmental Protection and Management Law

Date: 2003

Source: www.epa.gov.lr

Language: English

Is information on logging locations given to the public?

Are local people informed of where permits holders will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if loggers are legally in that location?

All logging contracts include maps of the contract area are public documents. The FDA is required to facilitate the formation of Community Forestry Development Committees (CFDCs) to represent communities that would be affected by a logging contract.

Title: National Forestry Reform Law, 2006

Date: 2006

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

Completeness: Although the law provides that contract maps are public, CFDCs continue to complain that they have not received them although they have requested them.

Is there a stakeholder consultation process on individual logging locations?

In addition to any consultation on the general location, timing and allocations of logging concessions (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of logging at the local level, for example as part of developing a forest management plan?

The allocation of logging concessions begins with a land-use validation exercise. The validation process allows for communities to comment on the plan to allocate logging contracts in their area. The National Forestry Reform Law requires EIA for forestry contracts. The Environmental Protection and Management Law require all EIAs to begin with a public consultation referred to as a scoping process to “ensure public participation early in the EIA process”. The Law also mandates public hearings during the EIA process and requires the Environmental Protection Agency to facilitate public access to all EIA related documents and to take duly take public comments into account. Consultation with stakeholders to be affected by the project is specifically required.

Title: The Environmental Protection and Management Law; National Forestry Reform Law

Date: 2003 & 2006

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

Language: English

Is information on permitted logging volumes (quotas) public?

Once all preparations and forest management plans are completed and logging operations start, can local people find out how much timber is permitted to be extracted (for example on an annual basis from a specific area)?

The guidelines for Sustainable Forest Management requires contract holders to conduct inventories, as part of their forest management planning, that includes estimates of harvestable volumes. Information about production volume is published in FDA annual reports.

Title: Guidelines for Forest Management Planning in Liberia

Date: 2009

Source: <http://www.fda.gov.lr/doc/Liberiaforestmngguidelines.pdf> (2007 draft)

Language: English

Completeness: Revised and finalized in 2009

Is information on locations for other forest products given to the public?

Are local people informed of where permits holders for non-timber forest products, or wildlife hunting, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

No.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of

Date: 2009

Source: http://www.fda.gov.lr/doc/NTFP%20Regulation%20_111-08.pdf

Language: English

Completeness: The Regulation on the Commercialization and Sustainable Extraction of Non Timber Forest Products does not include provisions addressing issues such as where permit holders may operate or where wildlife hunting may occur; it only addresses taxes to be levied and who can engage in the extraction of NTFPs.

Is there a stakeholder consultation process on non-timber permit locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the extraction of non-timber forest products at the local level, for example as part of developing a forest management plan?

No.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of

Date: 2009

Source: http://www.fda.gov.lr/doc/NTFP%20Regulation%20_111-08.pdf

Language: English

Completeness: The Regulation on the Commercialization and Sustainable Extraction of Non Timber Forest Products does not include provisions addressing issues such as where permit holders may operate or where wildlife hunting may occur; it only addresses taxes to be levied and who can engage in the extraction of NTFPs.

Is information on permitted quotas of non-timber products made public?

Once all preparations and permits are completed and extraction non-timber forest products starts, can local people find out how much of a product (for example wildlife hunting) is permitted to be extracted (for example on an annual basis from a specific area)?

No.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of

Date: 2009

Source: http://www.fda.gov.lr/doc/NTFP%20Regulation%20_111-08.pdf

Language: English

Completeness: The Regulation on the Commercialization and Sustainable Extraction of Non Timber Forest Products does not include provisions addressing issues such as where permit holders may operate or where wildlife hunting may occur; it only addresses taxes to be levied and who can engage in the extraction of NTFPs.

Is information on locations of environmental services permits given to the public?

Are local people informed of where permits holders for environmental services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

No

Title: Environmental Protection and Management Law of Liberia

Date: 2003 (approved 2002)

Source: www.epa.gov.lr

Language: English

Is there a stakeholder consultation process on environmental services locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the environmental services permits at the local level, for example as part of developing a forest management plan?

The Environmental Protection and Management Law require all EIAs to begin with a public consultation referred to as a scoping process to “ensure public participation early in the EIA process”. The Law also mandates public hearings during the EIA process and requires the Environmental Protection Agency to facilitate public access to all EIA related documents and to take duly take public comments into account. Consultation with stakeholders to be affected by the project is specifically required.

Title: The Environmental Protection and Management Law

Date: 2003 (approves 2002)

Source: www.epa.gov.lr

Language: English

Is information on the quality / quantity of environmental services made public?

Once all preparations and permits are completed and a provision of environmental services contract starts, can local people find out about the size / value / or limits on these services?

All forest related contracts are public documents and can therefore be accessed by members of the public, civil society and communities.

Title: National Forestry Reform Law

Date: 2006

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

Language: English

Is information on locations of (eco)tourism or other cultural services permits given to the public?

Are local people informed of where permits holders for tourism, ecotourism, or other cultural services, will be / are operating, so that they are aware operations should be happening in their area, and to give them the opportunity to know if permit holders are legally in that location?

While forest related information with limited exceptions, are public documents, the law and regulations do not specifically address these types of permits.

Is there a stakeholder consultation process on (eco)tourism locations?

In addition to any consultation on the general location, timing and allocations of permits (these were covered in the previous 'permits' Theme), are stakeholders subsequently given a chance to comment on the location / impact / mitigation of the tourism or ecotourism concessions at the local level, for example as part of developing a forest management plan?

While forest related information with limited exceptions, are public documents, the law and regulations do not specifically address these types of permits.

Is information on the quality / quantity of (eco)tourism services made public?

Once all preparations and permits are completed and a provision of tourism or ecotourism services contract starts, can local people find out about the size / value / or limits on these services?

While forest related information with limited exceptions, are public documents, the law and regulations do not specifically address these types of permits.

Is there a strategic process to assess priorities between development options?

Is there a Strategic Environmental Assessment to identify and resolve conflicting land uses between forests, mining, large-scale agriculture and infrastructure development? Does the National Forest Policy document seek to address this? Do any policy documents from the other sectors?

A Strategic Environmental Assessment was conducted in 2008/09 but the results have been shelved since then. The National Forest Policy does not address the issue of competing land uses.

Is it clear who decides if / when to make decisions between development options?

Are there clear, documented, and understood steps for making decisions over the use or conversion of forest lands for other purposes such as mining, large-scale agriculture or infrastructure development?

There is no process for addressing competing land uses involving forestry, mining and agriculture. It is common for concessions in these various categories to overlap.

Is there a stakeholder consultation process on decisions between different development options?

At the time an area of forest is identified for allocation to any sort of non-forest purpose, are stakeholders consulted, for example on any conditions or mitigation commitments?

No

Is the final decision-making process on different development options transparent?

Is the final decision to allocate any forest to non-forest use made in way which allows citizens to assure themselves that the correct process has been followed? – is the process documented and published?

No

Is information on implementation of non-forest use / conversion given to the public?

Once the final decision has been made, are local people informed of where mining, large-scale agriculture or infrastructure development in forests will be / is occurring, so that they are aware operations should be happening in their area, and to give them the opportunity to know if operations are legally in that location?

No

Is there a system of tax / royalties redistribution?

Does the law provide for a portion of the taxes or royalties collected from permit holders to be redistributed to affected communities? If so, please give details.

The NFRL allocates thirty percent of land rental fees to communities entitled to benefit sharing under Forest Resources Licenses.

Title: National Forestry Reform Law

Date: 2006

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

Language: English

Is the system of tax / royalties redistribution effective in meeting any legal obligations?

Does any tax / royalties redistribution system work in practice?

Cannot provide any assessment at this point as logging operations have not substantially started.

Is there a stakeholder consultation process regarding the use of community funds?

Are stakeholders aware of the tax redistribution system and are they given a chance to influence the use of any funds dedicated for their use?

Communities are aware that they are entitled to 30% of the Land Rental Fees. Only a Community Forestry Development Committee may request for portions of this money to implement projects on behalf of Affected Communities.

Title: Regulation 106-07: on Benefit Sharing

Date: 2007

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

Language: English

Completeness: The process developing projects is not defined law; each community addresses that in by-laws.

Are figures for collection and distribution published?

Does the relevant authority regularly publish the taxes collected from each forest area and the amount redistributed to those communities entitled to receive a share? If so, how often do they publish this information?

Regulation 106-07 requires the FDA to publish the distribution of this fund.

Title: Regulation 106-07: on Benefit Sharing

Date: 2007

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

Language: English

Completeness: This is not yet operational.

Is there a system of social obligations, where concession holders have to provide benefits directly to affected communities?

In addition to taxes, are there any obligations for permit holders to provide benefits to affected communities, in cash or in kind? Does the social obligations system work in practice?

Logging contract holders are required to negotiate and sign Social Agreements with communities to be affected by their operation. The signing of a Social Agreement is a major pre-felling operation, without it FDA cannot issue a Harvesting Certificate for logging to commence.

Title: Regulation 105-07 on Pre-felling Operations

Date: 2007

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

Completeness: This Regulation is also backed up by the terms of the logging contracts.

In practice does the social obligations system meet any legal obligations?

Does the social obligations system work in practice?

Several Community Forestry Development Committees have been established. Many of them have completed their legalization processes and developed their by-laws in consultation with their communities.

Completeness: It is too early to evaluate the system.

Is there a stakeholder consultation process?

Are stakeholders aware of the social obligation system and are they given a chance to influence the projects or use of any funds provided directly to them by the concessionaire?

No concession may harvest timber without a Social Agreement with Affected Communities. Communities are involved in the Social Agreements process. They are aware of the concessionaires' obligations to them as defined in those agreements.

Title: Regulation 105-07 on Pre-felling Operations

Date: 2007

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

Completeness: The process developing projects is not defined law; each community addresses that in by-laws.

Is information on social obligations published?

Is the social obligation agreement publicly available? Are there regular reports on its implementation? If so, who is responsible for producing these?

No aspect of the law specifically requires that Social Agreements be publicly available. However, because they are a part of the contract it can be said that they are public document. No official report has been published on its implementation. The Forest Management Contracts provide for a Five Year Social Responsibility Review.

Title: An Act to Ratify the Forest Management Contract Area 'B' In River Cess County Between the Republic of Liberia Represented by the Forestry Development Authority and E J & J Investment Corporation

Date: 27th May 2009

Source: http://www.leiti.org.lr/doc/an_act_forest_ej.pdf

Language: English

Are there opportunities for citizens to discuss law enforcement issues as they arise?

Do any forest forums include representatives from the police or judiciary for example? Or are there other formal mechanisms to discuss law enforcement issues with officials from other (non-forest) agencies?

No.

Are citizens actively participating in control operations?

Is there any form of joint operations including citizens and forest law enforcement (e.g "vigilancia verde" or forest monitoring)?

No.

Do (some) forest communities condone some 'illegal' activities?

Do any communities regard some laws as inequitable and so argue that they are justified in supporting or participate in illegal activities?

Communities protested the demarcation of the East Nimba Nature Reserve when it was established in 2003. They prevented the FDA from demarcating the area in 2005/ 2006. Miners and hunters continue to operate in the Sapo National Park in spite of repeated efforts to get locals to support the extension of the park.

Is there an Independent Forest Monitor?

Is there any organisation contracted to conduct Independent Forest Monitoring (IFM) to monitor forest governance and operations? For how long has this existed? What, if any, benefits does this bring?

Regulation 108-07 on Chain of Custody provides for Independent Forest Monitoring. This regulation forbids anyone from interfering with a stakeholder carrying out activities under this provision. The regulation further states "It shall be the policy of the Authority to move over time toward a formal system of Independent Forest Monitoring".

Title: Regulation 108-07 on Chain of Custody

Date: 2007

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

Does the government publish lists of infractors?

Does any authority regularly publish a list of infractors of the forest law? Is it obliged to do so under any law or other norm? Does such a list show the progress of each case through the legal system, and the amount of any fines paid?

No.

Does the government publish lists of debarred / suspended operators?

Does any authority regularly publish a list of individuals or companies barred or temporarily suspended from holding forest-related permits (perhaps as a penalty for a previous infraction)? Is it obliged to do so under any law or other norm?

Regulation 103-07 mandates the FDA to establish a list of companies barred or suspended from bidding for forest contracts or entering forest relate contracts. However, there is no publicly available debarment or suspension list.

Date: 2007

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

Language: English

Do parts of any law affecting forests limit transparency?

Are there any norms that prohibit or limit transparency in the forest sector? Or are there caveats or exclusions to transparency laws, for example 'commercial confidentialities' or 'national security'? What exactly do they exclude?

Senate Rule 43 Section 1, which allows for sessions with 'closed doors' and records 'classified' have been used to ratify forestry related contracts even though the contracts are public documents. Section 18.15 of the forestry law also allows for companies to request government to treat certain information as confidential including information that may threaten their business interest.

Date: Date of Senate Rule 43

Source: Liberian Senate

Do any extra-sectoral operations overrule forest laws?

Do mining, road building, large-scale agriculture, hydropower or other infrastructure development have automatic veto over forest laws, thereby eliminating transparent access to decision-making?

Some mining contracts have confidentiality clauses in them. However, it is not clear if those would have automatic veto over transparency requirements in the forestry on matters affecting forests.

Is it commonplace for authorities to ignore obligations?

Has it become normal operating procedure for any public institution to avoid obligations to transparency? If so, please give examples.

The FDA has been selective in responding to requests for information; responding positively to some requests and ignoring others, i.e. not providing the information and without any explanation. The UN Panel of Experts also reported in December 2009 that it "had difficulty obtaining a number of background documents related to public consultations." USAID and civil society actors (quoted) also reported similar difficulties to the panel.

Title: Letter dated 11 December 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council

Date: Every six months since 2001

Source: www.un.org/sc/committees/1521/liberiaPOE.shtml

Are there any reforms to improve transparency or reduce confidentiality?

In particular, are there any 'quick wins' - issues where transparency could be improved, or where caveats and exclusions could be reduced, and no significant vested interests are against this? If so, please list any ongoing reforms.

The Freedom of Information Act comes up for debate again in the legislature soon. A progressive implementation of the LEITI also provides quick wins situations with regards to the extractive industries in general.

Title: Freedom of Information Act

Date: Expected to be enacted in 2010

Source: Carter Center delegation seeks passage of Information Act, November 16, 2009 hosted at www.starradio.org.lr/content/view/13848/380/

Does the forest authority publish an Annual Report?

Is there an annual summary of activity by the forest authority and others they regulate? If so, how long after the year-end is it published? How comprehensive is it? Is it debated, for example by a 'forestry commission board' or by the legislature?

FDA publishes Annual Reports but the reports are not distributed in hard copies. Also the reports are on the FDA's website. Unfortunately they are located under a misleading label.

Title: DRAFT ANNUAL REPORT (JANUARY 1-DECEMBER 31, 2008)

Date: 2009

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

Language: English

Completeness: The report hosted on the website is titled DRAFT Annual Report suggesting it is still a work in progress.

Does the forest authority have a central point of information?

Is there a person or office advertised and functioning as the source of public information? Is there any written statement (for example a regulation) about its roles and responsibilities? Is it committed to respond to enquiries with a certain amount of time?

The FDA has a Public Relations Officer in place. Plans are also underway to recruit a Librarian to facilitate access to information at the agency.

Title: Reforming the forest sector

Date: October 2009

Source: http://www.fda.gov.lr/press.php?news_id=229

Language: English
