



global witness

Making the Forest Sector Transparent

Annual Transparency Report

Country: Liberia

Partner: Sustainable Development Institute (SDI)

Year: 2010

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?

The Freedom of Information Act was adopted on July 22, 2010. The Senate concurred with the House of Representatives on September 2, 2010 and the President signed the bill into law on September 16, 2010. It was printed into hand bill October 6, 2010.

Title: The Freedom of Information Act

Date: October 6, 2010

Source: <http://www.liberianobserver.com/node/8622>
http://www.theinquirer.com.lr/story.php?record_id=3044&sub=14

Completeness: Peter Quaqua, President, Press Union of Liberia (PUL) in a press released of October 7, 2010, stated that Government “determination [to enact the FOIA] will be manifested in the implementation”. Mr. Quaqua said Sedition, Criminal Libel against the President and Criminal Malevolence are all laws contrary to the spirit of the FOI which must be repealed.

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 and agriculture. 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.

Title: Liberia Extractive Industries Transparency Initiative Act

Date: 2009

Source: www.leiti.org.lr/doc/act.pdf
<http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

Timeliness: The second annual reconciliation report was produced in February 2010, a year following the first publication.

Completeness: The new FOIA supports the transparency clauses in the forest legislation and go further by making access to public information enforceable. Any public institution or their staff who wrongfully denies request for information may be punished including dismissal.

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 61) 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; FDA 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
Timeliness:	The law and regulations were produced before new concessions were allocated.
Completeness:	The new FOIA supports the transparency clauses in the forest legislation and go further by making access to public information enforceable.

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 a dispute resolution mechanism to address conflict arising from request for information from a government agency or its staff. The Independent Information Commission (under the FOI Act) has the power to hear and decide on complaints or mediate conflicts arising from the FOI Act. This provision covers all government agencies and thus includes forestry. The IIC has not been established.

Title:	The Freedom of Information Act
Date:	October 6, 2010
Language:	English

Completeness: Further supports citizens right to information under the National Forestry Reform Law (NFRL)

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. Eight CFDCs have now completed their rules and acquired articles of Incorporation as compared to six in 2009.

Title: FDA Regulation 106-07:Benefit Sharing

Date: 1976 and 2007

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

Language: English

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. At least two communities in Grand Bassa and Rivercess Counties have raised concerns with FDA about excluding them from the communities "affected" by logging operations in their 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

Completeness: This right has not been successfully tested.

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 Policy aims to integrate and balance commercial, conservation and community forestry activities in order to optimize economic, social and environmental benefits from the forest resources. It does not specifically address the implications of REDD, mining and agriculture concessions on forest.

Title: National Forest Policy

Date: 2006

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

Language: English

Accuracy: The policy only elaborates a vision for forest management in Liberia.

Timeliness: The policy was produced in 2006 but it is unclear whether it predated the NFRL. However there are references to reviewing the forest law and regulations in the policy; these would suggest that the policy predated the law and regulations.

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 three years now.

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

Date: 2006

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

Language: English

Timeliness: Produced before new round of logging concessions allocation.

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).

The Ten Core Regulations and other new regulations are hosted on FDA website. Free copies have been distributed to CFDCs and NGOs, and copies have been on sale at FDA for more than three 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; Regulation on NTFPs 111-08, Regulation 112-08 on Forest Product Processing and Marketing, and Regulation 113-08 on EIA.

Date: 2007

Source: www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf
<http://www.fda.gov.lr/doc/NFMgmtStrategy.pdf>
<http://www.fda.gov.lr/doc/Approval%20of%20three%20additional%20Regulations.doc>

Language: English

Timeliness: The Ten Core Regulations were adopted before the allocation of new concessions.

Completeness: The Ten Core Regulations focused entirely on logging operations. The National Forest Management Strategy also focuses on logging. A regulation for NTFPs has been formulated. The regulations for the implementation of the CRL are being vetted (since 2010).

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. Copies can be obtained from the Ministry of Foreign Affairs, the government agency responsible for publishing Acts, laws, and contracts into handbills.

Liberia also submitted a Readiness Program Idea Note (R-PIN) for Reducing Emissions from Deforestation and Degradation (REDD) to the World Bank Forest Carbon Partnership Facility May 30, 2008. To date no regulations exist for REDD related business ventures even though some projects are at advance stages of their development. The FDA is yet to establish an information centre or a system for facilitating public access to hard copies of these documents.

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.)

Liberia has submitted a REDD Readiness Program Proposal (R-PP) to the World Bank FCPF. The Voluntary Partnership Agreement (VPA) with the EU is ongoing and mid 2011 has been targeted for finalization and signing (commissioning) by EU and Liberia.

Title: Voluntary Partnership Agreement (under negotiation)
REDD Readiness Program Proposal to WB Forest Carbon Partnership Facility

Date: 2010

Source: <http://www.loggingoff.info/sites/loggingoff.info/files/Aide%20Memiore%204th%20Round%20of%20VPA%20Negotiations.pdf>

Does customary / traditional forest law exist in this country?

Are there any customary and traditional forest rules in the country? If both customary and codified forest law exist, which one has predominated in the country and have there been efforts from the forestry administration to match both?

There are no documented customary and traditional forest rules in the country. Forest communities have used unwritten customary rules to use forest resources and institute sanctions on violators. Community customary control has however been eroded by the civil conflict. In most communities adherence to traditional norms has become optional.

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 Forum that would organize and facilitate stakeholder forums on forests. The process leading to establishing National Forest Forum is ongoing and commenced early 2010 with funding

made available through FAO to local NGOs to facilitate establishment of county forest forums, and a Focal Point has been identified in FDA.

Timeliness: No official report has been released by the focal Point at the FDA.

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)?

Several CFDCs have been organizing forums in their communities to discuss forest related issues and communities relationship with logging companies. The process leading to establishing National Forest Forum is ongoing and commenced early 2010 with funding made available through FAO to local NGOs to facilitate establishment of county forest forums.

Completeness: Leadership structures for some county forest forums have been installed, others are in advanced stages of their processes while some are struggling due to geographic coverage and accessibility constraints.

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. The NGO Coalition for Liberia (including SDI) requested the FDA in 2010 to set up a list, but to date it has not been established.

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

Timeliness: The CRL was two years late; the mandated year of enactment was 2007.

Completeness: There is no system in place to facilitate sharing information related to public consultation processes. However individual reports are shared with stakeholders as a part of the national level consultation processes, for example prior to workshops organized as part of those consultation processes.

Is there any law recognising the right to free prior informed consultation?

Is there any law to implement the country's commitment to ILO Convention 169 on the right to consultation?

The National Forest Reform Law (2006) specifically provides for broad public access to forest sector information and establishes procedures for public vetting of regulations, including matter concerning documents or information under the law.

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

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

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

Completeness: The regulation established a detailed procedure for fulfilling this right.

Is there any law recognising the right to free prior informed consent?

Is there any law on the right to consultation which gives veto powers to communities and/or indigenous peoples?

The Ten Core Regulation 102 Part Six section 61 (c) (3) states that “if the area to be committed to Commercial Use includes customarily held Forest Land, a Community Forestry Development Committee has granted prior, informed consent to the Commercial Use, in writing, on behalf of Affected Communities”. The CRL of 2009 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”.

Title: CRL 2009 and Ten Core Regulation 102-07

Date: 2009 (CRL) and 2007 (Regulation 102-07)

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

Completeness: In 2008/9 areas were allocated for concession before affected communities were informed.

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.

FDA is taking steps to implement Regulation 101 – 07 on Public Participation by conducting country-wide consultations following adoption of the 10 core regulations. There are ongoing regional and national consultations on the regulations to implement the Community Rights Law (CRL) as well as the Legality Definition to be used in the VPA.

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. The situation regarding 'Forest tenure' is unclear. There is no court ruling on this matter and until a case has been decided this lack of clarity will remain; unless some revisions are made to the law to clarify the situation.

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?

A significant percentage of forest land in Liberia is under titles and could be clearly identified. These titles have not yet been collected into a single register, and no register is available to the public.

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 their property status.

Title:	An Act to Establish the Community Rights Law With Respect to Forest Lands of 2009
Date:	October 20, 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 draft regulation does not address the contentious areas in the CRL as doing so would require amending the CRL. For example, communities are strongly oppose to law makers serving on the community management bodies, a major provision of the CRL in direct conflict with the NFRL.

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. The right to timber on private land is held by the land owner. All commercial activities related to timber and non timber forest products are regulated by the state. Accessing NTFPs require the permission of the community from where the NTFPs would be harvested; even where the state has given permission.

Title: NFRL 2006

Date: 2006

Source: www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf (NFRL 2006)
http://www.fda.gov.lr/doc/NTFP%20Regulation%20_111-08.pdf (NTFP Regulation)

Language: English

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 conflicts arising from the implementation of 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.

Title: NFRL

Date: 2006

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

Completeness: The NFRL does not state how disputes can be resolved but rather refers to Government absolute power in section 2.3 (a) and (b) which charges anyone; citizens or foreigners, with economic sabotage once you "intentionally and unreasonably interfere with" a concessionaires' operations.

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?

FDA has digitised maps for all contract areas and protected areas. They are made available to the public on request; however there is a charge to access them.

Completeness: It is only the logging concessions and protected areas that have maps. There are no maps for privately owned lands.

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. There is indication of ongoing negotiation between the government and a Liberian carbon broker for carbon concessions in at least two communities; one in Rivercess and the other in Sinoe County. It is important that the PPCC Act regarding due diligence and competitive tendering is upheld for carbon contracts.

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. More than third of this amount (1 million hectares) has been allocated. Additional allocations are planned for two large FMCs in 2011. Of the estimated 1.5 million hectares or 30% of forest available for protection an approximate three per cent has been allocated. There is an ongoing collaboration between Liberia and Sierra Leone to create a trans-boundary park, encompassing the Gola forest spanning the two countries, which will bring Liberia closer to its conventional obligation under the CBD of 10% protection of national forests.

Title: National Forest Management Strategy

Date: 2007

Source: <http://www.fda.gov.lr/doc/NFMgmtStrategy.pdf>
<http://faolex.fao.org/docs/pdf/lbr61867.pdf>
<http://www.wildlifeextra.com/go/news/gola-transboundary.html#cr>

Language: English

Completeness: The data used in the strategy has come under question as elaborated in 3.1.

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 not clear.

Timeliness: The government is discussing with potential investors possibilities for allocating carbon concession.

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?

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. Regulation 101 – 07: Public Participation lays out a clear process for public consultation for validating suitability of a particular land use proposed by FDA. In practice, local people are only informed when the area has already been allocated to a permit holder or at least when the decision to do so has been announced.

Title: Regulation 101-07: Public Participation

Date: 2007

Source: www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf
Harvesting Certificate issued to EJ & J Investment Corporation/Malavasi Corporation by FDA, April 1, 2010

Timeliness: Regulations were issued before the allocation of logging concessions.

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. Request by CFDCs to renegotiate the Social Agreements have intensified in 2010.

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 open 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. In September 2009 the Public Procurement and Concession Commission (PPCC) upheld the complaint of Southeast Resources Limited against the award of FMC for Area "K" to the International Consultative Capital (ICC). It reversed the decision of the Forestry Development Authority (FDA) and the Inter-Ministerial Concession Committee (IMCC) to award the FMC to ICC but the PPCC action did not in any way affect Law makers ratifying contract in favour of ICC.

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 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 Concessions who then awards contracts based on the recommendations of the BEP and the findings of the due diligence. The FDA signs the contract after the prospective Contract Holder has completed 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 (PPCC Act & NFRL, 2006)

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

Language: English

Completeness: The process, if followed, has sufficient safeguards to ensure transparency and accountability. SDI publication of January 2010 chronicled the various violations of these safeguards from 2007 to 2009.

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.

In contrast, the Senate Rules allows for ratifying contracts in “Executive Session” which is not opened to the public to assess if the proper process were followed in ratifying such contracts.

Title: Liberia- The Promise Betrayed

Date: 2010

Source: <http://www.loggingoff.info/document/liberia-promise-betrayed>

Completeness: In September 2009, four new FMCs for the F, K, I, and P areas in Grand Gedeh, River Gee, Rivercess, Nimba, Sinoe, Grand Kru and Maryland Counties were ratified by the National Legislature contrary to the reports of bid evaluation and financial due diligence which disqualified all applicants.

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 its implementation was begun in 2008. It is still in its testing phase and no changes have been made to it. In addition, permit allocation is currently limited to logging operations. There is increasing need to design regulatory framework to cover REDD.

Completeness: The current system only relate to logging, and so other forms of concession, notably for REDD, are in urgent need of a legislative and regulatory framework...

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: <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>
<http://www.leiti.org.lr/doc/act.pdf>

Completeness: The laws are clear and are being implemented; but not in full.

Are all forest operations required to carry out an EIA?

Some types of permit, for example small-scale or Community Forest logging activities might be exempted from submitting an EIA.

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 process. Regulation 113-08 also address EIA related to the forest sector. The EIAs are conducted as a major pre-felling operation; without an approved EIA a Harvesting Certificate may not be issued. In 2009 FDA issues a Harvesting Certificate to Tarpeh Timber without their EIA being approved.

Title: AN ACT ADOPTING THE ENVIRONMENT PROTECTION AND MANAGEMENT LAW OF THE REPUBLIC OF LIBERIA

Date: 2003

Source: Ministry of Foreign Affairs, Liberia

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 duly take public comments into account.

Title: The Environmental Protection and Management Law
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

Date: 2003 EPML Act

Source: www.epa.gov.lr
http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/10/29/000334955_20101029042013/Rendered/PDF/E25710EA0P1042870BOX353771B01public1.pdf

Language: English

Timeliness: The Strategic Environmental Assessment commissioned by the World Bank under its support to industrial logging was released at least a year late and after a third of the forestry concession contracts have been awarded, negating its significance in resolving land use conflicts with other concession allocation processes in Liberia.

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 including 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: The contract maps however do not show community forest use areas. Some communities, for example Affected communities of FMC B, are beginning to raise concerns about concessionaires stopping them from farming in some areas claiming that they fall within their concession.

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?

Logging companies are required to sign a Social Agreement with affected communities before logging in their area. This provision is not been followed completely. For example, a community group accused FDA of complicity when the Authority issued permits to two companies for the same concession, but the affected communities signed a Social Agreement with only one. The Affected Communities of FMC B had signed a Social Agreement with EJ & J Investment Corporation but FDA issued a harvesting certificate to both EJ & J Investment Corporation and Malavasi Corporation on April 1, 2010, to operate the concession jointly. Similar case has been reported for FMC C.

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

Completeness: The significance of the due diligence is been eroded by FDA issuance of harvesting certificate to new significant individuals not part of the contract allocation process at the initial stage.

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 supposed to be published in FDA annual reports (see Indicator 15.1), but these come out after the fact. The public have no way on knowing quota information before logging operations.

Title: Guidelines for Forest Management Planning in Liberia

Date: 2009

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

Language: English

Completeness: Revised and finalized in 2009, communities have no independent way of knowing if the logging company has complied with harvesting the required annual quota. The only information available comes from SGS and FDA.

Are the forest management plans (for logging) public?

Section 18: 15 of the NFRL 2006 include forest management plans as documents the FDA “shall grant and facilitate free public access to read and copy”. Additionally, the forestry law require that concession holder not be issued harvesting certificate until the holder has an approved forest management plan.

In practice, none of the logging companies issued harvesting certificates have made a management plan available publicly or on the FDA website.

Title: NFRL 2006

Date: 2006

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

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?

The regulation does not provide for a permit regime, but only identifies who can engage in the extraction of NTFPs and the taxes to be levied. NTFP harvesting and hunting can therefore occur anywhere outside protected areas.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of Non-Timber Forest Products (NTFPs)

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?

There is no mechanism by which concerned citizens can comment on the location, timing or people involved in the extraction of non-timber forest products.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of Non-Timber Forest Products (NTFPs)

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)?

There is no formal mechanism by which affected citizens can monitor the quantities, impact or mitigation actions relating to the extraction of non-timber forest products.

Title: Regulation 111-08 on the Commercial and Sustainable Extraction of Non-Timber Forest Products (NTFPs)

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

Are the forest management plans (for other forest products) public?

The legislative and regulatory framework does not address management plans for other forest products including NTFPs and wildlife.

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?

There are no environmental services contracts currently operating in Liberia, and no legislative / regulatory framework for them as is the existing situation.

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?

There are no environmental services contracts currently operating in Liberia and no legislative / regulatory framework for them as is the existing situation.

Completeness: Framework to be developed should allow for concerned citizens to comment on the way in which affected people can make their case, e.g. for small-scale timber and NTFP collection in a 'carbon concession'

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?

There are no environmental services contracts currently operating in Liberia, and no legislative / regulatory framework for them as is the existing situation.

Are the management plans for environmental services public?

The legislative and regulatory framework does not address management plans for environmental services.

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 yet specifically address these types of permits. The expected law and regulations when developed should allow for concerned citizens to be informed about the expected results of such operations: the size / value / or limits on these services.

Are the management plans for (eco)toursim services public?

The legislative and regulatory framework do not address management plans for (eco)tourism services.

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 donor-driven Strategic Environmental Assessment was conducted in 2008/09. The results were published in September 2010. The assessment highlights the lack of inter-agency coordination broadly and specifically the lack of

a framework for strategic decision making regarding conflicting and trade-offs. The National Forest Policy does not address the issue of competing land uses.

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

Date: 2010

Source: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/10/29/000334955_20101029042013/Rendered/PDF/E25710EA0P1042870BOX353771B01public1.pdf

Completeness: The Strategic Environmental Assessment commissioned by the World Bank under its support to industrial logging was released after a third of the forestry concession contracts have been awarded. It is not clear if the government will use the findings as a basis for future decisions.

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. For example Golden VerOleum was awarded agriculture plantation concession at the heart of the last remaining primary forest area in Liberia in River Gee, Maryland and Grand Kru County covering an area of 200,000 hectares.

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?

There is no evidence of such consultations having ever taken place.

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?

There are no process and therefore no transparency or accountability regarding such decisions.

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?

The public and local people become aware (for example through the media or hear-say) when the area has already been allocated to a permit holder for non-forest use or conversion and operations start.

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. The CRL allows communities to receive 55% revenue from logging concessions on community forest land up to 50,000 hectares.

Title: National Forestry Reform Law

Date: 2006 (NFRL) and 2009 (CRL)

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

Language: English

Completeness: The Benefit Sharing Mechanism (BSM) has been established. The Trust created under the BSM will be responsible to hold and redistribute communities' shares of logging revenues.

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

Does any tax / royalties redistribution system work in practice?

The benefit sharing regulation has been drafted with inputs by representatives of CFDCs and civil society organizations. However, this has not been publicly vetted nor approved by the FDA Board of Directors as required by the NFRL of 2006. Taxes and fees from logging operations are beginning to accumulate and communities are anxious to test the redistribution scheme.

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. The Benefit Sharing Trust Board must be established comprising of representatives from communities, civil society, private sector and government before funds are disbursed to CFDCs.

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 clearly defined in law; each community addresses that in by-laws. This has yet to start in practice as the benefit redistribution from logging operations has not yet started and so the core fund management body has not been established.

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: SGS, the chain of custody contractor circulates weekly payment updates to forest stakeholders on its email list. However, the core fund is not sufficiently established, and regulations for its oversight and use are still under development.

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>

Timeliness: In September 2010 FDA conducted field missions to gather communities' feedback on the current Social Agreements. The report is now available but no action has yet been taken on the conclusions and recommendations.

Completeness: This Regulation is also backed up by the terms of the logging contracts. Community representatives in April and May 2010 publicly called for the renegotiation of the Social Agreements at an international conference organized by SDI and ACRN and before the Liberian National Legislature, respectively.

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 in 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 could be argued that they are public documents. No official report has been published on the implementation of social agreements. 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:	May 27, 2009
Source:	See 6.9.
Language:	English
Completeness:	The SA is added to the ratified contract document later and serves as one of the major pre-felling operations that must be completed before a concessionaire is issued harvesting certificate. None of the FMC contracts published to date include a full SA.

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?

County forest forums are being formed throughout the country, leading to the establishment of a National Forest Forum, which composition will be determined by the respective counties. The forums are expected to generate discussions on all forest related issues including law enforcement.

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)?

There are plans to include provisions for civil society and communities conducting independent monitoring of forest operations.

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?

Yes. Both FDA and NGOs need to sustain the education and information dissemination on the forestry legal framework to enable communities hold FDA and concessionaires to account according to law. Communities around the Sapo National Park continue to resist the expansion of the park boundaries and have supported illegal activities in the park. Communities in Nimba also resisted the establishment of the East Nimba Nature Reserve in 2009. The communities in Nimba developed the area as a 'community forest' but it has not been demarcated as such.

Completeness: 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. CFDC of TSC A-2 fined and accepted ,000 to allow Tappeh Timber Company take custody of abandoned logs they harvested in 2009. The basis for the fine is not established in law or guidelines for Social Agreements.

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". However there is no government appointed monitor to date.

The ongoing VPA negotiations have overseen the development of Independent Forest Monitoring, but this is still at the negotiations stage.

Title: Regulation 108-07 on Chain of Custody

Date: 2007

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

Language: English

Completeness: There is no government appointed Monitor.

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?

There is no official or systematic publication of infractions.

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 related contracts. However, there is no publicly available debarment or suspension list.

Title: Regulation 103-07 on Pre-Qualification

Date: 2007

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

Language: English

Timeliness: This list is overdue. Executive Order #1 of February 2006 mandated the FDA to develop this list. The NFRL and Regulation 103-07 also reconfirmed this mandate. To date the list has not been established.

Is there a national or local Anti-Corruption Committee, Bureau or Commission?

Has any sort of special initiative been set up to tackle corruption? If yes, have cases of corruption in the forest sector been reported and were these dealt with according to the law?

The Liberia Anti-corruption commission (LACC) was established in 2008 to tackle corruption cases impacting the government. Since its establishment, no forest sector specific cases have been addressed by the LACC.

Source: <http://www.lacc.gov.lr/LACCCByLaws.pdf>
<http://www.lacc.gov.lr/standardoperationalprocedures.pdf>

Completeness: The LACC mandate limits its function to recommending parties culpable for persecution to the Executive.

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?

Yes. 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 interests.

Title: Senate Rule of the Liberian Senate of the 52nd National Legislature

Date: Adopted March 13, 2006 and reaffirmed July 3, 2007

Source: Liberian Senate

Completeness: Logging concessions have been ratified behind closed doors using the Senate Rules regarding executive sessions. The rules are not well defined or statutory but an instrument to guide Senate proceedings, subject to alteration and addition by succeeding members of Senate as deemed necessary.

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?

There is no law providing for veto by some other sectors over the forest, but the reality is that one government agency can decide to mine or carry out large-scale agricultural development without consulting the FDA. The Golden VerOleum agriculture concession granted in the southeast covers forests but no community consultation was held prior to the allocations.

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.

Yes. The FDA has undertaken actions in contravention of the NFRL 2006, Ten Core Regulations and the CRL. For example, the disposal of the illegal logs harvested by Tarpeh Timber outside of its concessions was not done in accordance with law. Additionally, while the regulations for the CRL implementation are still being developed, the UN Panel of Experts report of June 2010 provides evidence that FDA has “plans for two community forests in south-eastern Liberia that would extend the holdings of Atlantic Resources (forest management contract P) by over 59,000 hectares”.

There is enormous pressure on the FDA to deliver on its revenue projections from logging operations to support the national budget which has may have given rise to the aiding and abetting of illegality in the forest sector.

Title: Letter dated 13 May 2010 from the Panel of Experts on Liberia addressed to the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003)
Will the Forest Sector Reform Make a Difference? FDA Continues to Violate the National Forestry Reform Law with Impunity, NGO Coalition for Liberia Briefing Paper No. 01/2010

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: 2009 /2010 (UN Panel of Experts Report on Liberia)
2010 (NGO coalition Briefing Paper No. 01/2010)

Source: http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/319
www.un.org/sc/committees/1521/liberiaPOE.shtml
<http://loggingoff.info/document/will-forest-sector-reform-make-difference-fda-continues-violate-national-forestry-reform-la>

Timeliness: The UN Panel reports has consistently highlighted violations of transparency provisions of the NFRL and supporting legal instruments.

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 Liberia Annual Forest Sector Transparency Report Card 2009 recommended a central point for public access to forest sector information to improve transparency. This has not happened even though there appears to be some effort to do this.

Timeliness: One of the Liberia Annual Forest Sector Transparency Report Card recommendations was to ensure public access to forest sector information, The FDA Managing Director said FDA received World Bank grant to set up the info shop which will greatly improve FDA's ability to provide up to date information about the forest sector to the public. To date no progress has been observed in this regard.

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. The reports are on the FDA's website.

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

Timeliness: There is no annual report for 2009 and 2010 on FDA website

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 Relation Officer in place but his role seems to be limited to dealing with the media. Access to information at the agency remains a challenge. FDA has recently received funding from the World Bank to increase public access to forest sector information including training of website managers and set up a library. The library is not functional, and the FDA is yet to establish an information centre or a system for facilitating public access to hard copies of these documents. It is critical for the public including local communities to have information on the forest within their regions in order to effectively participate in forest related issues.

Title: Reforming the forest sector

Date: October 2009

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

Language: English

Timeliness: There has been no public statement on progress since October 2009. FDA has been slow since October 2009 in getting this started even with the World Bank funding.

Does the forest authority publish annual audited accounts?

Are there any published annual audited accounts from any of the last five years? If not, when were the most recent accounts published? Is the forest authority exceptional in this regard or do most government departments show a similar pattern of (not) publishing accounts?

The General Auditing Commission (GAC) conducts audit of various public institutions. The GAC conducted an audit of the FDA (2009?) but the findings are not yet public.
