



**global witness**

# Making the Forest Sector Transparent

## Annual Transparency Report

**Country: Liberia**

**Partner: Sustainable Development Institute (SDI)**

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**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	
<b>Yes</b> – specific provision in current laws and norms that have been passed by state and applies to the forest sector	<b>Yes</b> – available to public from official sources (websites, publications, media)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>Partial</b> – process underway to develop it, but not yet established in law; or limited provision or relevance to forest sector	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Yes	
	<b>Partial</b> – some information provided but not complete (e.g. only parts of manuals)	Partial	
	<b>No</b> – although evidence that exists, it is not available (includes when only unofficial sources)	No	
<b>No</b> – no current provision or plans to establish (even though needed)		No	
<b>Not applicable</b> - 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](http://www.foresttransparency.info).

## Freedom of Information Legislation

 Is there Freedom of Information legislation in the public domain?

The Freedom of Information (FOI) Act was enacted in 2010 and is legally operational. Section 3.7 provides that “Every public authority and private entity shall promptly respond to all requests”.

The FOI Act requires that an Independent Information Commissioner (IIC) will oversee its implementation, including compliance by public authorities and private entities, and arbitrate on requests for information if they are turned down. On 19th May 2012, President Ellen Johnson Sirleaf nominated Cllr. Mark Bedor-Wla Freeman, Sr., former president and vice president of the Press Union of Liberia, as the IIC, but his appointment had not yet been confirmed by the Liberian Senate under Chapter 5 of the law. Due to the lack of a functioning IIC and supporting procedures, public bodies and applicable private entities have not produced annual reports as required, and no information exists on whether they have designated responsible personnel.

The Carter Center, Center for Media Studies and Peace Building (CEMESP) and the Liberian Media Center (LMC) have ongoing campaigns to raise awareness on implementing the FOI law. For example, in June 2012 LMC launched a 150 days barometer to assess improved transparency and accountability under the new presidency. Its report states that “no agency made full disclosure consistent with FOI request” (1). These actions have increased awareness in government agencies of the need to respond positively to requests, as well as better understanding in civil society about how to use the law. However, it is difficult to measure at this stage whether the FOI has actually increased access to public information and improved transparency.

(1) Liberia Media Center (2012) Action Not Words! Tracking Government’s 84 Promises In 150 Days. Available at <http://www.lmcliberia.com/resource/GOL%20150%20Days%20tracking%20Policy%20Briefing%20Paper.pdf>

**Title:** An Act To Establish the Freedom of Information, Republic of Liberia, October 6, 2010

**Source:** Ministry of Foreign Affairs, Ministry of Information. Unofficial copy from <http://liberlii.org/lr/legis/acts/foia222/>

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## National Forest Policy

 Is there a current national forest policy in the public domain?

The National Forest Policy in 2006 sets out to address immediate rehabilitation and 10 year medium term needs of the nation. It broadly aims to integrate and balance commercial, conservation and community (the “3Cs”) forestry activities, however the World Bank commissioned Strategic Environment Assessment in 2010 (1) found that lack of data was making planning difficult and that decision-making was primarily focused on deriving economic benefits from the forest sector rather than balancing them with the community and conservation values.

In order to contribute to the Government Poverty Reduction Strategy (PRS) II development process, there were three forest sector stakeholder fora between December 2011 and June 2012, which articulated inputs into a draft forest sector strategy and framework and agreed on the critical issues with accompanying short-term and long-term priorities for the roadmap that should inform the possible review of the forest policy.

The objectives of the framework for the PRS II are (i) putting people first (ii) removing barriers and (iii) leveraging the value of forests, which are expected to support the 3C’s in the National Forest Policy. Important issues identified by stakeholders that act as barriers to effective management of the forest sector include poor coordination amongst ministries and agencies, inequitable benefit sharing mechanisms, insecure land tenure arrangements, inadequate communication and information dissemination, overlapping concessions (e.g. between mining, forestry and agriculture), and lack of capacity for research, development and forest governance.

(1) World Bank (2010) 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

Title: National Forest Policy and Implementing Strategy

Organisation: Forestry Development Authority (FDA)

Date: 2006

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

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### **Codified Forest Law and Supporting Norms**

 Is there a codified forest law with supporting norms to fully implement it?

The legal framework for the forest sector in Liberia has been reformed since the end of the civil war. The main instruments include the National Forestry Reform Law (NFRL) 2006 and accompanying Ten Core Regulations 2007 and the Community Rights Law with Respect to Forest Lands Resources (CRL) 2009, which provide a potentially firm foundation for effective forest management. Copies of these laws and regulations can be downloaded from the Forestry Development Authority (FDA) website and copies obtained for a fee of from its central office and Info Shop in Monrovia, however at the time of this assessment they were not available from regional offices. As part of outreach work, national and international NGOs have summarised and distributed copies of these laws amongst communities. In 2012, the Green Advocates also distributed copies to forest stakeholders for review and comments during the Sanction +6 Conference in June 2012.

Recent regulations have further developed the framework, including the National Benefit Sharing Trust regulations and regulations for the CRL approved by the FDA Board of Directors in 2011, which are discussed further in other indicators.

The chain saw milling regulation was approved in March 2012 following a series of regional consultations and a national workshop. This is a step towards formally recognising and regulating chainsaw milling, which aims to support an important livelihood of many people, especially poor communities, and mitigate the negative environmental impacts. Nonetheless, there are some inconsistencies in the approved regulation, which raises questions about its implementation. Part 3, Section 2e states that the FDA shall only offer chainsaw milling permits on forest lands whose use or condition makes them unsuitable for sustainable forest management by the Authority, which appears to contradict the overall objective of ensuring that it is carried out through procedures and practices that promote the mutual interests of chain sawyers, communities and sustainable forest management. Part 3, Section 2c states that the FDA shall not offer permits for areas covering more than 1,000 hectares at a time for an individual Chain Sawyer or group of Chain Sawyers but then states that multiple individual licences of this size may be granted in community forests larger than 1,000 hectares, which gives reason for concern that large overall areas could be exploited if there are not clear procedures for community oversight.

In general, Liberia has taken progressive steps towards establishing a set of laws and regulations for the forest sector but there have been on-going challenges due to lack of compliance by authorities with this framework. The UN Panel of Experts on Liberia and various civil society actors have consistently raised concerns about violations of the new laws and regulations. The NFRL and CRL provide for five categories of permits for timber extraction: Forest Management Contracts, Timber Sales Contracts, Forest Use Permits, Private Use Permits (PUPs) and Community Forest Contracts. Of them, only PUPs do not have any supporting regulations. Over 2012, it came to light that PUPs had been agreed between landowners and companies and approved by the FDA on more than two million hectares of forests, largely on communal lands. An investigation by the Sustainable Development Institute, Save My Future Foundation and Global Witness found that this process had failed to follow due processes and protect

communities (1). Consequently, on 31 August 2012 President Johnson Sirleaf confirmed a moratorium on further activity or issuance of PUPs and commissioned an independent investigation into allegations of abuse and illegality. This moratorium was upheld at the time of this assessment, but it remained to be seen what further measure would be taken.

(1) Global Witness, Save My Future Foundation and Sustainable Development Institute, *Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community-Owned Rainforest*, 4 September 2012. Available at [www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned](http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned)

**Title:**

- a. An Act Adopting the National Forestry Reform Law, 2006;
- b. Ten Core Regulations, 2007
- c. Community Rights Law, 2009
- d. Regulation on Benefit Sharing Trust, 2011
- e. Regulation on Community Rights Law, 2011
- f. Regulation on Chain Saw milling, 2012

**Organisation:** Forestry Development Authority

**Source:**

- a. [www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf](http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf)
- b. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>
- c. <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>
- d. Available from the Forestry Development Authority
- e. Available from the Forestry Development Authority
- f. <http://www.fda.gov.lr/doc/fda%20web%20site.txt> and [http://www.rightsandresources.org/publication\\_details.php?publicationID=4918](http://www.rightsandresources.org/publication_details.php?publicationID=4918)

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### **Signed VPAs and Other Agreements on Forest Products**

 Has the country signed an international agreement(s) that relates to forest products?

Liberia and the European Union (EU) initialled a Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreement (VPA) in May 2011. The European Union Parliament ratified the Agreement in April 2012, but the Liberian Government had not yet ratified it at the time of this assessment (although it was expected to do so).

The VPA provides a legal framework aimed at ensuring that exports of timber products from Liberia to the EU have been legally produced. It provides a way for Liberia to strengthen its forest governance and address problems associated with illegal logging. A pre-Joint Implementation Committee meeting was held in March 2012, which includes a timetable with key milestones for setting up a legality verification system so it can become operational in 2013. What remains to be seen is whether implementation of the VPA will strengthen institutional capacity of the authorities and improve compliance with forest laws and regulations, as well as firmly establish the rule of law so that it delivers benefits to all stakeholders, especially rural communities. Political will from the government of Liberia and support from the EU will be critical to effective implementation. Civil society made an important contribution to the negotiations and will need to continue ensuring that communities are able to participate.

While the VPA presents an important opportunity to improve forest governance, there were signs in 2012 that it had already been seriously undermined by the approval of extensive Private Use Permits (PUPs), largely on communal lands, many of which are illegal. The guidance in the VPA for verifying legality of PUPs timber is weak, since it only requires valid deeds and written permission of private land owners. There is a risk that illegal timber from PUPs will compromise EU timber regulations when they also come into effect in March 2013.

**Title:** FLEGT Voluntary Partnership Agreement between Liberia and European Union

**Organisation:** a. Forestry Development Authority, VPA Secretariat  
b. European Commission

**Date:** a. May 9, 2011 (initialled)  
b. April 19, 2012 (EU Parliament approved)

**Source:** a. <http://vpaliberia.com/index.html>  
b. [http://www.euflegt.efi.int/portal/news/focus\\_on\\_africa?bid=595](http://www.euflegt.efi.int/portal/news/focus_on_africa?bid=595)

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### Provisions for Transparency in Forest Laws and Norms



Are there any provisions in forest-specific laws and/or supporting norms that develop the right to access public information on the forest sector?

Section 18.15 of the National Forest Reform Law (NFRL) states that the Forestry Development Authority (FDA) shall facilitate public access to a range of forest sector information. Regulation 108 Section 61 requires all information in the chain of custody system to be made public. The Community Rights Law Section 4.1 provides for transparency in management of community forestry funds and compliance with the Liberia Extractive Industries Transparency Initiative. These sector-specific provisions are backed by the Freedom of Information (FOI) Act, and they are reinforced further by the Voluntary Partnership Agreement (VPA) with the European Union (EU), which in Annex IX specifies information to be routinely published through different methods or provided on request under the FOI Act.

Despite these commitments to public information, access to key documents and data on the forest sector has been restricted by a number of factors. The FDA received World Bank funding to set up a main information centre in Monrovia ('Info Shop') and supporting centres in four regional offices. The Info Shop was unofficially opened to the public in October 2011 in Monrovia, but at the time of this assessment it still lacked hard copies of most forest sector information set out in the NFRL, and no store of documents was available at its four regional offices. The Info Shop was not yet equipped with an internet connection and requests for information are conveyed to the FDA senior management, which responds inconsistently. Many documents are also not available of the FDA website; poor internet connectivity, overloaded network servers and limited training and skills of staff all restrict its capacity. In general, the FDA is still not proactive in disseminating information or responding to requests. NGOs, civil society organisations and community groups have filled this gap to an extent, but further work is necessary to establish their role and relationship with the FDA.

The VPA therefore comes at a critical time. In October 2012, SDI and Global Witness released a baseline assessment of the current public information available in relation to 52 types of documents and data specified in Annex IX (1). This revealed major gaps in information, which limit participation of civil society and communities and weaken decision-making on forest sector management. It recommends several measures to improve access to information.

(1) Sustainable Development Institute and Global Witness (2012) Liberia VPA Transparency Gap Assessment 2012. Available at <http://www.foresttransparency.info/cms/file/574>

**Title:** a. An Act Adopting the National Forestry Reform Law, (Section 18.15) 2006;  
b. Forestry Development Authority Regulation 108 on Chain of Custody (Section 61) 2007  
c. Community Rights Law (Chapter 4, Section 4.1g) 2009  
d. VPA Annex IX 2011

**Organisation:** Forestry Development Authority

- Source:
- [www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf](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>
  - <http://vpaliberia.com/index.htm>
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### Recognition of Customary Rights in Forest Laws and Norms

 Are customary and traditional rights recognised in codified forest law and supporting norms?

The organic law (Constitution) of Liberia recognises customary and traditional rights. According to it, civil law and customary law are parts of the formal legal system that govern all Liberians. Article 65 of Chapter VII states that the courts are empowered to apply civil law as well as customary law in accordance with the standards enacted by the Liberian Legislature.

The National Forest Reform Law 2006 establishes that the state holds all forest resources in trust for the people, however Regulation 102-07 on Forest Land Use Planning places the duty on the Forest Development Authority (FDA) to respect customary land tenure rights and the definition of customary land in the Community Rights Law (CRL) with respect to Forest Lands 2009 implies that control of this land is determined by historic right, which further suggests that communities can claim rights by establishing evidence of their traditional occupation or tenure. While this law broadly advanced rights, the CRL regulations approved in June 2011 introduced new elements that are inconsistent with the spirit of the law. An evaluation by USAID (1) identified several concerns, in particular that the regulations give the FDA the power to grant community rights to forest resources on a specified area of land, establish principles of 'Authorised Community' and 'Community Forest Agreement' that are not supported in law, and restrict community participation.

Therefore, customary and statutory laws are in conflict with each other. As noted in the 2010 annual report of the Land Commission (2), "there is unclear relationship between statutory and customary laws related to land. There are tensions between claims of state ownership of land and natural resources and claims of customary ownership of land long utilised by traditional communities". The Land Commission is addressing these issues as part of its mandate to propose, advocate, and coordinate reforms of land policy, laws, and programs.

(1) USAID Liberia (2011) Final Evaluation of the Land Rights and Community Forestry Program (LRCFP). Report available at [http://rportal.net/library/content/liberias-land-rights-and-community-forestry-program/final-evaluation-of-the-land-rights-and-community-forestry-program-lrcfp/at\\_download/file](http://rportal.net/library/content/liberias-land-rights-and-community-forestry-program/final-evaluation-of-the-land-rights-and-community-forestry-program-lrcfp/at_download/file)

(2) Land Commission (2010) Annual Report January - December 2010. Land Commission: Liberia. Available at <http://www.lc.gov.lr/2content.php?sub=65&related=21&third=65&pg=sp>

- Title:
- The Constitution of Liberia (Article 2) 1986
  - An Act to Establish the Land Commission 2009
  - An Act to Establish the Community Rights Law with respect to Forest Lands 2009
  - Regulation on Community Rights Law 2011

- Source:
- Copy available from <http://www.liberianlegal.com/constitution1986.htm>
  - <http://legislature.gov.lr/sites/default/files/Land%20Commission.pdf>
  - <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>
  - Available from the Forestry Development Authority. A reprinted copy is available online at <http://www.fornis.net/system/files/Community%20Rights%20Law.pdf>
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## Formal Procedures for Consultation on New Forest Norms



Is there a legally recognised procedure that specifies the methodology for consultation on the development of new forest-related norms?

The National Forest Reform Law and Regulation 101-07 on public participation in promulgation of regulations, codes and manuals set out detailed procedures for public consultation. The Forestry Development Authority (FDA) has taken steps to implement the regulation by conducting regional and national consultations on new regulations. For example, country-wide consultations were conducted on the implementing regulations for the Community Rights Law, the Benefit Sharing Trust and Chain Saw Milling.

Civil society and communities played an active role in the negotiation of the Voluntary Partnership Agreement (VPA) with the European Union, and new draft regulations on participation in its implementation were distributed to forest stakeholders in a workshop in July 2012. These regulations relate to confiscated timbers and timber products, third party access to concession areas, abandoned logs, importation of timber and timber products and transit timbers entering Liberia.

Even though the procedures require public access to supporting documents and information in relation to the development of the norm, experience to date has shown that there is no system in place to facilitate information sharing related to public consultation processes. For example, reports from the consultations on recent regulations have not been made available to stakeholders. Also, the Liberia REDD+ Readiness Preparation Proposal (R-PP) development process, which is forest specific, has adopted a parallel consultation process instead of building on the forest law reform and VPA negotiations. Though reports of regional and national level consultations are contained in the R-PP, it was not vetted publicly for the 60 day period as prescribed in the forestry law (NFRL Section 19.2) before submission to the World Bank Forest Carbon Partnership Facility for approval in June 2011.

Since their formation began in 2008, Community Forest Development Committees have assisted the FDA in consulting on forest issues and norms. Various stakeholders have suggested that a National Forest Forum would bring together different committees and groups and serve as a platform for sharing information and reducing duplication. However, this Forum remains a pipe dream due to the inability of stakeholders, including the FDA, to initiate programs to legitimise it.

Title: a. National Forestry Reform Law (Section 19.2) 2006  
b. Regulation 101-07:(section 23) 2007

Organisation: Forestry Development Authority

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



## Legal Right to Free Prior and Informed Consent



Is the right to free prior informed consent of indigenous peoples and forest-dependent communities recognised in forest law and supporting norms?

Ten Core Regulation 102 requires that in order to undertake commercial use on customarily held Forest Land, a Community Forestry Development Committee (CFDC) must grant free, prior and informed consent. The Community Rights Law (CRL) defines customary land as “land, including forest land, owned by individuals, groups, families, or communities through longstanding rules recognized by the community. To be recognized as customary land, it is not necessary for the land to have been registered under statutory entitlements”. Regulation 104 on Major Forest Use Permits also requires that a CFDC gives free, prior and informed consent to negotiate a social agreement.

The existing Forest Management Contracts and Timber Sales Contracts were allocated in 2008 and 2009 before CFDCs were established to represent the interests of communities affected by logging operations. This means that while the rights of local communities are recognised in consultation on new regulations, they did not have the ability to exercise free, prior and informed consent in final decisions on these logging concession allocations. Most or all of the land under these contracts does fall into the CRL definition of customary land. The social agreements between the companies and the affected communities were also hastily concluded and there have been sustained requests by CFDCs to re-negotiate them.

The upsurge of Private Use Permits in 2011 is further exacerbating and eroding local communities' rights to free, prior and informed consent, as some of the private ownership claims are questionable (1).

(1) Global Witness, Save My Future Foundation and Sustainable Development Institute, Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community-Owned Rainforest, 4 September 2012. Available at [www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned](http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned)

**Title:** a. Community Rights Law Section 1.3, 2009  
b. Ten Core Regulation 102 Part Six section 61 (c) (3), 2007

**Organisation:** Forestry Development Authority

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



### National Land Tenure Policy



Is the national policy on land tenure, including forest tenure, set out in a current document?

Issues related to land are complicated by the legacy of evolving laws passed by different governments since the country gained independence in 1847. The situation regarding 'forest tenure' is unclear. For example, the current Public Land Law from 1973 (but originating from the 19th century) treats 'unoccupied' land as public land, whereas the Community Rights Law (CRL) 2009 with Respect to Forest Lands recognises rights to customary land whether or not the individual or group has a deed.

Long-standing issues over land tenure led to the Land Commission being established in 2009 and commencing its work in 2010. Its mandate is to propose, advocate and coordinate reforms of land policy, laws and programmes in Liberia with the goal of developing a comprehensive national land tenure and land use system that will provide equitable access to land and secure tenure. Following a series of national and regional consultations in 2011 and 2012 with different stakeholders, it is in its final stage of developing a policy on land rights covering public land, government land, protected land, customary land, and private land.. A nationwide consultation on the latest draft is planned for November 2012 to January 2013. The policy will then be submitted to the National Legislature for approval.

Since it began operating, the Land Commission has documented over a hundred land dispute cases in circuit and magisterial courts. There have been growing concerns over the allocation of large areas of land, included forested areas, to agricultural concessions, although at the conclusion of the pre-Joint Implementation Committee meeting in March 2012 for the Voluntary Partnership Agreement between Liberia and the European Union, the Government confirmed that "there is a moratorium on further allocation on forest land of concessions requiring large land areas, except where food security of concern" (1). Similarly, at the time of this assessment there was a moratorium on Private Use Permits following concerns over their agreement on community lands, including cases highlighted by where the title deeds were questionable (2).

(1) Aide Memoire First Meeting of the Pre-Joint Implementation Committee, March 2012. Available at <http://vpaliberia.com/Aid%20Memoire%20%20Annexes%20pre-JIC%20%2830%20march%202012%291%20%282%29.pdf>

(2) Global Witness, Save My Future Foundation and Sustainable Development Institute, Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community-Owned Rainforest, 4 September 2012. Available at [www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned](http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned)

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### Consultation before Commercial Logging Allocation

 Is there a legal requirement for stakeholder consultation to take place prior to the allocation of commercial forestry operations?

Part Two Section 22 of Regulation 104 on Tender, Award and Administration of Forest Management Contracts (FMCs), Timber Sales Contracts (TSCs) and Major Forest Permits clearly states that “Before seeking a Certificate for Concession with respect to an area, the Authority shall conduct preliminary consultations with Affected Communities”. It sets out processes for giving notice and identifying communities, including representation by a Community Forest Development Committee (CFDC).

The first round of concessions conducted by the Forestry Development Authority (FDA) in 2008/09 did not meet the consultation requirements set out in the regulations. The process was fraught with poor facilitation and documentation, and CFDCs had not yet been established at this time. The companies that were awarded concessions in 2008/09 were also meant to negotiate and sign social agreements with affected communities, but these agreements were hastily concluded and there have been sustained requests by CFDCs to renegotiate them.

There has been sustained pressure from civil society, including the NGO Coalition of Liberia, on the FDA to subject Private Use Permits (PUPs) to a measure of consultation as required for FMCs and TSCs when they are being competitively tendered. Consequently, the FDA has established a working group to develop a regulation for PUPs which is expected to address specific procedures as well as critical information regarding the size, location, ownership and legitimacy of PUPs.

Title: Regulation 104-07

Organisation: Forestry Development Authority

Source: [www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf](http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf)

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### Regulation of Environmental Services

 Are there national laws and other norms that regulate the use of key environmental services of forests?

The country has no legislative framework covering environmental services, and current attempts to develop carbon projects are occurring in a policy vacuum. The only indication that the Government is planning to set up a system for regulating environmental services is the establishment of the National Climate Change Steering Committee, but it has not yet initiated any policy discussion on legislation for environmental services covering water, carbon and biodiversity related to forests.

Liberia's REDD+ Readiness Preparation Proposal was finalised in April 2012 following a drafting process over 2011. It broadly acknowledges the need for a legal framework related to REDD+ and the importance of clarifying and securing carbon rights, but gives little indication of how these questions will be addressed beyond the suggestion that implementation of the Community Rights Law will empower "communities to have exclusive forest management rights for timber concessions, conservation and environmental services (including carbon sequestration)" (1).

(1) Readiness Preparation Proposal Country Submission for Liberia to the Forest Carbon Partnership Facility and United Nations REDD Programme (2012). Approved Resolution PC/9/2011/2–final version. Available at [http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Apr2012/Liberia%20R-%20PP\\_revised\\_April%202012.pdf](http://www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/PDF/Apr2012/Liberia%20R-%20PP_revised_April%202012.pdf)

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### **Strategic Environmental Assessment**



Is there a formal strategic environmental assessment and planning process to determine the priorities for land use between forests, mining, large-scale agriculture, infrastructure development and other demands?

The World Bank conducted a Strategic Environmental Assessment on the forest reform process in 2008/09 and published the findings in 2010 (1). This assessment broadly highlighted the lack of inter-agency coordination and specifically pointed out the lack of a framework for strategic decision making regarding conflicts and trade-offs between development options. No progress has been made since then to address this shortfall.

Over one million hectares of forested land was allocated to concessions and awarded to seven Forest Management Contracts and nine Timber Sales Contracts before this Strategic Environmental Assessment was published, which means that there was no strategic framework for publicly accountable decision-making. Mining, agro-industry, infrastructure and other projects that may impact on forests have also continued to develop without any strategic oversight. For example, in 2010 two palm oil plantation companies were granted concessions with little apparent regard to their impact on forests and communities: Golden Veroluem, next to the Sapo National Park in Sinoe County and Sime Darby, in Gbarpolu, a forest rich county.

A report by the Land Commission in April 2012 also reviewed 25 Private Use Permits (PUPs) for timber extraction, which found that some overlapped with existing concessions. Over 2012, it has been revealed that PUPs cover more than two million hectares of forest seemingly without any over-arching process for evaluating the environmental effects of such a major change in land use.

(1) World Bank (2010) 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. Available at <http://siteresources.worldbank.org/EXTARD/Resources/336681-1285969000707/LiberiaForestSEA.pdf>

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### **Forest Ownership and Resource Use Maps**



Are there publicly available official maps showing current types of forest ownership and forest resource use?

The contract documents for Forest Management Contracts and Timber Sales Contracts include maps with geo-reference points, which are available online from the Liberia Extractive Industries Transparency Initiative (LEITI) website. Smaller maps produced by the Forestry Development Authority give an indication of the location of concessions, protected areas, and forests considered suitable for community use. These maps are available to the public on request, but there is a charge to access them.

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

Following pressure and exposés from NGOs, over 2012 it was revealed that Private Use Permits (PUPs) for timber extraction had been agreed on over two million hectares; nearly a quarter of the country in total. Documents for 26 PUPs, including maps, were eventually published on the LEITI website. However, it is estimated that some 66 PUPs had been granted, but there are no maps that showed their full extent or location. The investigation by Sustainable Development Institute, Save My Future Foundation and Global Witness mapped the location of known PUPs using what data could be accessed (1); however this also revealed a major failing on the part of the authorities to publish such a map to inform all stakeholders on an important change in land use.

(1) Global Witness, Save My Future Foundation and Sustainable Development Institute, *Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community-Owned Rainforest*, 4 September 2012. Available at [www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned](http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned)

**Title:** Maps of areas in contract documents for some Forest Management Contracts, Timber Sales Contracts and Private Use Permits

**Organisation:** Liberia Extractive Industries Transparency Initiative

**Source:** <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

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### Legal Documents for Commercial Logging Operations

 Are legal documents for commercial logging operations regularly published?

The forestry law and regulations and the Public Procurement and Concession Act require transparent processes for allocating forest resource licences, including publication of the final contract. The Forestry Development Authority (FDA) makes available to the public on request the seven Forest Management Contracts (FMCs) and ten Timber Sales Contracts (TSCs) ratified in 2008/09; however it has not published them online even though it has developed a new website. Nonetheless, the Liberia Extractive Industries Transparency Initiative (LEITI) Act also requires publication of all extractive contracts including forestry, and the LEITI Secretariat has uploaded six of the seven Forest Management Contracts and nine of the 10 Timber Sales Contracts to its website.

No further concessions for FMCs and TSCs have been allocated since 2008/09, but over 2012 it gradually came to light that Private Use Permits (PUPs) had been agreed covering over two million hectares of land. PUPs are specified in the law as a licence to allow commercial use of forest resources on private land, which was intended to relate to small, individual landowners. The FDA has not been forthcoming in releasing information on PUPs, even to other government bodies. In 2011 it only confirmed three such permits, but following sustained pressure from the NGO Coalition of Liberia the Board of Directors confirmed 55 in February 2012 and the Land Commission then identified 62 in April 2012. However, only 26 of these permits have been made available to the public and published on the LEITI website. Public information on this important trend in forest resource use has been grossly inadequate. Many permits are purportedly on community land, there is increasing evidence that due process has not been followed in agreeing them (1). Furthermore, given their size, some of the PUPs may qualify as a FMC.

(1) Global Witness, Save My Future Foundation and Sustainable Development Institute, *Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community-Owned Rainforest*, 4 September 2012. Available at [www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned](http://www.globalwitness.org/library/signing-their-lives-away-liberia%E2%80%99s-private-use-permits-and-destruction-community-owned)

**Title:**

- a. National Forestry Reform Law 2006
- b. Liberia Extractive Industries Transparency Initiative Act 2009
- c. Contract documents for Forest Management Contracts, Timber Sales Contracts and Private Use Permits

**Source:**

- a. <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>
- b. <http://www.leiti.org.lr/doc/act.pdf>
- c. <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

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### **Reports on the Verification Process of Eligibility of Commercial Operators**



Are the reports published from a formal “due diligence” process on the eligibility, suitability and capability of applicants for contracts or licences to conduct commercial forestry operations?

The allocation process as stipulated in the law is transparent and includes safeguards to ensure checks and balances, but information on the process to verify applicants was not made accessible to the public prior to the award of timber concessions in 2008/2009. Documents on the bidding and pre-qualification evaluation from 2008 are available on the Forestry Development Authority (FDA) website, but not all documents are published. However, they can be obtained on request.

Due diligence reports had little impact on the allocations in practice; for example, none of the four large concessions allocated in 2009 met the minimum requirements. The UN Panel of Experts in its report of 12 December 2008 noted: “the due diligence committee found problems with all nine provisional winners of contracts. It found that none of the companies bidding on the three forest-management contracts had all of the technical and financial capabilities required by law and that there had been material changes in ownership of three companies, rendering their pre-qualification certificates invalid” (1). The contracts were nevertheless awarded, disregarding the findings of the due diligence process.

Furthermore, the large number of Private Use Permits (PUPs) agreed since 2010 have seemingly not been subject to any due diligence requirements. As the UN Panel of Experts reported in December 2011, the PUPs are “not subject to bidding, nor do they undergo due diligence, and their obligation or capacity to comply with regulations for benefit sharing and sustainable forest management are unclear” (2). It also notes that these permits may undermine the forest reform process. This has implications for the verification of the legality of forest products, which is fundamental to the Voluntary Partnership Agreement (VPA).

(1) United Nations Panel of Experts on Liberia (2008) Report of the Panel of Experts submitted pursuant to resolution 1819 on 12 December 2008. Available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2008/785](http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/785)

(2) United Nations Panel of Experts on Liberia (2011) Final report of the Panel of Experts on Liberia submitted pursuant to resolution 1961 on 7 December 2011. Available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2011/757](http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/757).

**Title:**

- a. Public Procurement and Concession Act, 2005
- b. National Forestry Reform Law, 2006
- c. Report of the Pre-qualification Evaluation Panel established by the Forestry Development Authority, 4 January 2008

**Source:**

- a. <http://www.ppcc.gov.lr/document/Approved%20Final%20Law-Act.doc>
- b. [www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf](http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf)
- c. <http://www.fda.gov.lr/doc/FinalReportofPrequalificationEvaluationPanelJanuary72008.pdf>

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## Forest Management Plans

 Are forest management plans published?

The forestry law requires that concession holders should not be issued a harvesting certificate until the holder has an approved forest management plan. In practice, these plans have typically not been published on the Forestry Development Authority (FDA) website or made available to the public. However, following the unofficial opening of the Info Shop, it was found during a visit there in July 2012 that plans for two of the existing seven Forest Management Contracts (Industrial Consultant Capital; FMC K and Geblo Logging; FMC I) are available and copies can be obtained for each. This shows an improvement over previous years. Nonetheless, local communities affected by the planned forestry operations do not have access to these management plans, including the Annual Operational Plan for a FMC and the Harvesting Plan for a Timber Sales Contract. Consequently, communities do not have information on the periods, locations and volumes of the operations in the concession. With regard to Private Use Permits, the FDA indicated in 2011 that these permits should have Annual Operational Plans but it did not respond to requests by affected communities for such plans.

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

**Organisation:** Forestry Development Authority

**Source:** [www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf](http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf)

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## Reports from Independent Forest Monitoring

 Are reports by an independent forest monitor published?

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

As the VPA includes a verification system and an occasional Independent Audit, there may be an expectation by the Forestry Development Authority and the EU that formal and continuous independent monitoring will not be necessary, although this assumption is yet to be tested in any VPA country. Just as civil society (and the EU) initiated the VPA process; it will require similar non-state efforts to press the government to provide resources and recognition for independent monitoring in line with Regulation 108-07.

Under the VPA there is scope for civil society to conduct its own self-mandated monitoring, the reports from which will be considered by an Independent Auditor, and then by the Liberia and EU authorities who jointly implement the VPA. In late 2011 and 2012 several National NGOs including SDI in collaboration with the NGO Coalition, Green Advocates, VOISED Africa and Chain Saw Union have received funding from the EU and FAO to participate in various forms of capacity building and monitoring in preparation for implementation of the VPA with the EU. The reports from these pre-implementation exercises will be useful to informing the Independent Auditor, which is expected to commence operating in late 2013 to early 2014.

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

Organisation: Forestry Development Authority

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

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### Data on the Distribution of Forestry Royalties and Incentives

 Is data regularly published on the distribution of forestry royalties and/or incentives to stakeholders?

The National Forest Reform Law (NFRL) allocates thirty percent of Land Rental Fees to communities that are entitled to benefit sharing. Section 14.2 (b) (ii) defines Land rental fees as “...fees associated with the use of Forest Land, including administrative fees and area based fees tied to Forest Resources Licenses”. The Ten Core Regulation on Major Pre-Felling Operations also specifies that financial benefits to affected communities under social agreements must amount to a minimum of one dollar per cubic meter of round logs harvested annually under licences, based on verifiable information from the chain of custody system.

Data on the collection and distribution of forestry taxes and fees is circulated in monthly updates from the chain of custody contractor Société Générale de Surveillance (SGS). This data is sent to forest stakeholders on its email list, but it is not proactively collated or published by the government authorities. International and local NGO partners have assisted to provide this information to community groups like the Community Forest Development Committees, which are then using it to demand access to funds from logging operations. However, SGS calculations of community share of land rental fees do not include the Land Rental Bid Premium, which is also an area based fees. Although the SGS collect data on the stumpage amounts in total, it does not have details of what financial amount should be distributed to communities under social agreements.

The National Benefit Sharing Trust (NBST) regulations were approved by the Forestry Development Authority Board of Directors in June 2011 to govern the disbursement of land rental fees to affected communities. They clearly lays out the functions and responsibilities of the Trust Board, which includes managing land rental fees funds received for the benefit of affected communities and establishing a project review committee to ensure that projects benefit the targeted affected communities. The Trust Board has been formally constituted with representatives from the key forest stakeholders including communities, private sector, government and civil society, but at the time of this assessment it had still not yet received the share of land rental fees into its accounts and therefore not been able to distribute them to affected communities.

Title: (a) NFRL section 14.2: Forest fees  
(b) Ten Core Regulation 106-07: Regulation on benefit sharing  
(c) Community Rights Law: Chapter 3: Community Rights and Responsibilities  
(d) Regulation on Benefit Sharing Trust 2011

Organisation: Forestry Development Authority; Community Forestry Department

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

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### Information on Forest Law Infractions



Is information regularly published on infractions of forest law?

It is a legal requirement for the Forestry Development Authority (FDA) to annually report all violators of forest law to the Board of Directors and to the public, including the time of violation and progress on penalties and payments through the FDA and other judicial systems within the country. However, so far regular and up-to-date details have not been made publicly available. In practice, the limited involvement of the Ministry of Justice has increased barriers to publishing details on infractions. The FDA circulated a draft regulation on confiscated timber in mid 2012 for feedback. .

The FDA and related government institutions including the Ministry of Justice lack the ability to provide appropriate oversight of the sector. For example, the UN Panel of Experts reported in December 2010 that “Documented problems include non-payment of fees related to some concessions; cases of non-competitive allocation of large concessions; corruption; and lack of consultation with county authorities, district authorities and affected communities. In addition, government capacity to monitor commercial concessions is extremely limited in relation to the scope of the agreements being allocated and information is often difficult to obtain” (1).

Liberia signed a Voluntary Partnership Agreement with the European Union in May 2011 and the framework for Independent Auditor is expected to assess how reported infractions are addressed or not addressed by the relevant authorities. This has the potential to improve law compliance, but will depend on how effectively the VPA is implemented.

(1) United Nations Panel of Experts on Liberia (2010) Report on 17 December 2010 of the Panel of Experts submitted pursuant to resolution 1903. Available at [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/609](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/609)

**Title:** NFRL section 20.11 a (i-vi) 2006

**Organisation:** Forestry Development Authority, Ministry of Justice

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



### Annual Forest Authority Report



Are annual reports published by the forest authority?

Even though Section 20.11 of the National Forest Reform Law sets out the requirement for an annual report, the Forestry Development Authority (FDA) has only published a draft 2008 report online. In July 2012 the FDA provided the Sustainable Development Institute with hard copies of three annual reports covering 2009, 2010 and 2011. These annual reports are an improvement, but they have not been published and appeared to have been written at the same time as a box ticking exercise. They are also incomplete, and do not give the public a clear picture of how the forest is being managed. For example, there is no information on volume of species harvested by categories that would support the public to judge whether the forest is being managed sustainably. Several gaps need to be filled in order to meet the public demand for a comprehensive annual report.

This delayed and incomplete annual reporting makes it difficult to monitor the performance of the FDA, or even to know the basis on which it evaluates its own work. Monitoring by other stakeholders including civil society and UN Panel of Experts on Liberia provides an insight into how the forestry sector is being managed, but it would be useful to have comprehensive and timely annual reports produced by the FDA rather than having to wait for more than three years for three annual reports to be released at once. As it stands, the public has no practical means of tracking activities and providing timely feedback.

**Title:** Draft Annual Report, Forestry Development Authority, Monrovia, Liberia

January 1 – December 31, 2008

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

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