

LFCRII Dossier: Euro Liberian Logging Co – FMC F

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ISSUE	Sofreco Review	LCFRII Review	EURO LOGGING LIBERIA COMPANY'S RESPONSE
Principle 1: Legal Existence/Recognition & Eligibility to Operate in Forestry Sector			
<p>a. Legal Existence (Associations Law Section 12.1; 1.7(2) NFRL Section 1.3 (Persons- legal and natural) & 5.1</p> <p>b. Prohibited Persons (Section 5.2(b) of NFRL) Regulation 103-7(21-22) Regulation 104-07(62); Sections 44, PPCA; CRL 4.1(e) Regulation 103-07 Sections 21 & 23 (Debarment)</p>	<p>Mostly compliant</p> <ul style="list-style-type: none"> Business Registration and Articles of Incorporation verified; There was a declaration of ownership; There is no notarized affidavit declaring that the company's owners do not include prohibited persons. 	<ul style="list-style-type: none"> Business Registration remains current until December 2023, indicates ownership is Italian The Amended Articles of Incorporation cite Lamii Kpargoi as the sole owner but do not name the new owners No evidence of FDA's approval of the transfer of ownership Failed to comply with LEITI reporting requirements to submit a list for their ultimate or "beneficial" owners to LEITI in 2015 	<ol style="list-style-type: none"> ELL says that at the time of amendment of the its Articles of Incorporation in 2009, which led to an increase in the number of authorized shares from 500 to 1000 shares of common stock of no par value, the name of Lamii Kpargoi was deleted as sole owner of the corporation's shares. However, subsequent to said Amendment, the Shareholders of the corporation became Gido Monarca, Sadalmelik, and Marco Bragalia, all of whom were or are Italians. As to FDA's approval of transfer of the Company's shares, same is neither required by law – that is, the Concession Agreement
Principle 2: Forest Allocation			
<p>a. CFMA- completion of the 11 steps CRL 2.2(c); CRL Regulation 2.2, 2.6, 2.5, 2.8, 2.7, 2.9, 2.10, 3.4, 3.8, 3.11, 7.1; For FMC & TSC</p> <p>b. FMC- Competitive Bidding and Pre-qualification requirements PPCC Act NFRL (3.3 & 5.2(a)); CRL 6.3; PPCA (115(1) & (2) and 116); and FDA Regulations 104, Section 31-36</p> <p>c. Consultation with Affected Communities (Social-Impact Study) for FMCs & TSCs NFRL (4.1-4.5); Regulation 102-07(21-22) Regulation 104-07(62) Section 87 of the PPCA</p> <p>d. Obtain Concession Certificate from MFDP Regulation 104-07 (5.2(a)(i)); PPCA (46)</p> <p>e. Pre-qualification requirements (including performance bond) NFRL (3.3; 5.2(a)(i); Regulation 103-07 (41-46); CRL Regulation (10.3, 10.4)</p>	<p>Not compliant</p> <ul style="list-style-type: none"> All documents created prior to the allocation of the forestry contract including bidders' bond and liquidity guarantee were reported missing No proof of community consultation, approved concession certificate, public tender notice, due diligence report, performance bond, etc. 	<ul style="list-style-type: none"> FMC contract from 2009 not notarized, but includes attestation of legislative ratification No documentation provided to confirm competitive bidding process allocation requirements were met according to the PPCC Act \$250,000 Performance Bond issued in 2018 by Continental General & Life (expired 2019). This bond was issued for the purpose of obtaining a harvesting certificate. The bond for pre-qualification was not sighted. The Social Agreement reference consultative process with community, but the community statement referenced therein was not exhibited. This agreement only covers the communities in Grand Gedeh and River Gee. Only the minutes from the negotiations in River Gee were provided. LEITI reports that the communities were not involved with validation process No pre-qualification certificate was provided No concession Certificate from MFDP sighted 	<ol style="list-style-type: none"> No notarization is required for an Act that has been passed by the Legislature, approved by the President and published into Handbill by the Ministry of Foreign Affairs. The bidding process was legal and in conformity with PPCC Act. However, it transpired the process became a subject of litigation which progressed through the Judiciary to the Honorable Supreme Court of Liberia, which ultimately decided in its Opinion delivered on the 3rd of September, 2020, that the Concession Agreement was legitimately procured and ratified by the Legislature All social agreements consultations, negotiations, and validations were conducted under the aegis of FDA, which took Minutes of the process and is the repository of the records. As indicated in Para 2 above, the bidding process

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			<p>was judicially declared as valid and in conformity with law by the Honorable Supreme Court of Liberia.</p> <p>5. ELL is unaware of any requirement of law that a Concessionaire who holds a valid Forest Concession Agreement with the Government of Liberia is required to obtain a Concession Certificate from MFDP as a condition for its operation in Liberia.</p>

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Principle 3: Social & Financial Obligations & Benefit Sharing			
<p>1..</p> <p>a. Execution of a social agreement with authorized representatives of affected communities Regulation 105-07 (31&32); NFRL 5.6(d)(vi)</p> <p>b. Minimum contents of Social Agreement included NFRL (5.3(b) &5.6(d)), Regulation 105-07 (33); Regulation 117-17</p> <p>c. Minimum contents of CUC included CRL (3.1(d), 6.5); CRL Regulation (9.1, 10.2, 10.3, 10.4, 10.5, 11.1, 11.2, 11.3, 11.4)</p> <p>d. Attestation by FDA on Social Agreements and CUCs Regulation 105-07 (36) COCS SOP (9)</p> <p>e. Timely payments of fees under SA and CUC Regulation 105-07(36)10 Regulation 107-07 (33); CRL Regulation 9.1, 9.7, 9.8</p>	<p>Not compliant</p> <ul style="list-style-type: none"> • Only the chairperson of the CFDC was specified in the SA; CFDC lacks full representation as required by law • No evidence that no complaints were filed with the FDA by the affected community; • No evidence that a specific bank account was opened by the holder for the payment of the concerned communities; • No attestation by the FDA of payments made to the community by the company. • No Escrow account established for communities • Payments made to communities are made through cash payments, in the absence of bank system with the FDA verifying; and payments are not reflected on LiberTrace 	<ul style="list-style-type: none"> • Only the chairperson of the CFDC was specified in the Social Agreement (SA). However, the possibility exists that he may have been given the authority to sign on behalf of the entire CFDC. • Social Agreement not signed until 2016, although the FMC was signed in 2009 • No evidence that no complaints were filed with the FDA by the affected community • No evidence that a specific bank account was opened by the holder for the payment of the concerned communities • No attestation by the FDA of payments made to the community by the company. • The SA has minimum contents contained therein. However, the duration of the SA is extended for the duration of the FMC, which is in violation of Reg. 105-07 Section 31 (b) setting the duration for 5 years for FMCs • Tax clearance certificate expired August 2022 • Overdue payments cited in Global Witness Report¹ indicating, as of November 2016, Euro was in arrears of US\$ 8,735,802 to the Liberian government for rental fees and arrears from previously-unpaid fees for FMC F • Previous payments (corporate social agreements) made in fiscal year 2012- \$42,271, in 2015, 3 payments: \$44,405.00, 3,000.00, \$2,500 paid as Mandatory cash social expenditures, including: <ul style="list-style-type: none"> ○ Stumpage (m³) fee in Grand Gedeh Co ○ HR fee development fund (CFDC River Gee) ○ HR fees (CFDC Grant Gedeh) ² 	<ol style="list-style-type: none"> 1. Between 2009 and 2016, there was a subsisting Social Agreement. 2. A bank account was opened by the CFDC in the of Tchien-Kon FMC-Area-F into which ELL has been paying and continues to pay all its financial obligations to the affected Communities arising under the Social Agreement.

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¹ <https://www.globalwitness.org/en/reports/iberia-holding-line/>

² Forest Trends Policy Trade & Finance Initiative Report- 2020

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Principle 4: Forest Management Operations & Harvesting			
<p>a. Annual operations plan, 5yFMP & 25 years, Strategic forest management plan in place NFRL (4.5, 5.3,5.4, 5.6) Regulation 104-07 (62a); EPML (23); COCS SOP (9); CRL Regulation (10.3, 10.4); CFHP (2.2); FMC Contract (B3.1)</p> <p>b. Compliance with the plans NFRL (3.2;3.4) & COCS SOP (7-11)</p> <p>c. Business Plan FMC Contract (B3.11, B3.13)</p> <p>d. FDA Approval Contract (B3.11)</p> <p>e. Annual Harvest Certificate FMC Contract (B3.14, B6.13)</p> <p>f. Annual Compliance Audit FMC Contract (B8.81)</p> <p>g. Five-year Management Review FMC Contract (B8.82)</p> <p>For CFMAs:</p> <p>a. Preconditions CFRL Reg.</p> <p>i. Community Assembly@CFMB</p> <p>b. Community Forest Management Agreement Reg. 7.1</p> <p>i. Acceptance by Community Reg. 7.5</p> <p>ii. Acceptance by FDA Reg 7.7</p> <p>c. Community Forest Management Plan Reg. 8.1</p> <p>d. No third party can operate on >250,000 ha at a time Reg. 10.4</p>	<p>Not Complaint</p> <ul style="list-style-type: none"> The AOP doesn't comply with the official guidelines; The SFMP and the 5YFMP were not available to be assessed by the review team; The company was given a harvesting certificate despite its weaknesses on the management documents. The company labels trees and logs and these are recorded on LiberTrace enumeration and TDF databases 	<ul style="list-style-type: none"> The current AOP (October 2022) was reviewed and approved by the FDA as compliant with the PROSPER template and the Guidelines. It was noted to be the 5th AOP of the company. This AOP has been updated to show compliance in response to the comments in the Sofreco report. <ul style="list-style-type: none"> However, the AOP still does not comply with requirements, e.g., there is not a 100% inventory nor description of road building The AOP indicates that the coupe is within the 1st 5 yr logging compartment, but the FMC is more than 12 years old 5 Years Forest Management Plan 2018/2019 approved by the FDA to be compliant with guidelines <ul style="list-style-type: none"> However, the 5YFMP does not comply with requirements, e.g., there is no multi-resources inventory The AOP refers to a required Strategic Forest Management Plan from 2018, but no copy is provided The Company was issued a harvesting certificate that expires in Sept 2023, even though the performance bond has expired. <u>2013 USAID report</u> that Euro's harvest is unsustainable, logs are untagged, and there was no operable heavy equipment³ 	<p>ELL says that it harvests, for commercial purposes, only logs in its approved Blocks that are Tagged and registered in LiberTrace.</p>

³ https://pdf.usaid.gov/pdf_docs/PA00JZR8.pdf

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Principle 5: Environmental Obligations			
<p>a. ESIA report and ESIA Permit obtained EPML (6,21-23); Reg (105-107) COCS SOP (9); Regulation 112-08 the Forest Products Processing and Marketing (11); FMC Contract (B3.11)</p> <p>b. Compliance with environmental standards and ESIA Report EPML (24-27),</p> <p>c. Compliance with Code of harvesting practices EPML (parts IV & V), CFHP 2.5.1; GFMP; FMC Contract (B3.43, B6.41)</p> <p>d. Compliance with Forest Management Guidelines NFRL (8.1)</p> <p>e. Compliance with Wildlife rules Sections 9.11 and 9.12 of the NFRL; EPML (parts IV & V), CFHP (2,5.3); NWL Chapter 6; FMC Contract (B6.3)</p> <p>f. Reforestation within 5 years FMC Contract (B6.42)</p>	<p>Partially compliant</p> <ul style="list-style-type: none"> • The EPA and FDA did not provide tangible evidence of inspection and audit of the company's environmental documents, • Met most of its obligations of supplying the documents on LiberTrace; • The abstract and content of the EIA report complies with the guidelines, nevertheless, two-thirds of the document was not sighted by the review team. 	<p>No documents provided by the FDA</p>	
Principle 6: Timber Transportation & Traceability			
<p>a. Timber placed in the Chain of Custody system COCS SOP (10-19); Reg. 108-07; FMC Contract (B6.63)</p> <p>b. FDA compliance with rules on auctioning confiscation and abandoned timber or timber products Regulation 118-17 (4, 5, 6); 116-117 (4,7)</p>	<p>Partially Compliant</p> <ul style="list-style-type: none"> • The annual compliance audit report was not sighted by the report team; • Bar codes, waybills, tally sheets, cross cutting data all available on LiberTrace 	<ul style="list-style-type: none"> • Access to Libertrace needed to confirm this principle. • Confirmation/Attestation required that Euro Logging does not have abandoned logs in the forest. 	<p>ELL says that it has no abandoned logs.</p>
Principle 7: Transformation & Timber Processing			
<p>a. Sawmill, ply/veneer mill (expenditures) requirement: FMC contract (A2)</p> <p>b. Sawmill Permit required References: Regulation 107-07 (46); COCS SOP (20, 26); Regulation 112-08 the Forest Products Processing and Marketing (7,8)</p>	<p>Found not applicable as the company has no transformation and timber processing plant.</p>	<ul style="list-style-type: none"> • The 5 year FMP of the company indicated that it had established a wood processing plant/Sawmill in keeping with the FMC contract. No additional information has been provided to authenticate this. 	

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<p>c. Logs harvested or imported for processing have assigned COC ID# COCS SOP (15, 19 & 20); Regulation 112-08 the Forest Products Processing and Marketing (9); FMC Contract (B6.63)</p> <p>d. Traceability of products from Sawmill permit NFRL 13.5; COCS SOP (19)</p>			
<p>Principle 8: Workers Rights, Health Safety & Welfare</p>			
<p>a. Preference for Liberians; Work permits duly issued for foreign workers Section 45.1(a) DWA</p> <p>b. Payment of minimum wage DWA (5.1-5.6, 13.1, 16.1, 16.2, 16.3)</p> <p>c. Standard labor practices (rest period/ child labor/social security/Health and safety requirements/) DWA (Chapters 17-20) (2.2, 21.4) NSSWL (89.8, 89.16, 89.41) CFHP (2.3); DWA (24.1, 24.2, 25.1, 25.2, 25.3, 25.4, 25.5)</p>	<p>Not compliant</p> <ul style="list-style-type: none"> The reports which should have been produced by the Ministry of Labor, Nasscorp and FDA were not sighted; The review team could not find enough objective evidence that the workers rights, health safety and welfare requirements were being met either by the company or the regulatory authorities. 	<ul style="list-style-type: none"> No FDA Compliance Audit report No report from Ministry of Labor NASSCORP records show a total of 47 employees enrolled in the schemes, but its contribution history ranges from 2009 only up to 2010; the company was recently issued harvesting certificate to harvest for the year 2022/2023 No payroll information provided to confirm minimum wage payments nor on which salary base these payments were made MoL statistical report is needed establish evidence of number of local hires 	
<p>Principle 9: Taxes, Fees & Other Payments</p>			
<p>Settlement of taxes, fess, levies, tax arears Section 2108 of Tax Code, Section 14.2 of the NFRL, Regulations 107-0761-63 , COCS SOP (9)</p>	<p>Not compliant</p> <ul style="list-style-type: none"> No records were sighted regarding the community payments A tax clearance certificate was issued by the LRA, however, the SGS system recorded considerable volumes of overdue area fees and stumpage fees. \$1,080,739 in overdue fees, including \$624,175 in area fees Almost \$7.5 million in area fees is “undue” (presumably forgiven or removed) 	<ul style="list-style-type: none"> Partial records sighted regarding the community payments; A tax clearance certificate was issued by the LRA, which expired May 2022 Some evidence of payment to communities, pending confirmation from NUCFDC, CFDC and FDA Sector specific fees and levies: Of a total invoiced amount of USD 9,005,522.46, Euro has paid USD 4,688,850.03 as at March 1, 2023, with outstanding arrears of USD 4,316,672.43 (LiberTrace as at March 1, 2023). Area fees, annual contract administration fees, annual coupe inspection fees, and waybill sticker fees are the outstanding fees. Tax payment information are pending response from LRA. Tax clearance status to be provided by LRA if available 	<ol style="list-style-type: none"> ELL has a valid Tax Clearance. ELL has no outstanding for Waybill Sticker Fees. Area Fees and Bid Payment figures are still under reconciliation by LRA/SGS/FDA/LVD.

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Principle 10: Export, Processing & Trade Requirements			
<p>a. Annual registration of exporter with FDA Regulation 108-07 (41)</p> <p>b. Confirmation that all logs / timbers to be exported were enrolled in the COC system Regulation 108-07 (42); COCS SOP (23-37); NFRL 13.5</p> <p>c. Pricing in accordance with the LVD Regulation 108-07 (43); COCS SOP (18 & 21)</p>	<p>Partially Compliant</p> <ul style="list-style-type: none"> The MIDB report was not sighted by the review team. The official FOB prices have not been reviewed for at least the last four years. 	<ul style="list-style-type: none"> LiberTrace records as at March 1, 2023 indicate full payment of export fees of USD 1,669,438 No export permit was shared. No export volume was reported. Access to Libertrace was needed to verify the existence or non-existence of these documents, but it has not been forthcoming 	
Principle 11: Transparency & General Disclosure			
<p>a. Bi-annual publication by companies of payments made to GOL on the contracts (no later than 15 March and 15 September) NFRL (5.8)</p> <p>b. Companies compliant with LEITI disclosure requirements LEITI Act (4.1 & 5.4)</p> <p>c. FDA makes publicly available forest contracts and bid evaluation report LEITI Act (4.1 & 5.4); Freedom of information Act (Section 2.6)</p>	<p><i>Not previously reviewed</i></p>	<ul style="list-style-type: none"> No records available on publications from Euro Liberian Logging Co. or FDA LEITI has the FMC contract published. 	<p>The FMC Area F Act was published into Handbill on October 1, 2009, by the Ministry of Foreign Affairs.</p>

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Annex 1 Obligations under the various Social Agreements

Please indicate, with evidence, all that are implemented

FMC F Euro – Konobo, Gbeapo, Webbo, Grand Gedeh, River Gee (2950)			
Terms	date for delivery	implemented	not implemented
30% (\$2.50/ha land rental)			
\$1.50 / m3 stumpage			
First preference for skilled and unskilled labor			
Transportation in emergency of major development project	As needed, ongoing		
US\$3000 per each 9 mos production period, not to exceed \$27,000 annually, for participation in community development programs (human resource development, construction of school, clinics, etc)	Paid at start of felling operations		
Will not construct logged bridges on primary roads			
Recondition and maintain roads adjacent to its annual operation areas and will connect nearby towns			
Construction of schools for employees' dependents where operational area does not have access to schools			
Provide timber products for community development projects	Upon operation of sawmill		

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Construction of schools and clinics in affected communities where logging operations have reached	Construction shall commence within 2 years of logging		
Construction of 6 handpumps over the life of the contract			
Contribution of US\$6,000 to CFDC for human resource capacity development	Annually during the phase of logging operation in River Gee, 50% of this fee is payable in January in absence of their logging operation		
Protect local water sources, will not log at water sources, dump chemicals or other logging products into rivers or other water sources or otherwise spoil the communities' drinking water			
Will not cause damage to farms or crops, and compensate when such damage occurs			
Will not operate on taboo days, sacred sites, on taboo animals / species, medicinal plant sites, hunting grounds or NTFP sites			
Will not harvest palm trees for bridges			
Will construct workers camps nearby towns			

FMC F Euro – Konobo, Grand Gedeh (2936)

Terms	date for delivery	implemented	not implemented
30% (\$2.50/ha land rental)			
\$1.50 / m3 stumpage			

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First preference for skilled and unskilled labor			
Transportation in emergency of major development project	As needed, ongoing		
Annual contribution of US\$11,000 to CFDC for human resource capacity development during harvesting operations in Grand Gedeh	\$6400 payable on Feb 5 of each year of operations, and \$4600 payable on May 5 of each year		
Construct and maintain roads used by Euro during harvesting in Grand Gedeh			
Will not construct logged bridges on primary roads			
Construction of schools within operational period for education of employees “dependents where operational area does not have access to schools”			
Recondition and maintain roads adjacent to its annual operation areas and connect nearby towns			
Provide timber products for community development projects	Upon operation of sawmill		
Protect local water sources, will not log at water sources, dump chemicals or other logging products into rivers or other water sources or otherwise spoil the communities’ drinking water			
Will not cause damage to farms or crops, and compensate when such damage occurs			
Will not operate on taboo days, sacred sites, on taboo animals / species, medicinal plant sites, hunting grounds or NTFP sites			
Will not harvest palm trees for bridges			
Will construct workers camps nearby towns			