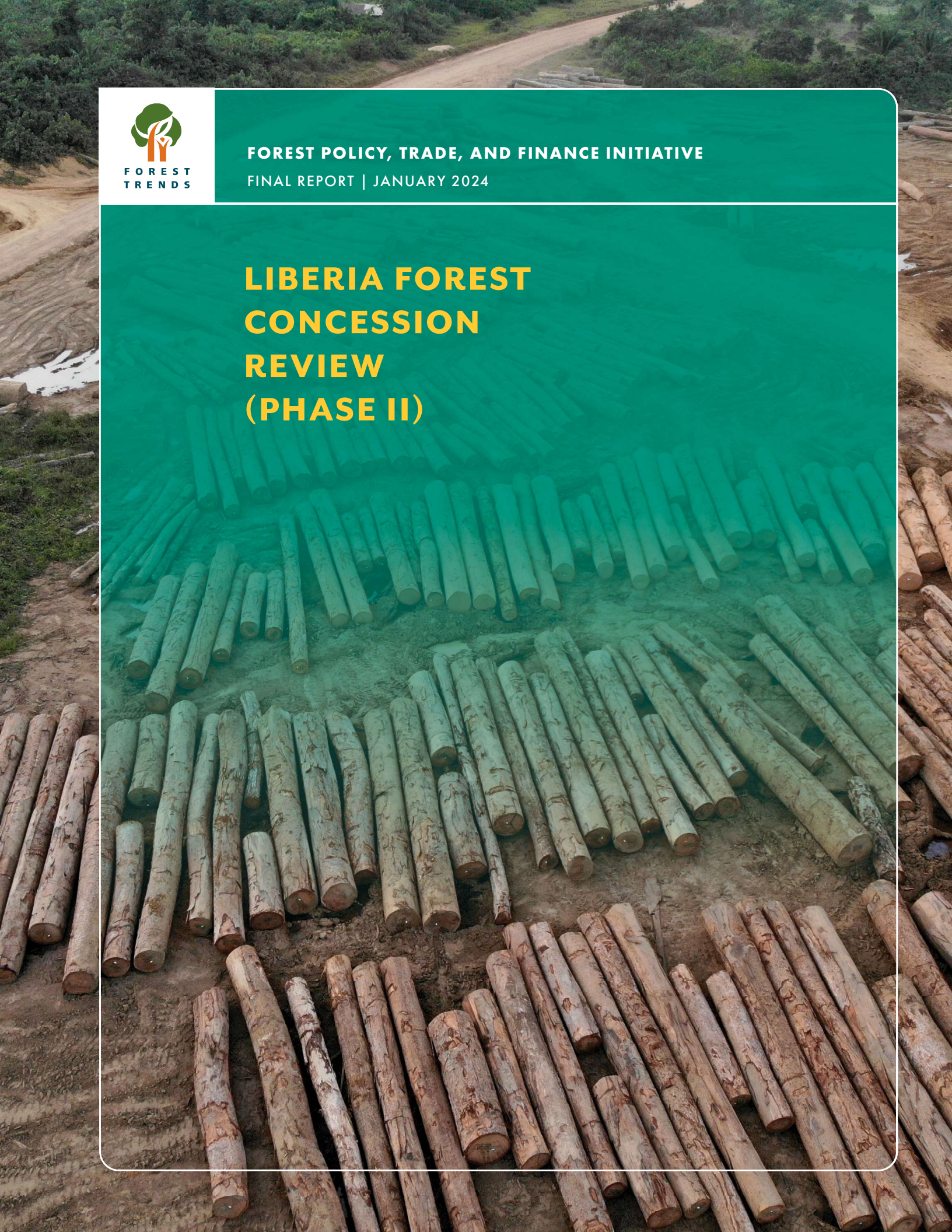




FOREST POLICY, TRADE, AND FINANCE INITIATIVE
FINAL REPORT | JANUARY 2024

LIBERIA FOREST CONCESSION REVIEW (PHASE II)





Foreword

Liberia's forests comprise half of the remaining forest in the biodiversity hotspot of West Africa, and two-thirds of the country's land area. But Liberia's forests are under increasing pressure as industrial logging and plantation agriculture are viewed as a fast way to rebuild the nation's economy. Liberia's forest policy aims to balance the commercial, community, conservation, and lately, carbon, uses of its forests. However, in practice, monitoring and enforcing the laws governing forest concessions has suffered from a lack of political will.

To help the Government of Liberia (GoL) improve its forest management, the Government of Norway offered its support, conditional on the GoL implementing a number of reforms, including a review of the legal compliance of its industrial logging concessions. In 2022, Liberia's Forestry Development Authority (FDA) engaged Forest Trends to conduct this review, involving reviews of documents, interviews, and three public consultations across the country.

The Liberia Forest Concession Review [Phase II] (LFCRII 2023) builds on previous reviews empaneled by the FDA and confirms the findings of these previous reviews: serious reform is required to bring the sector into compliance with the rule of law. Otherwise, ineffective governance jeopardizes the sustainable management of Liberia's forests, undermines the sector's contribution to the country's development, and threatens the wellbeing of rural communities who depend on the forest for their lives and livelihoods.

The intellectual leadership of the LFCRII was carried out by an all-Liberian team consisting of sectoral experts, chartered accountants, a former Minister, a former Deputy Commissioner of the Liberian Revenue Authority, senior legal counsellors with experience before the Supreme Court of Liberia, as well as a former Chair of the UN Security Council's Panel of Experts on Liberia. Working alongside such a distinguished and dedicated group has been Forest Trends' privilege. The group's unwavering commitment to excellence, innovative thinking, and love for the Liberian forests and people have significantly contributed to the evaluation's success.

In addition to this report, and to facilitate its impact, Forest Trends has created an online archive¹ of all the relevant documents used in the review. This transparency should help Liberia (and Liberians) better understand the status of the sector, the reasons for the lack of compliance with the rule of law, and how this can be reversed for the betterment of Liberia's future.

It is Forest Trends' hope that this review's conclusions and recommendations will be taken up by the new Liberian administration of President Boakai to serve as impetus to invest in and reform the sector. The future of Liberia's forests and its forest-dependent communities depend on it.

Sincerely,

Michael Jenkins

CEO & Founding President, Forest Trends

This publication reflects the professional conclusions of the authors and does not necessarily reflect the views of funders.

¹ Via the World Bank's Liberia Forest Sector Project

² The archive, which can be found at: <https://www.forest-trends.org/publications/liberia-forest-concession-review-phase-ii>, contains documents covering the legislative framework (Liberia's relevant policies, laws, and regulations), previous reviews, open-source material, as well as the individual Case Briefs for each concession reviewed, including all the background documents (business licenses, contracts, planning documents, etc.).



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Acronyms

AFC	Authorized Forest Community	LibTA	Liberian Timber Association
AOP	Annual Operation Plan	LLA	Liberia Land Authority
BVI	British Virgin Islands	LOI	Letter of Intent
CA	Community Assembly	LRA	Liberia Revenue Authority
CAT	Corrective Actions Table	LTTC	Liberia Tree & Trading Company (LTTC), Inc.
CBL	Central Bank of Liberia	LVD	Legality Verification Department (of the FDA)
CFDC	Community Forest Development Committees	M&E	Monitoring and Evaluation
CFHP	Code of Forest Harvesting Practices	MFDP	Ministry of Finance and Development Planning
CFMA	Community Forest Management Agreement	MPEA	Ministry of Planning and Economic Affairs
CFMB	Community Forest Management Body	MLME	Ministry of Lands, Mines, and Energy
CFMP	Community Forest Management Plan	MoJ	Ministry of Justice
COCS/CoC	Chain of Custody System/Chain of Custody	NASSCORP	National Social Security and Welfare Corporation
COO	Certificate of Origin	NBSTB	National Benefit-Sharing Trust Board
CM	Consultation Meeting	NGO	Non-governmental Organization
CRL	Community Rights Law with Respect to Forest Lands	NFRL	National Forestry Reform Law
CUC	Commercial Use Contract	NSSRL	National Security Strategy
DUBO	Declaration of Beneficial Ownership	NUCFDC	National Union of Community Forest Development Committees
DWA	Decent Work Act	OP	Operational Plan
EIA	Environmental Impact Assessment	PPCA	Public Procurement and Concessions Act
EMP	Environmental Management Plan	PPCC	Public Procurement and Concessions Commission
EP	Export Permit	PUP	Private Use Permit
EPA	Environmental Protection Agency	RGI	Renaissance Group, Inc.
EPML	Environmental Protection and Management Law	SA	Social Agreement
ESIA	Environmental Social Impact Assessment	SDI	Sustainable Development Institute
FDA	Forestry Development Authority	SESRR	Socio-Economic Survey and Resource Reconnaissance
FDA MD	Forestry Development Authority Managing Director	SFM	Sustainable Forest Management
FGL	Freedom Group Liberia	SFMP	Strategic Forest Management Plan
FLEG7	Forest Law Enforcement, Governance, and Trade	SOP	Standard Operating Procedure
FMC	Forest Management Contract	SIIB	Special Independent Investigative Body
FMP	Forest Management Plan	TIN	Tax Identification Number
FOIA	Freedom of Information Act	TPA	Third Party Agreement
FUP	Forest Use Permit	TSC	Timber Sale Contract
GAC	General Auditing Commission	UBA	United Bank of Africa
GFMP	Guidelines for Forest Management Planning	UN	United Nations
GoL	Government of Liberia	VPA	Voluntary Partnership Agreement
ICC	International Consultant Capital	WAFDI	West African Forest Development, Inc.
IN	Information Note	§	Section (of law or regulation)
IMF	International Monetary Fund	4Cs	Communities, Commercial, Conservation, and Carbon
JIC	Joint Implementation Committee	5Y FMP	5-year Forest Management Plan
LBR	Liberian Business Registries		
LEITI	Liberia Extractive Industries Transparency Initiative		
LFCRII	Liberia Forest Concession Review: Phase II		



Executive Summary

In 2014, the Government of Norway signed a Letter of Intent (LOI) with the Government of Liberia (GoL), promising US\$150 million to support sustainable development that reduces deforestation and forest degradation. As part of the agreement, the GoL is required to “complete an independent government investigation that will examine the legality of existing logging...contracts.” The GoL contracted Forest Trends to finalize the concession review begun by **SOFRECO (2020)**. As outlined by the Forestry Development Authority’s Managing Director (FDA MD), the Liberia Forest Concession Review: Phase II (LFCRII) aims to take stock and update the findings from previous reviews on the legality of the award, management planning, and logging operations of Forest Resource Licenses; establish a transparent process to share and update those results; and “help to find negotiated solutions for cases that do not call for more serious consequences under Liberian law.”

After six months of review, the LFCRII made the following major findings:

1. Repeated evidence of widespread non-compliance of recommendations from previous reviews.

The LFCRII was tasked to take stock of reviews by the Special Independent Investigative Body (SIIB 2012) on Private Use Permits (PUPs), the Liberia Extractive Industries Transparency Initiative (LEITI 2013) audit on Forest Resources License allocation, and the SOFRECO (2020) Forest Concession Review.

All three reviews found widespread non-compliance across all stakeholders, including the government. The LFCRII found that, to date, most of these reviews’ recommendations have not been implemented. While all 63 PUPs were terminated and the Forestry Development Authority (FDA) managers involved in the scandal were successfully prosecuted, no operators have been punished. While all ten Timber Sale Contracts (TSCs) have expired, no other Licenses have been terminated, despite their ongoing violations of the rule of law.

2. Forest Resources Licenses: at least 70 claims, but only 14 are known as active. The LFCRII was tasked to ascertain which Licenses are currently active, inactive, or terminated. However, the FDA did not provide a full list of active Licenses, much less those that have been awarded. Despite this, the LFCRII was able to identify more than 70 Licenses that are potentially active, as well as 86 Licenses that have been terminated (including 13 Community Forest Management Agreements (CFMAs), all 10 TSCs, and all 63 PUPs). In response to this list of possible Licenses, the FDA confirmed that 14 are active.

3. Only 11 Operations were subject to an in-depth compliance review under the LFCRII: The LFCRII was tasked to focus on the nine Licenses evaluated by the SOFRECO (2020) draft Review Report,¹ plus two CFMAs identified by the FDA as active in February 2023 (Table 1).

¹ SOFRECO (2020) reviewed two TSCs, TSC A7 & A11, but because all TSCs have been terminated (by FDA Board resolution #14-2021), no TSCs are within the scope of the LFCRII review.


Table 1. Forest Resources Licenses within the scope of the LFCRII legal compliance review.*

Forest Management Contracts (FMCs)	Community Forest Management Agreements (CFMAs)
A – Alpha	Beyan Poye – Akewa
F – Euro	Bluyeama – Sing Africa
I – Geblo	Gbi – Liberia Tree and Trading Company, LLC (LTTC)
K – ICC	Gheegbarn #1 – West African Forest Development, Inc. (WAFDI)
P – Atlantic	Sewacajua – Mandra
	Zuzohn – Booming Green

*Company names have been abbreviated

In the interest of fairness, and in recognition of the widespread non-compliance, the LFCRII recommends that all the other existing Licenses should be subject to similar in-depth compliance review. Consequently, the LFCRII designed its methodology to be applicable to any logging Operation, including those outside the scope of the LFCRII review.

4. Review of legal compliance of Operators: Recognizing the widespread lack of compliance found in previous reviews, the LFCRII focused on the most material issues. To that end, the LFCRII devised a three-step test, reflecting the hierarchy used in the first Forest Concession Review of 2005, with the following results:

Test 1: Compliance with the minimum standards for the legal right to log in Liberia; that is, an Operator must have: a legally executed contract (a License), a legal corporate identity pre-qualified to hold a License, and a performance bond.

Of the 11 cases reviewed, all failed. Euro Liberia Logging Co. came closest, having all three necessary documents, except that there has been at least one transfer of ownership, but no evidence that the new owners were pre-qualified to hold a forestry License, nor that the FDA had provided written approval of the transfer of ownership. Mandra Forestry Liberia Ltd also came close,² however its US\$80,000 performance bond is insufficient—it should have been more than 500% larger.³

Test 2: Compliance with the legal thresholds needed to avoid termination, as outlined in the National Forestry Reform Law (NFRL Section [§] 6.1).

No Operator met all the thresholds. For example:

- Only five of the 11 Operators are actively logging.

² Mandra's Third-Party Agreement (TPA) with CFMA Sewacajua is not dated properly, witnessed, nor notarized. 99.7% of its shares are held by the BVI company Mandra Plantations Liberia Ltd, but its Business License indicates Malaysian/British ownership. No Declaration of Beneficial Ownership has been produced, so there is no evidence of ownership transfer. The FDA should have evaluated all "significant individuals" to ensure they had met the pre-qualification criteria of FDA Regulation 103-07; the FDA has not provided evidence that this criteria has been met. Mandra's pre-qualification certificate expired June 4, 2023.

³ According to FDA Regulation 104-07 (§61[d]3-6), performance bonds must be 50% of anticipated government revenue for the next year (less land rental payments). Over the last 6 years (covering the COVID years), the FDA reports average annual government revenue (less land rental) from Mandra as US\$856,926 (Annex 4), so the bond should be a minimum US\$428,000.



- All 11 Operators were in arrears—in excess of US\$31.5 million to the GoL; this does not include unpaid obligations (financial and in-kind) under the Social Agreements (SAs) signed with the Communities most affected by the logging.
- None of the 11 Operators demonstrated compliance with pre-felling requirements.

Test 3: The LFCR II noted widespread violations across the rest of Liberia's legislative framework. Given the lack of compliance, the LFCR II recommends that the FDA, in cooperation with the Ministry of Justice (MoJ), terminate all 11 Operations unless these breaches can be remedied within 90 days.

5. FDA documentary archive not fit for purpose: Among the process findings of the LFCR II was that the FDA provided only a limited set of the requested documents, did not provide access to LiberTrace (the FDA's online system to monitor legality⁴), and there is no reconciliation on financial matters across the government. Furthermore, none of the Operators provided complete financial data to reconcile against the data shared by the GoL. While the Operators, the FDA, and the National Union of Community Forest Development Committees (NUCFDCs) and Community Forest Management Bodies (CFMBs) were all given the right-of-reply to correct any errors or omissions in the LFCR II's substantive findings, only four Operators provided any response. The NUCFDC provided royalties received by 19 CFMAs, four of which were in the scope of the LFCR II review. The lack of cooperation prevented the independent verification of the FDA's data that a standard audit would have allowed.

Despite this, the LFCR II was nevertheless able to triangulate other sources of data, including the Liberia Revenue Authority (LRA) and SGS, to make clear findings of fact, which allowed the review to draw robust conclusions about the status of the forestry sector. Given the lack of response from the Operators and the FDA, and despite it being in their interest to provide such evidence if exculpatory, the LFCR II concludes that the lack of documentation is indicative of a real lack of compliance.

The consequences of inadequate archiving systems can be profound:

a. Licenses: Previous Presidents used the forestry sector for patronage, giving and taking away the privilege to log. The 2005 Forest Concession Review found that ignoring pre-existing licenses meant that the 72 Operators held overlapping claims that were 2.5 times the total area of forests in Liberia.

b. Business licenses/declaration of ownership:

- i. When the GoL and Communities do not know the identity behind the logging Operations, it makes it difficult to recover arrears, especially when the loggers abandon their operations, as may have happened in six of the cases reviewed by the LFCR II.
- ii. When the FDA is not evaluating the qualifications of those obtaining Licenses, as is required by law, there is no guarantee that they will be bona fide logging Operators instead of speculators hoping to flip their License or, worse, illicit loggers overharvesting high-value species for a quick profit.
- iii. When there is no pre-qualification evaluation, the FDA cannot ensure Licenses are held by

⁴ Used by the FDA Timber LVD, LiberTrace has three modules: traceability, legality, and fiscality. The traceability module tracks the timber processes from pre-harvesting to harvest, processing, export, and local sale using a unique barcode management system. For the legality module, LiberTrace records the verification of compliance of 132 VPA Legality Matrix verifiers, of which 46 verifiers have currently been activated. For the fiscality module, the LVD is using LiberTrace to issue invoices, monitor payments of forest fees and taxes, and generate financial updates for GoL. LiberTrace is also used to issue EPs and Certificate of Origin and has built in capacity to eventually issue FLEGT Licenses.



qualified individuals. For example, TSCs and small FMCs can only be held by entities that are 51% Liberian. For example, the FDA permitted TSC A2 to be held by a Renaissance, Inc. that did not have majority Liberian ownership.

c. Performance bonds: Given the difficulties in recovering arrears (the 2005 Review found at least \$64 million in unpaid taxes, none of which were ever recovered), the NFRL (§5.1[e]) requires a performance bond to “assure payment of fees, redress of injuries, compensation of employees, reclamation of land, and return of property.” When Operators are allowed to violate this requirement, it makes it much more difficult for the GoL, Communities, and employees to obtain redress. Currently, the GoL indicates that the sector is at least US\$35 million in arrears.

6. Corrective actions for each of the 11 cases in the scope of the LFCRII review: Based on all the above, the LFCRII identified a set of graduated Corrective Actions, i.e., those realistic steps that should be taken by all actors to prevent further violations of the rule of law and help the sector move towards more transparent, sustainable, and fair forest practices as required by Liberian law. These included actions aimed at deterring future violations (i.e., those penalties identified in Liberia’s laws and regulations), and the process for suspending and terminating Licenses. ***Specific Corrective Actions, including termination, have been identified for each of the 11 cases within the scope of the LFCRII.***

However, in addition to these specific cases, the overall goal of the review is to reform the sector as a whole, and the LFCRII uncovered clear evidence that the problems are systemic. Therefore, the entire package of possible Corrective Actions is deliberately generic and thus applicable to all Operators that violate any given issue/principle. Again, ***the LFCRII recommends that the GoL evaluate all Operations for compliance and, based on the results, assign the appropriate corrective actions to the individual Operations.***

Furthermore, the LFCRII identified actions that can help facilitate future compliance and steps to improve governance so that transparency (reporting of monitoring and evaluation) and greater coordination across the GoL can contribute to greater accountability. As the Liberian public better understands the status of the forestry sector, they can generate the popular support for the necessary substantive reforms.

7. Consultative process: Three stakeholder meetings were held to sensitize the findings and solicit feedback in Monrovia and in two of the timber-producing regions of Liberia (Gbarnga and Zwedru). While there was not always consensus, the participants repeatedly demanded that the review and subsequent recommendations should include all stakeholders, not just logging companies. As an example, stakeholders recommended that the GoL should better protect Communities by ensuring that Social Agreements with logging companies are fulfilled. As well, Communities are encouraged to make use of the expertise in the National Benefits Sharing Trust (NBST), and the FDA should make use of LiberTrace to track Operator obligations, ensuring Communities are paid before issuing Annual Harvesting Certificates.

8. Moving forward: suspension until violations are cured, if not termination. In addition to the suspension and possible termination of the 11 cases in the scope of the LFCRII, all non-active Operators (those that have not harvested in the last 12 months) should, in consonance with NFRL (§6.1), be terminated. The remaining Operators that cannot meet the minimum standards and threshold criteria (Test 2) should also be suspended and given notice of termination after 90 days. However, if an Operator can come into compliance with the minimum standards, their suspension should be lifted, but if the remaining material violations (those associated with Test 2) are not cured, then they too should be terminated.



If the appropriate steps to compel compliance are not taken, then, as the legal right of all Liberians under the NFRL (§20.10), citizens should be encouraged to give notice of their intent to sue and 60 days later bring action so that the court will grant the appropriate injunctive relief.

- 9. Ensuring safeguards in place before any new licenses are awarded:** In the meantime, and until the GoL can demonstrate that the appropriate safeguards are in place, no new Licenses, for any forest use purpose, should be allocated by the FDA nor any other authority. One means to demonstrate such safeguards is ensuring that the above recommendations have been fulfilled, and the violations cured or Licenses terminated. Otherwise, there can be no expectation that any new Licensees will operate with any more compliance in the face of such impunity than those reviewed by the LFCRII or any of the other previous reviews of Liberia's forestry Operations.



Background

Liberia's forests are globally important, with half of all that remains in the Upper Guinean hotspot of biodiversity. Most Liberians rely in some way on forests for their lives and livelihoods. Liberia's sacred forests are also of profound cultural importance. This report, however, deals with the economic importance of Liberia's forests and, through a review of its industrial logging concessions, how best its forestry sector can contribute positively to the nation.

Unfortunately, forestry has not always contributed positively. In recent decades, the sector has undermined national development and regional security. According to the **economic crimes section of Liberia's Truth & Reconciliation Commission**, past administrations used the sector as the foundation for an illicit patronage network, enriching corrupt leaders, trafficking weapons, and using the security forces of logging companies as private militias to control territory, wage violence, and extort money. It was in this context that, during the last civil war, the United Nations (UN) Security Council imposed sanctions on the purchase of timber from Liberia.

The Security Council required a wholesale reform of the sector before lifting the sanctions so that forestry would no longer play a role in destabilizing the region, and instead would be used for "legitimate purposes for the benefit of the Liberian people." While the Security Council was silent on exactly how these conditions were to be met, there was an explicit assumption that any 'solution' proposed by Liberia would need to be consistent with good forest governance. Among the major changes was the passage in 2006 of the **National Forestry Reform Law**, which gave communities a seat at the table in decision-making and set out a new system for industrial concessions. This included a competitive allocation system based on bidding on annual land-rental payments among pre-qualified companies and the implementation of a chain-of-custody system to track all harvests and ensure full payment of royalties (known as stumpage in forestry), taxes, and other fees.

Before any new concessions could be allocated, however, Liberia had to adjudicate all the claims to pre-existing logging rights. It was not clear who—if anyone—had the legal right to log, given that 72 companies claimed the rights to overlapping concessions that covered more than 2.5 times the total area of Liberia's forests. After a few false starts, the National Transitional GoL set up a Forest Concession Review in 2005 to decide on the legitimacy of the 72 claims.

Prior to evaluating the claims, a committee composed of multiple stakeholders set the review criteria. The first step in a progressive test given to each claim was that they could meet the minimum legal criteria to have the right to log -- that is, they had a legal contract, were a legal company, and had posted a performance bond. Not one of the 72 claims could meet these minimum criteria, even in one year of operations. Based on the review committee's recommendation, **the first Executive Order of President E. Johnson Sirleaf was to declare all the claims to pre-existing logging rights null and void.**

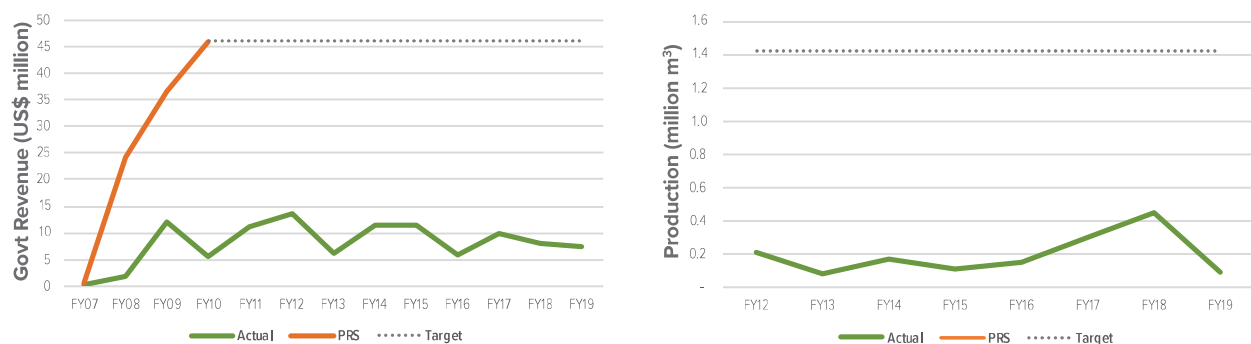


With a clean slate, the GoL began re-allocating industrial concessions in 2009. However, the process did not go smoothly. The Operators of these first concessions (large 25-year licenses, known as FMCs) faced poor infrastructure, inadequate roads and port facilities in particular. In 2013, they successfully lobbied to have their land-rental premiums abolished, costing Liberia—especially its communities and counties (together they are entitled to 60% of the land-rental)—more than \$277 million (unadjusted for inflation⁵).

The other types of logging concessions faced scandals of their own. An audit for the **LEITI** in 2013 found that no forestry concessions had been allocated within the rule of law. Further, small-scale TSCs continued to be extended beyond their three-year terms, and a 2023 Supreme Court case required Liberia to allow the export of timber that a MoJ investigation determined was illegal.⁶ Previously, the GoL had to terminate all 63 PUPs in a scandal that revealed that “[s]enior managers at FDA took advantage of the lack of regulations in ways that were unconscionable, illegal, and a violation of the public interest.”⁷

Overall, the sector has never met the goals set by the government. For example, the **2008 Poverty Reduction Strategy** set production and revenue targets (dotted lines in Figure 1) that remain at least four times larger than the sector has delivered. The forestry sector contributes about 1% of the government’s overall budget.

Figure 1. Liberia’s forestry sector’s production and revenue targets and actuals.



Dotted lines are predictions (targets), and solid lines are actual production and revenue collected by government.

Source: Liberia Poverty Reduction Strategy (2008) and LEITI (2013)

The FDA’s (2022) recent review, **Sustainable Forest Management (SFM) in Liberia: the 4Cs Approach**, explains how Liberia’s forest strategy centers Communities, Commercial, Conservation, and, emergingly, Carbon as “the 4Cs” of forest management goals. The review notes that “[o]n paper at least, Liberia has one of the strongest and most effective forest legislations in the West Africa region. However, the implementation of these policies has been fraught with challenge.” The chapter “Policy & Management Challenges” (p. 30-38) documents the market and policy failures facing the sector, as well as poor governance, weak law enforcement, and rent-seeking behavior. “The governance challenge is not just a technical problem but has strong political dimensions” notes the FDA (2022). Among those dimensions listed, the review details:

⁵ This figure is unadjusted for inflation but assumes that all the FMCs would continue to operate for their entire 25 years. For the full analysis of the loss, see Forest Trends (2021).

⁶ The FDA had previously fined the company \$105,000 for illegal logging.

⁷ SIIB (2013).



- Undervaluing and over-exploiting forest products;
- An excessive focus on timber exports;
- Weak security of tenure;
- Inadequate allocation system, including a lack of transparency;
- Poor working partnerships among different stakeholders;
- Inadequate structure to promote local civil society voices;
- Inadequate local Community participation in Forest Management;
- Weak local and national forestry institutions; and,
- A lack of consistency in the enforcement of forest laws.

Recognizing these challenges, and as part of the pivot to its emerging goal for Carbon in the 4Cs, the GoL signed a LOI in September 2016 with the Government of Norway to reduce greenhouse emissions, deforestation, and forest degradation. As a condition of its agreement with Norway to help fund this transition, Liberia was required to review its industrial logging concessions. An independent organization, SOFRECO, undertook the first phase of the Liberia Forest Concessions Review. It intended to assess legal compliance and the existence of satisfactory due-diligence mechanisms and procedures with regards to existing FMCs and Community Forestry Management Agreements (CFMAs). SOFRECO produced a draft report in 2020, but progress was halted shortly thereafter by the global COVID-19 outbreak.

In December 2022, Forest Trends was contracted by the GoL (through the FDA) as part of a second phase of the Liberia Forest Concessions Review (LFCRII) to finalize and update the concession review. This is the Final Report of the LFCRII.



Technical Approach and Methodology

The LFCR II's approach to the forest concession review was to:

1. Develop criteria for compliance evaluation, against which Forest Resources Licenses (e.g., contracts and agreements) would be evaluated.
2. Conduct a thorough document review of the status of the forestry sector in Liberia, including all open-source literature, but focusing mainly on previous assessments.
3. Coordinate with the GoL, the FDA in particular, to ascertain the status of all industrial logging Operations.
4. Evaluate legal compliance of the 11 Licenses identified by the FDA.
5. Provide Operators, Communities, and the GoL with the right-of-reply to correct any errors or omissions of fact in both the SOFRECO Report, as well as the LFCR II evaluation.
6. Identify realistic corrective actions to prevent future violations of the rule of law.
7. Consult with stakeholders on the methodology and criteria for review, obtain additional documentation, acknowledge concerns, share findings, and solicit feedback in three Consultation Meetings (CMs).
8. Summarize the review, its findings, and recommendations in this Final Report.

SCOPE OF THE LFCR II CONCESSION COMPLIANCE EVALUATION

The LFCR II was mandated to identify all active operations, but only focus its in-depth review of legal compliance on 11 Licenses: the nine evaluated in the SOFRECO (2020) draft Review Report⁸ and an additional two CFMAs identified by the FDA in February 2023.

Table 2. Forest Resources Licenses within the scope of the LFCR II legal compliance review.

Forest Management Contracts (FMCs)	Community Forest Management Agreements (CFMAs)
A – Alpha Logging & Wood Processing Inc.	Beyan Poye – Akewa Group of Companies (Liberia) Inc.
F – Euro.Liberia Logging Co.	Bluyeama – Sing Africa Plantations Liberia, Inc.
I – Geblo Loggin, Inc	Gbi – Liberia Tree & Trading Co (LTTC), Inc. [†]
K – International Consultant Capital (ICC)	Gheegbarn #1 – West African Forest Development, Inc. (WAFDI) [†]
P – Atlantic Resources Ltd.	Sewacajua – Mandra Forestry Liberia Ltd.
	Zuzohn – Booming Green Liberia, Inc.

[†] Additional two active cases added to the LFCR II by the FDA.

⁸ SOFRECO (2020) reviewed TSC A7 and A11, but as all TSCs have been terminated (by FDA Board resolution #14-2021), no TSCs are within the scope of the LFCR II review.



To identify all active concessions, the LFCRII reviewed the FDA website, the Sofrecro (2020) Review, the LiberTrace database,⁹ the LEITI database, and the March 2022 aide-memoire of the Joint Implementation Committee (JIC) of the Voluntary Partnership Agreement (VPA). From these sources, the LFCRII produced a list of more than 60 possible Operations. This list was shared with the FDA in January, 2023 (see LFCRII's Inception Report, p. 7-8).

COMPLIANCE EVALUATION CRITERIA: EQUAL TREATMENT

The first step for the LFCRII was to establish the criteria used to review each of the Operations for compliance with the relevant legislative framework in Liberia. In designing the review, the LFCRII benefited from lessons learned in the first Forest Concession Review conducted in 2005 (Box 1). These included designing evaluation criteria *before* examining the compliance of Operators and in a progressive evaluation, starting with a review of compliance with the minimum standards for the legal right to log in Liberia, then moving on to other thresholds of compliance.

BOX 1

Lessons Learned from 2005 Forest Concession Review

The **2005 review** found that its emphasis on “rationalising and systematizing” the assessment criteria first, before examining the compliance of any specific operator, was essential to reaching broad and impartial agreement on these defining terms. The review further found that, although the effort required to reach this prior agreement took extra time, this first step was critical to making the conduct, findings, and recommendations of the review definitive, free from political interference, and unimpeachable. The prior agreement was essential to avoiding both the impression of a ‘witch hunt,’ targeting certain operators for termination, and avoiding arbitrary decision-making that would unduly benefit specific Operators—both of which would have undermined the legitimacy of the review.

Moreover, the review was structured to mirror and reinforce the fundamental goals of restoring the rule of law and addressing the culture of pervasive illegality and corruption. As expected, the review revealed a general lack of organized document-keeping, especially at the FDA. The burden of proof, therefore, was explicitly placed on each concession holder to document compliance. To that end, the review scheduled individual meetings to allow concession holders to make their best case.

To avoid “rigid absolutism” while still following the rule of law, the review devised a progressive three-part test:

1. Minimum standards (legal right to log, an executed contract, a legal corporate identity, and a performance bond)
2. Threshold behavior (corrupt, criminal, and quasi-military activity)
3. Additional requirements (financial, labour, environmental, and community development obligations)

If a concession holder passed the first two tests, it would also have to demonstrate ‘cumulative’ (not complete) compliance under the third category.

⁹ In late 2019, the legality and traceability functions of **LiberTrace** (the country’s online legality verification system) were transferred to the FDA from Société Générale de Surveillance (SGS), and the LVD of the FDA became ISO certified (ISO 9001:2015 – Quality Management Systems).



With these lessons from the 2005 review, the LFCRII devised a similar, progressive three-part test:

Test 1: Minimum standards. The same as used by the 2005 Forest Concession Review, Operators must show they have the legal right to log, including: a legally executed contract (a License), a legal corporate identity, pre-qualified to hold a License and a posted performance bond. (Annex 1 describes the rationale for the minimum standards).

Test 2: Threshold behavior. Those violations that may lead to termination of licenses, according to the NFRL, Section [§]6.1[a-l].

Test 3: Additional requirements as outlined in law, regulation, and contractual obligations.

Although the test used by the LFCRII is progressive, the individual compliance criteria was arranged into principles covering:

- Principle 1: Legal Existence/Recognition & Eligibility to Operate in the Forestry Sector
- Principle 2: Forest Allocation
- Principle 3: Social & Financial Obligations & Benefit Sharing
- Principle 4: Forest Management Operations & Harvesting
- Principle 5: Environmental Obligations
- Principle 6: Timber Transportation & Traceability
- Principle 7: Transformation & Timber Processing
- Principle 8: Workers Rights, Health Safety, & Welfare
- Principle 9: Taxes, Fees, & Other Payments
- Principle 10: Export, Processing, & Trade Requirements
- Principle 11: Transparency & General Disclosure

The LFCRII thus treated each Operator in the same manner, evaluating all cases under the same progressive test, using the same criteria.

LITERATURE REVIEW: UPDATING THE BASELINE

For the 11 cases selected for in-depth evaluation, the LFCRII first compiled all existing reviews and evaluations, but then conducted additional primary research to ensure the findings of the LFCRII would be based on up-to-date information.

In the initial literature review, the LFCRII compiled all relevant documents, financial reports, and previous reviews, with a focus on those conducted by **SOFRECO** (2020) and the Special Investigating Body (SIIB, 2012) that covered issues related to PUPs, and the LEITI (2013) audit conducted by Moore Stephens to determine if Liberian laws and regulations were followed during the logging concession allocation process from 2009-2013. The LFCRII also compiled information published by international financial institutions, like the World Bank and the International Monetary Fund (IMF), as well as the EU-Liberia Forest Law Enforcement, Governance, and



Trade (FLEGT) VPA process and JIC aide-memoires. Reporting done by local media and non-governmental organizations (NGOs) were also included, such as the Sustainable Development Institute (SDI) of Liberia. A library of all documents can be found online at [the LFCRII site](#).

After this, the LFCRII requested all stakeholders to provide up-to-date documents, financial reports, and other materials. The FDA MD provided a letter requesting “all necessary assistance” from stakeholders in Liberia. The LFCRII team also requested that the FDA share all the most recent documentation for each of the cases in the scope of the review to demonstrate compliance with contractual obligations and compliance with the relevant existing laws and regulations (see Annex 1 of the Inception Report), including:

1. Contracts, Agreements (including Community Social Agreements), and any other written obligations
2. Company ownership and shareholding structure, including, but not limited to, current:
 - a. Articles of Incorporation
 - b. Business License/Registration Certificates
 - c. Declarations of beneficial ownership
 - d. Lists of shareholders and beneficiaries
 - e. Notarized affidavits executed by the CEO declaring that company’s owners do not include prohibited persons
3. Documentation of any assignment and/or transfer of license/agreement/etc.
4. Proof of payment of performance bonds, escrow accounts, and other obligations
5. Financial reporting, including, but not limited to, current:
 - a. Financial status and a statement of arrears
 - b. Tax clearance certificates
6. Required documents related to silviculture, including, but not limited to:
 - a. 25-year and 5-year Forest Management Plans (SFMP & 5Y FMP)
 - b. Annual Operation Plans (AOPs), Annual Harvesting Certificate, Annual Coupe Map
 - c. Annual Compliance Audit Report
 - d. Environmental Impact Assessment (EIA) Report, Environmental Impact Permit, Annual Environmental Audits

In addition, the following organizations were asked for supporting documents:

- Liberia Revenue Authority (LRA, including tax invoices, payment histories, arrears, and outstanding payroll deductions that should have been paid to National Social Security & Welfare Corporation (NASSCORP)
- Liberian Business Registry (LBR)
- Audit reports from the Ministry of Labor



- Attestation from NASSCORP
- Environmental Social Impact Report Assessment (ESIA) reports and EIA certificates from the Environmental Protection Agency (EPA)
- Chain of Custody (CoC) reporting and financial information from LiberTrace, the FDA's Legality Verification Department (LVD), and SGS
- Relevant data from the LEITI, including their 2013 Post Award Process Audit
- Relevant findings from the NBST
- Relevant findings from the NUCFDC and the CFMBs
- Operators
- Affected Communities and their Community Forest Development Committees (CFDCs)
- Trade associations, such as the Liberian Timber Association (LibTA)
- NGOs
- Other participants in the CMs

FINANCIAL REVIEW

The objectives of the financial review were to:

1. Determine the arrears of non-tax (sector-specific) payments owed to the government. These include all fees, levies, fines, etc. that are invoiced and recorded in LiberTrace's Fiscal Module. Specifically, these include:
 - Annual contract administration fees
 - Annual coupe inspection fee
 - Area or land-rental fees, bid premium fees
 - Royalties (known as stumpage fees)
 - Chain of custody (CoC) registration fees, barcode tag fees, waybill sticker fees
 - Export fees
 - Fines and other penalties
 - Arrears of land-rental fees brought forward from LiberTrack (the CoC software in use immediately before LiberTrace) into LiberTrace, which are booked as "other fees"
2. Determine taxes and other revenue payments due to the government. For example, corporate income tax and withholding tax on employee salaries, withholding tax on services, withholding tax on rents, and the turnover tax (i.e., all corporations in Liberia pay either 25% corporate income tax or a 2% minimum tax on gross annual income, whichever is greater).
3. Estimate arrears of payments to communities (e.g., Community share of land-rental fees, which is 30% for FMCs and 55% for CFMAs), cubic-meter fees due on the scaled volume of trees felled, and area fees due counties (30% for FMCs).
4. Evaluate other finance-related obligations of contracts that could include purchases of goods and



services from local vendors, local hiring and training requirements, etc.

To determine these outstanding financial obligations, the LFCRII augmented the findings from the SOFRECO (2020) report with updated information from LiberTrace and additional materials on the Liberian forestry sector. This included information from:

- a. Open sources;
- b. IMF aide-memoires;
- c. LBR data and interviews with officials (the LFCRII discussed with LBR officials and reviewed the business registration statuses of each in-scope logging Operator, obtaining directly from the LBR outstanding financial obligations as determined by the LBR);
- d. The National Social Security & Welfare Corporation (NASSCORP); and,
- e. LRA. This information was collected for:
 - Outstanding payroll deductions as contributions determined from monthly payrolls payable to NASSCORP and withholding taxes deducted from payroll that are payable to the LRA.
 - Outstanding tax-related obligations owed to the GoL for all the in-scope logging Operators and the official assessments of outstanding tax related financial obligations. The LFCRII was also able to obtain and review the detailed payment history of accounts of each Operator.
- f. The FDA LVD and SGS, regarding the sector-specific financial obligations generated by LiberTrace as part of the accountability through the chain of custody process that ensures traceability, legality, and fiscality, with fiscality covering invoicing, payments, and outstanding financial obligations. Staff from the LVD and SGS have shared and reviewed respectively the financial information on amounts invoiced, paid, and unpaid for each Operator.
- g. NUCFDC for FMCs and CFDCs and the National Benefit-sharing Trust Board (NBSTB). The oversight organizations provided information on outstanding payments due to communities for both FMCs and CFMAs. These have the responsibility to support each Community, collate their financial reports, and represent them at the FDA to Operators and other concerned parties.

EVALUATION AND RIGHT-OF-REPLY: ENSURING THE REVIEW IS ACCURATE

For each of the 11 cases within the scope of the in-depth review, the LFCRII evaluated compliance across all criteria. Dossiers (“Case Briefs”), including the financial data received from various sources with all the supporting documentary evidence, were shared with each Operator in April 2023, and the FDA and Communities in May 2023, to give all an opportunity to reply to these findings (the “right of reply”). They were asked to correct any errors or omissions and provide documentary evidence to support their claims. They were given two weeks to reply and advised that in case of no reply, this would be assumed as non-objection and that the provided evidence was accurate. In instances where feedback was not received within the two-week period, the team endeavored to accommodate ongoing feedback as possible. In addition



to written submissions, each Operator was given the opportunity to meet with the LFCR II one-on-one, in person or virtually.

The FDA was asked to provide contact information for the Operators, but because this was not forthcoming, the LFCR II engaged the LibTA to facilitate communications with each of the Operators.

CORRECTIVE ACTIONS

To determine the appropriate response to non-compliance, the LFCR II identified the relevant punitive measures (including fines, penalties, and jail time) for each issue, as defined by law and regulation. The LFCR II then identified realistic actions that should be taken to prevent future violations of each aspect of the relevant legislative framework. These terms were combined into a Corrective Actions Table (CAT). **The CAT was not aimed at any single Operator, but as the terms are generic, it is applicable to all Operators that violate a given issue/principle.** To encourage transparency on the corrective actions to be taken, the CAT was subject to discussions, inputs, and critiques by all stakeholders, and was a major focus of discussion at the LFCR II Consultative Meetings (CMs). Thus, stakeholders, including Operators, have had the opportunity to be aware of and expect the corrective actions that the LFCR II would likely produce and the potential governmental actions to address identified non-compliance.

In addition to the generic CAT, **the LFCR II recommended appropriate corrective actions for each of the 11 cases in the scope of the review.** These were based on the results of their respective evaluations of compliance with the legislative framework, starting with the minimum standards necessary for claiming the legal right to log, and then reviewing the threshold standards to avoid termination.

CONSULTATION MEETINGS

To sensitize the LFCR II findings and provide further opportunity for engagement with the LFCR II team, three CMs were held in Zwedru, Grand Gedeh County from April 24th–25th, 2023; Gbarnga, Bong County from May 1st–2nd, 2023; and Monrovia, Montserrado County on May 23rd, 2023. The stakeholders in attendance at these hearings were Operators, the GoL—Central and local government representatives, Communities, CSOs, development partners, and media (see Annex 10).

Prior to the CMs, the LFCR II shared an Information Note with the attendees that summarized all the previous activities (i.e., a Summary Report, Case Briefs, feedback from the right-of-reply process, the CAT, etc.), and drew together conclusions from these processes. The Information Note highlighted the remedial actions that actors, the GoL, and the Operators in particular, should take to address material issues of non-compliance as part of the necessary corrective actions. Participants were told that the public would have access to the Final LFCR II Report.

FIELD VERIFICATION VISITS

Prior to the CMs, the LFCR II visited two logging operations, FMC F-Euro Liberia Logging Co. in Grand Gedeh County, and CFMA Gheegbarn #1-WAFDI in Grand Bassa County, to informally verify details and offer local

**BOX 2****How are financial payments made and benefits shared?**

The LFCRII ascertained that the financial data on amounts billed are generated automatically by LiberTrace when concessions (for FMCs) or third-party contracts (for CFMAs) are signed and become effective. For instance, once an agreement becomes legally effective, the land area in hectares is booked in LiberTrace, along with the annual land-rental rate per hectare and the agreement effective date and expiry date. At the anniversary of the effective date of the agreement, LiberTrace automatically calculates the bill for the year, which is then invoiced to the Operator.

Every sector-specific fee that is derived from logging activities is computed by LiberTrace, following self-declaration inputs done by each logging Operator, who all have direct online and real-time access to LiberTrace, with administrative privileges to upload evidence of traceability, legality, and fiscality compliance requirements. Once the logging Operators self-declare into LiberTrace, these inputs have financial consequences: LiberTrace automatically generates the bill for settlement, to which the Operators have instant read-only access.

When invoices are generated by LiberTrace, the FDA's LVD downloads the invoices, forwards them to SGS, who review before forwarding to the Operator for settlement. Hence, the Operator not only sees the invoices online in LiberTrace, but also receives the SGS-reviewed invoices from the LVD.

All payments made against invoices are sent directly to the designated accounts at the United Bank of Africa for sector specific fees invoiced (non-tax financial obligations), while tax related bills are paid directly to the Central Bank of Liberia (CBL) through the LRA Transitory Accounts at commercial banks. The LRA maintains detailed payment accounts under every taxpayer's tax identification number for tax-related payments, while non-tax related payments or sector-specific payments are booked in LiberTrace against the invoices generated. LiberTrace also requires that whenever payments are booked against invoices, evidence of payment must also be uploaded as proof of payment.

Community-related payments are sent into designated accounts opened for Communities in FMC operating areas, while Operators in CFMAs make payments directly to Communities irrespective of whether they have designated accounts or not. Evidence of payments can only be obtained directly from the Operators and the Communities. Each Community may cooperate with the NUCFDC and provide a record of payments received from the Operators, along with a record of outstanding obligations. The Communities expect that the NUCFDC will advocate on their behalf and help ensure obligations are met. Reports are, however, usually delayed due to lack of resources at the NUCFDC to review and collect the required data from each Community around the country.



Findings and Recommendations

The major findings are divided into two sections:

- **Process findings:** issues encountered during implementation of the methodology. These findings explain many of the caveats associated with the substantive findings.
- **Substantive findings:** findings of facts regarding issues of major importance related to the effective governance of the Liberian forestry sector.

PROCESS FINDINGS

Limited cooperation from government agencies and inability to access data

As experienced by all previous reviews of the Liberian forest sector, including SOFRECO (2020),¹⁰ the LFCR II had limited cooperation from the FDA. The FDA MD provided the LFCR II Team with a letter requesting “all necessary assistance” from government agencies and other stakeholders. The LFCR II took this request, assuming good faith, and asked the FDA for access to information, including access to their internal control systems like LiberTrace. However, most of the documents were not provided. The reason for this is not clear. SOFRECO (2020) noted that the “Review Team was told by the FDA that all these documents [related to the allocation process] were lost during its office relocation process.” While this loss may explain the lack of documents shared, the lack of access to LiberTrace is more difficult to understand – and no explanation was given by the FDA. When direct access was not forthcoming, the FDA suggested that the LFCR II work with their technical staff, who would provide supervised access to LiberTrace. But again, without explanation, this access was not forthcoming.

Whatever the cause, the lack of cooperation made it impossible to institute the normal checks an auditor/inspector would carry out. Despite this, the LFCR II was able to find suitable mitigation measures that allowed for robust conclusions and ensured that the objectives of the review were met. Nonetheless, in the interest of process findings, the report notes some of the findings that should have been made through the FDA itself, but instead the LFCR II had to use workarounds. Among the many issues, some of the most important result from the failure of the FDA to allow access to LiberTrace. Had this been forthcoming, it would have allowed the LFCR II to:

1. Obtain a list of Annual Harvesting Certificates. This list would have allowed the LFCR II to directly determine the status of all Licenses (active v. inactive). Instead, the LFCR II used publicly available sources like the LEITI, the VPA’s JIC, LiberTrace reports available online, and direct communications with FDA.
2. Independently verify the presence of valid, approved Operational Plans (OPs), Environmental Impact

¹⁰ For example, see “Assumption No 2,” p. 14, SOFRECO (2020).



Studies (EISs), and other permits. Most of the documents that the FDA shared with the LFCRII related to silvicultural management were out of date. LiberTrace is meant to be a repository of up-to-date information. Again, access to LiberTrace would have allowed the LFCRII to independently verify whether valid documents currently exist. Given the lack of evidence provided to the LFCRII, even after Operators and the FDA were given the right-of-reply to address omissions in evidence, we presume that these valid OPs and EISs do not exist.

3. Independently verify the accuracy of financial data, including invoices (and the underlying production/sales/export data used in calculating the amounts therein), evidence of payments and arrears, and any approved plans with the FDA/LRA to allow Operators to pay off arrears over time. Normally, an accountant would be able to ‘check the books’ before making a conclusion about the financial status during a forensic review. While not standard accounting practices, the LFCRII was able to triangulate the FDA/LRA data with other sources to verify their accuracy.

Given this lack of response, the LFCRII had to rely on several other sources, including the LRA, SGS, LEITI, LBR, NASSCORP, the VPA’s JIC, NGOs, CSOs, and the media for information—all of which were authenticated and validated by the LFCRII. In addition, the LFCRII gave both the FDA and the Operators more than a month to reply to these findings of fact. They have not corrected any errors or addressed any omissions. Presumably, if the documentation exists, it was in their interest to share it. Therefore, the LFCRII assumed that given the lack of evidence to indicate otherwise, the lack of documentation is indicative of a true lack of compliance.

Lack of response from Operators

Companies were contacted directly and through the LibTA and given the right-of-reply. Operators were advised that failure to reply¹¹ would constitute non-objection and an assumption of accuracy of the findings. Only four companies responded (Euro, Akewa, ICC and Geblo) and only the first two provided any additional documentation.

In the end, the lack of cooperation made the work of the LFCRII much more difficult, but fortunately, as described in the next section, the LFCRII team was able to overcome these challenges and make robust, substantive findings of fact.

SUBSTANTIVE FINDINGS

Evidence of over 70 licenses,¹² with only 11 within the scope of the LFCRII

Among the tasks assigned, the LFCRII was to “ascertain that no other active contracts exist, and that cancellation of titles...recommended in previous exercise were actually implemented.” At the inception of the review, the

¹¹ Information was shared with all operators in April 2023 and they were given two weeks to reply, but the LFCRII remained open to accept information at any time up to June 6, 2023. The last reply received by the LFCRII was on May 23, 2023. When Euro received an early draft of this report, they contacted LFCRII in November 2023. Based on supporting documentary evidence that they provided, corrections were made to this final report

¹² Note: this review only includes industrial logging Operations and does not estimate the number of artisanal Operators, known as pit sawing or chainsaw milling, who supply almost all the wood on the domestic market (FDA 2022). The most recent estimate (Bickell & Cerutti 2017) is that this “informal commercial forestry” may harvest up to 1 million m³/yr. The FDA (2022) states this represents “a serious threat to Liberia’s aspirations to develop a major timber product exporting industry,” potentially impacting 80% of FMC forest areas.



LFCRII asked the FDA for a list of all Licenses and their statuses, but the FDA was not forthcoming.¹³ Instead, the LFCRII was able to document, from open sources, a list of potential logging Licenses (concessions/ agreements/contracts [Table 3]). The LFCRII then asked the FDA to confirm the status of these (and any other extant operations), but again the FDA was not forthcoming. Instead, the FDA MD indicated that the LFCRII should consult LiberTrace. However, the LFCRII was never given access to LiberTrace. The FDA did, however, provide a partial response to the status of the Licenses identified by the LFCRII (Table 3).

FINDING: Evidence of over 70 Licenses, but the status of many of these (and the existence of any other Licenses) was not confirmed by the FDA

Table 3. Status of industrial logging Forest Resources Licenses (concessions/ agreements/contracts).

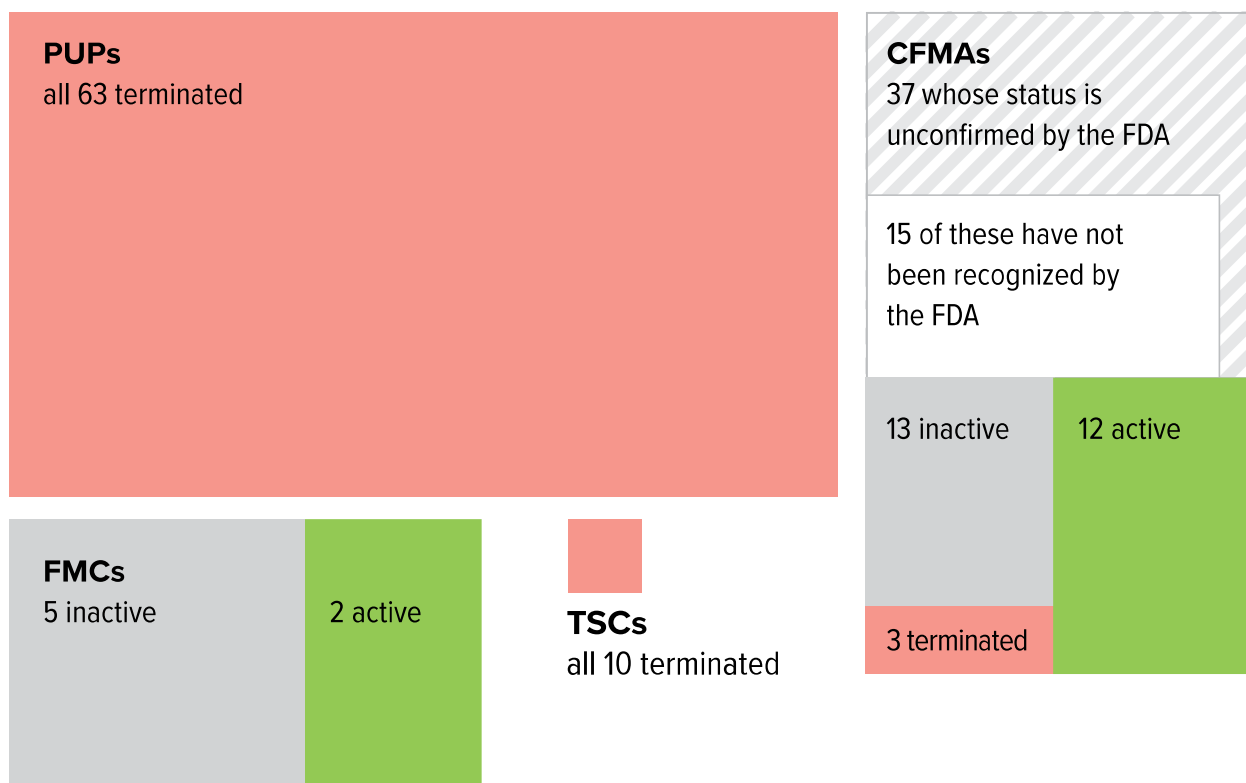
Type of Operation	Number Potentially Active	Notes
Timber Sale Contracts (TSCs)	All terminated	All ten TSCs (50,000 ha) have been terminated, made official by FDA Board of Directors Resolution #14-2021.
Private Use Permits (PUPs)	All terminated	All 63 PUPs (2,532,501 ha) were suspended by Executive Order 44 (2013).
Forest Management Contracts (FMCs)	2	None of the seven FMCs (1,007,266 ha) have been terminated, but the FDA claims only two, FMC F & I, are currently active (covering 385,136 ha, or just over a third of the FMC area allocated).
Community Forest Management Agreements (CFMAs)	12–65	LFCRII has found reference to 65 possible CFMAs. In March 2023, the FDA MD recognized 50 CFMAs in their correspondence with LFCRII, noting that 12 are active, only one of which (CFMA Sewacajua) was reviewed by SOFRECO. Three of the CFMAs are reported terminated, two of whose termination have been contested by the third-party Operator, and 13 are considered “inactive.” A further 21 have signed Commercial Use Contracts (CUCs) with third-party Operators, and three are authorized CFMAs, but have not yet entered into contracts. None are reported as “active.” The other 15 CFMAs listed in Annex 7 and Figure 2 were not acknowledged by the FDA to the LFCRII; they were mentioned in the latest LEITI (2022) report or in Global Witness’ (2018) review of the CFMAs.
Plantations	0	In a March 2023 correspondence, the FDA MD also noted that the Cavalla Teak Plantation, operated by Regnals International Inc, was “not active operationally.”

Annex 7 provides the background details for each License.

¹³ Note: under the CRL (§5), the FDA is duty bound to “maintain a register of Community forestry governance and management entities...and serve as a repository of Community forest...documents.” Regulation 101-07 (§3) also requires the FDA to maintain a list of all stakeholders, “including businesses in the forest sector.” Regulation 103-07 (§21) further requires the FDA to keep a list of debarred and suspended persons.



Figure 2. Status and relative size of Forest Resources Licenses identified by the LFCRII.



Note: some of the CFMAs overlapped in area with the PUPs. Further, the LFCRII has no information regarding the size of a third of the CFMAs, and so the median of the known-sized CFMAs was used in calculating the relative size of all 65 CFMAs.

Annex 7 provides the background details for each License.

IMPLEMENTATION OF RECOMMENDATIONS OF PREVIOUS REVIEWS

The LFCRII was tasked with “taking stock” of the findings and recommendations of previous reviews of the forest sector, with specific mentions of the [SIIB \(2012\)](#), [LEITI \(2013\)](#), and [SOFRECO \(2020\)](#) studies. In addition to these three, the LFCRII is aware of two other relevant reviews, neither of which have been shared with the public. The first was empaneled by President Weah to “review the land and property concessions that were granted to businesses under the government of his predecessor, Ellen Johnson Sirleaf.” Its work is understood to have concluded but the status of its final report is unknown. The second review is the MoJ’s independent investigation into TSC A2 (see Annex 6).

These evaluations found major violations across all criteria evaluated and implicate both the government and Operators in the lack of compliance. For example, the SIIB (2012) note “[t]he level of abuse of power and public trust...was led and sanctioned by the FDA.” In response, the [FDA \(2022\)](#) notes the SIIB recommended that action “be taken against government entities (FDA, FDA Board, individuals) and companies...[and] an independent audit of FDA and the FDA develop a recording system for all documents related to forestry licenses and social agreements.” The latter recommendation was also reflected in the LEITI (2013) audit. The TSC A2 investigation reportedly found that the FDA had a “persistent tendency” to make “unlawful decisions in assessing the severity of offenses.”



FINDING: Overall, the implementation of previous reviews' recommendations has been weak (details provided in Annex 6).

All the TSCs were terminated by the FDA Board and the PUPs suspended by Executive Order. Those most responsible at the FDA for the PUP scandal were prosecuted, but the FDA still does not have an adequate archival system. And the government has not taken action against those alleged non-compliant companies.

LEGAL COMPLIANCE OF SELECTED LOGGING OPERATIONS

For the in-depth review of legal compliance for the 11 contracts, the LFCR II devised a progressive three-part evaluation process, similar to that used in the First Concession Review of 2005:

Test 1: Minimum standards: the legal right to log, including a legally executed contract (a Forest Resources License), a legal corporate identity pre-qualified to hold a Forest Resources Licenses,, and a posted performance bond. (Annex 1 Rationale for the Minimum Standards).

Test 2: Threshold behavior: those violations that may lead to termination of Licenses, according to the **NFRL**, Section [§]6.1[a-l]).

Test 3: Additional requirements: as outlined in law, regulation, and contractual obligations.

Test 1: Minimum standards

The first among the progressive 3-test approach was to review compliance with the minimum legal standards. They are the same standards used in the initial 2005 Forest Concession Review. Any less would be inappropriately retrograde.

Thus, each of the 11 cases was assessed for compliance with the minimum legal requirements for the right to log, including:

1. A valid, legally executed License, including:
 - a. FMC contracts ratified by the legislature
 - b. Third-Party Agreement (TPA¹⁴) for CFMAs, attested by the FDA (witnessed and notarized)
2. Legal corporate identity pre-qualified to hold a Forest Resources Licenses, including:
 - a. A Business License
 - b. Articles of Incorporation¹⁵

¹⁴ The agreements are sometimes known as CUCs and occasionally inappropriately titled as CFMAs.

¹⁵ Declaration of beneficial ownership (DUBO) is required as part of the pre-qualification process to obtaining a License (FDA Regulation 103-07, Schedule 1), and as required by the LEITI. (MLME already has a **Disclosure of Ultimate Beneficial Ownership Regulation for its sector**). However, there is not yet a DUBO regulation for the forestry sector and thus, the LFCR II does not hold Operators to DUBO as part of the Minimum Standards.



- c. FDA approval of transfer to an Operator pre-qualified to hold a Forest Resources License if the License, has been transferred since contract award

3. Posting of the appropriate performance bond

FINDING: Across the 11 cases in the scope of the LFCRII, there was widespread non-compliance with the minimum legal standard for a valid right to log in Liberia.

Euro Liberia Logging Co. appears closest to having all the necessary documents (Table 4), although the current General Manager confirmed at least one change of ownership “to attract investment” since its incorporation in 2009. However, the LFCRII was provided no evidence that the FDA had provided prior, written approval of the change of ownership, nor that the new owners were pre-qualified to hold an FMC (as required by law [NFRL §6.2]). Moreover, it is not clear that a \$250,000 performance bond was sufficient.

Mandra Forestry Liberia Ltd also appears close to having all the necessary documents (Table 4), although the LFCRII notes that its TPA with CFMA Sewacajua is not dated properly, not witnessed, and not notarized. Further, in its Articles of Incorporation, Mandra Forestry Liberia Ltd indicates that 99.7% of its shares are held by the British Virgin Islands (BVI) company, Mandra Plantations Liberia Ltd, whereas Mandra Forestry Liberia Ltd’s Business License indicates Malaysian/British ownership. Given that Mandra has not produced a Declaration of Beneficial Ownership (DUBO), it is impossible to verify that there has not been a transfer in ownership. However, Mandra had a pre-qualification certificate (which expired June 4, 2023), and to obtain such a certificate, the FDA should have evaluated all “Significant Individuals,” including those with at least 10% ownership, to ensure that they met all the pre-qualification criteria in FDA Regulation 103-07. The FDA has provided no evidence that this criterion has been met. Finally, according to FDA Regulation 104-07 (§61[d]3-6) an Operator’s performance bond must be 50% of anticipated government revenue for the next year (less land-rental payments). Mandra was the largest Operator according to the latest reporting by the LEITI (2022, for FY2019-2020). Over the last six years, which includes the operational difficulties associated with the COVID-19 pandemic, the FDA reports average annual government revenue (less land rental) from Mandra of US\$856,926; half of this is a bond of US\$428,000. Instead, Mandra’s bond is only US\$80,000—more than five times too small.

The 2005 Forest Concession Review also found universal non-compliance across all the 72 claims it reviewed, and subsequently, **Executive Order No. 1** of 2006 declared all the claims null and void.

RECOMMENDATION: The LFCRII recommends similar action to the response to the 2005 Review. **All Operators not in compliance with the minimum standards should be given immediate notice of suspension until these standards can be met.** If these material breaches are not remedied within 90 days, the License should be terminated.¹⁶ If “conditions permit”, meaning the breaches are remedied prior to the expiration of the 90 days, then the suspension can be lifted.

¹⁶ The FMC contracts allow for suspension of the License by the FDA (see clause B.8.7). Failure to remedy the breach within these 90 days then allows for termination of the license (see clause B8.73). Licenses tied to CFMAs should be treated similarly.



Table 4. Compliance with the minimum legal standards for a valid legal right to log.*

Issue	FMCs					CFMAs					
	A — Alpha	F — Euro	I — Geblo	K — ICC	P — Atlantic	Beyan Poye — Akewa	Bluy-eama — Sing Africa	Gbi — LTTC	Gheegbarn #1 — WAFDI	Sewacajua — Mandra	Zuzohn — Booming Green
Forest Resources License	----- No evidence of FDA approval of transfer of ownership -----										
Business License	expired		---- expired ----				expired		◆		expired
Articles of Incorporation									◆		
Declaration of Beneficial Ownership†	x	x	x	x	x		x	x	x	+	x
Performance Bond	expired		---- expired ----			x	---- expired ----			++	expired

Green = valid; yellow = expired; and red = no evidence.

* Company names have been abbreviated

÷ No evidence of FDA approval of transfer of ownership for any Forest Resources License

‡ CFMA Sewacajua: its TPA is not witnessed, properly dated, nor notarized. Mandra's Business License records owners as Malaysian/British, whereas its Articles of Incorporation indicate 99.7% of ownership is from the BVI (Mandra Plantations Ltd.). Mandra did have a pre-qualification certificate that expired June 4, 2023, but the LFCRII has no evidence that the FDA evaluated the "Significant Individuals" behind Mandra as having met the pre-qualification criteria of FDA Regulation 103-07.

† WAFDI: in its Articles of Incorporation and Business License it is called West African Forest Development Incorporated, whereas its TPA with Gheegbarn #1 it is called West Africa Forest Development Incorporated. Presumably they are meant to be one in the same company.

++ Mandra's performance bond is at least five times too small.

+++ FDA has not published a debarment or a suspension list.

Test 2: Thresholds for termination

Once Operators demonstrate compliance with the minimum standards, then they must be able to show that they can clear additional legal thresholds to avoid termination. The Terms of Reference for the LFCRII say to determine when "Liberian Law prescribes that a given...offense must be sanctioned with cancellation."¹⁷ Therefore, the LFCRII created a logical flowchart of questions to determine such compliance, based on Section 6.1 of the NFRL: Termination of Forest Resources Licenses (Box 3).

FINDING: Across the 11 cases in the scope of the review, no Operator passed all six of the threshold tests to avoid termination (Table 5). Analyses behind these test results can be found in the individual Case Briefs in **Volume 2**, as well as Annex 4 & 5.

¹⁷ Objectives section (p.3) in Forest Trends' Contract with the FDA for the LFCRII.



Table 5. Compliance with threshold tests to avoid termination of Forest Resources Licenses.*

Issue	FMCs					CFMAs					
	A — Alpha	F — Euro	I — Geblo	K — ICC	P — Atlantic	Beyan Poye — Akewa	Bluy-eama — Sing Africa	Gbi — LTTC	Gheeg-barn #1 — WAFDI	Sewacajua — Mandra	Zuzohn — Booming Green
Operational in last year	x			x	x	x	x				x
Arrears to gov't (US\$m) ‡	\$2.1	\$10.2	\$5.4	\$9.5	\$3.0	\$0.2	\$0.4	\$0.1	\$0.1	\$0.4	\$0.08
Pre-felling requirements	x	x	x	x	x	x	x	x	x	x	x
Logging authorized	x		x	x	x	x	x	x	x	x	x
Misrepresentation/bribery						†		††	†††		

Green = valid; yellow = expired; and red = no evidence.

* Company names have been abbreviated

‡ US\$ million, based on information supplied by LiberTrace in May 2023 (see [Volume 2](#)).

† According to [Varfee Holmes](#) (LRA's communication, media, and public affairs officer), an "LRA inquiry later found her guilty as accused. "I am pleased to inform you that the LRA having reviewed all of the tax clearances presented, found Akewa Group [of Companies] liable of issuing fake tax clearances and to the effect that the tax clearances issued were not LRA's original tax clearances."

†† The FDA accused WAFDI of "gross violations of our forestry laws and regulations." However, the MoJ [investigation](#) implicated FDA staff in the violations, and the FDA Board recommended the dismissal of several senior FDA staff. .

†††LRA reportedly [alleged Mandra](#) of "faking of its tax clearance to obtain a valid insurance bond to enable it meet legal obligations in an ongoing lawsuit."

RECOMMENDATION: The LFCRII recommends that, in addition to the notice given to remedy the breaches of the minimum standards (see above), the notice of suspension with intent to terminate given to all Operators should also include the requirement that the Operators remedy all breaches of the threshold requirements necessary to avoid termination under Section 6.1 of the NFRL. If conditions permit and breaches are cured, then the suspension can be lifted and termination may be avoided.

Test 3: Compliance with legislative requirements in law, regulation, and license

The final test for termination is a material breach of contract, regulation, and law (see Step 7, Box 3; based on NFRL §6.1[j&k]). Given that materiality is not defined in the law, to be comprehensive, the LFCRII reviewed compliance with all aspects of the legislative framework.

FINDING: *Across the 11 cases in the scope of the review, there was widespread non-compliance with every legal principle examined (see the summary below, and the individual Case Briefs in Volume 2).*

**BOX 3****Decision Tree to Determine Termination Thresholds for Forest Resources Licenses**

The following is based on the National Forestry Reform Law of 2006 [NFRL]:

- 1. Have Operations been abandoned for more than 12 months?** (NFRL §6.1e)
 - a. **If YES:** then FDA may terminate the License
 - b. **If NO:** go to question #2
- 2. Has the license been assigned to a third party without the prior written consent of the FDA?** (§6.1f)
 - a. **If YES:** FDA may terminate
 - b. **If NO:** go to #3
- 3. Has the operator failed to satisfy its financial obligations to government or communities?** (§6.1d)
 - a. **If YES:** FDA may terminate
 - b. **If NO:** go to #4
- 4. Has the FMC or TSC completed all Pre-Felling Operations?** (§6.1c)
 - a. **If NO:** FDA may terminate
 - b. **If YES:** go to FDA # 5
- 5. Has there been felling of trees before the Felling Effective Date (§6.1a), outside a valid Annual Harvesting Certificate (§6.1b), or have resources been harvested that were not authorized?** (§6.1h)
 - a. **If YES:** FDA may terminate
 - b. **If NO:** go to #6
- 6. Has there been knowing misrepresentation (§6.1h), misclassification or mislabeling (§6.1i), or payment of a bribe, etc.?** (§6.1l)
 - a. **If YES:** FDA may terminate
 - b. **If NO:** go to #7
- 7. Have the Operations made any material breach of contract (§6.1k) or failure to comply with any provision of the NFRL or regulation promulgated under the NFRL? (§6.1j).** If these have been breached, then the FDA may terminate. Note: the NFRL does not list what these material breaches/failures are that would allow for termination. Presumably this is left to the discretion of the GoL, primarily the FDA and MoJ.



However, not all violations are equal, much less material. As mentioned in Box 3, the definition of materiality with respect to termination-worthy violations is left vague in the law (and in the accompanying regulations¹⁸), which leaves a great deal of discretion to the GoL, and the FDA in particular. The discussion at the LFCR II CMs was inconclusive as to what should constitute materiality.

Given that the law does not define materiality, nor the relative importance of the various legislative requirements, the LFCR II does not make any recommendation as to how these breaches should be addressed. Stakeholders, perhaps at a future National Forest Forum, should debate the relevant criteria for prioritizing action. Regardless, the FDA, in cooperation with the MoJ where necessary, should administer the appropriate penalties across the 11 principles in Liberia's legislative framework (see CAT - Table 8).

The rest of this section briefly summarizes the status of compliance for each principle across the 11 cases in the scope of the LFCR II review. Annex 2 further defines the rationale for requirements noted for all 11 legal principles.

Principle 1: Legal Existence/Recognition & Eligibility to Operate in the Forestry Sector

None of the Operators were in full legal compliance, and no evidence was provided that the FDA had approved any of the transfers of ownership nor transfer of Licenses, nor was evidence provided that the new Operators were pre-qualified to hold a License.

Principle 2: Forest Allocation

As reviewed by the LEITI (2013), none of the FMCs were allocated within the law (e.g., the NFRL and the Public Procurement and Concessions Act [PPCA]). Likewise, as discussed in Annex 8, the LFCR II's review of the CFMA allocation process indicated that none of the six CMFAs in the scope of the LFCR II were fully in compliance with the appropriate regulations. However, there is evidence that the FDA attempted to use the appropriate templates to aid compliance with the 2017 regulations that set out the steps in the CFMA allocation, and that this improved compliance. There is also evidence, however, that third-party involvement (by the logging Operators) always came before it should have in the process, leading to potential conflicts of interest.

Despite the inadequacies in the allocation process, all the FMCs presented ratified contracts,¹⁹ and all the CFMAs presented Third-Party Agreements (TPAs)²⁰ between the communities and Operators, all of which were attested by the FDA.

Principle 3: Social & Financial Obligations & Benefit Sharing

One of the main reasons for Community dissatisfaction, which was raised clearly and repeatedly in the Consultation Meetings, is the Operators' failure to meet their obligations in sharing benefits with the Communities most affected by the logging. The FDA, Operators, and the Communities themselves shared little with the LFCR II in terms of the stumpage and in-kind payments due to the Communities (the Case Brief in **Volume 2**

¹⁸ The FMC contracts are less ambiguous. Clause B8.72 outlines many issues that may lead to termination. Most are consonant with the NFRL Section 6.1, but among the additional terms in the contract are: bankruptcy, failing to maintain corporate status, civil or criminal conviction, fraud or tax evasion, human rights violations, failing to comply with court orders, failing to meet the requirements of the Annual Audit by the FDA, and wilfully wasting forest products for financial gain.

¹⁹ Many of the scanned FMC contracts shared with the LFCR II were missing pages.

²⁰ The agreements were often inappropriately titled CFMAs rather than TPAs (or CUCs).



document all the obligations in the SAs). However, the LFCRII was able to conclude that there is, at best, only partial compliance with Principle 3:

- The LFCRII calculated that the five FMCs should have paid more than US\$71 million in land rental by 2023, of which affected Communities would have expected, by law, to receive 30% or more the US\$21 million (Annex 4).²¹ Not all this failure to pay the Communities is the fault of the Operators. Instead of US\$71 million, the GoL only claims to have invoiced US\$58.4 million and reportedly collected only just over US\$30 million. This should have netted the communities more than US\$9 million. Instead, the NBST received only US\$3 million.

While the arrears are the fault of the Operators, the GoL has not invoiced or collected the full amounts. Moreover, the GoL kept US\$6 million in land rentals collected that should have, by law, been shared with Communities affected by logging around the five FMCs.

- The NUCFDC supplied payment information on four CMFAs within the scope of the LFCRII review, and the arrears were more than \$207,000 (Table 6).

Table 6. Financial arrears to Communities for four CFMAs.*

CFMA	Operator	Arrears	% of Invoiced Amount
Beyan Poye	Akewa	US\$63,000	64%
Bluyeama	Sing Africa	US\$109,164	51%
Sewacajua	Mandra	US\$34,956	11%
Zuzohn	Booming Green	US\$0	0%

* Company names have been abbreviated

Source: NUCFDC.

- Other aspects of the SAs were also unfulfilled (see Case Briefs, **Volume 2**).
- Further, there was no evidence that these SAs were reviewed every 5 years and renewed.
- There is no evidence of bank accounts being opened for payments to concerned Communities.
- Signatories to the SAs were not in line with the legal requirements, nor was there any evidence that the FDA attested to the TPAs or any transfer of ownership.

Principle 4: Forest Management Operations & Harvesting

None of the Operators produced the appropriate pre-felling planning documents (see Annex 5), and only one FMC among the 11 cases has a valid Annual Harvesting Certificate (which should not have been granted given the absence of valid planning documents). Given the lack of silvicultural practices, there is no reason to assume that the industrial concessions in Liberia are implementing Sustainable Forest Management (SFM).

²¹ By law (NFRL §14.2[e]ii), communities receive 30% of the land rental, and an additional 30% is also shared equally across Liberia's 15 counties.



Principle 5: Environmental Obligations

None of the cases were in compliance with environment regulations (see Annex 5), and only one CFMA has a valid Environmental Permit (which should not have been granted given the absence of valid impact assessments).

Principle 6: Timber Transportation & Traceability

No documentary evidence was provided to demonstrate compliance. The Operators referred the LFCRII to LiberTrace as containing all the evidence of traceability. Notwithstanding this reference, the LFCRII was not given access to LiberTrace to confirm any claims.

Principle 7: Transformation & Timber Processing

Section A2 of each FMC contract requires investment in processing facilities. By 2014, the five Operators in the scope of the LFCRII should have invested almost US\$65 million (unadjusted for inflation) in plywood, veneer, and sawmills (Table 7).

Table 7. Financial investments in processing required by contract for each FMC.*

FMC	Deadline [†]	Sawmill	Plywood/ Veneer Mill	Transportation, Assembling & Start Up
A – Alpha	3 years	US\$2.5 million	US\$22 million	
F – Euro	2 years	€1.5 million		€166,480
I – Geblo	3 years	US\$5.9 million		
K – ICC	3 years	US\$10 million		
P – Atlantic	3 years	US\$2.2 million	US\$20 million	

* Company names have been abbreviated

[†]Deadline is from the “contract effective date.”

To date, the LFCRII has only found evidence that Euro Liberia Logging Co. (FMC F) has made such an investment. Euro claimed US\$1.5 million in tax relief under the **2017 Act to Govern the Forestry Industrial Development and Employment Regime** for the import of a Primultini 1600 sawmill invoiced at just US\$267,097.²² The mill apparently remains, waiting to be installed until transportation infrastructure improves, especially roads and ports.

Principle 8: Workers Rights, Health Safety, & Welfare

Neither the FDA nor the Ministry of Labor provided assurance of compliance with the Decent Work Act (DWA)/ Labor Laws of Liberia in protecting worker’s rights, health, and safety. For example:

²²According to the **justification document** shared with the LFCRII by Euro, more than 50% of the US\$1.5 million is for heavy equipment and trucks, even though the mill is not installed. Moreover, about a third of the total \$1.5 million appears to be comprised of double counting. The LFCRII was unable to verify the accuracy of any of these claims.



- Neither provided a labor inspection report.
- Chapters 7 & 8 of the DWA require regular reviews and inspection, but the Ministry of Labor did not provide any statistical records to assess compliance.
- There is no evidence regarding the preference for local hiring, payment of minimum wage, nor adherence to labor practices, such as social security, occupational health and safety, and rest periods, etc. as outlined in the DWA.
- Inconsistencies were found in the records of employees and their corresponding contribution payments for social security benefits, which indicate only partial compliance by most of the companies.

Principle 9: Taxes, Fees, & Other Payments

All Operators had arrears. Overall, more than US\$31.5 million in arrears was reported across the 11 cases. The financial status of each Operator is reviewed in their Case Brief found in **Volume 2** and in Annex 4.

The arrears appear to be getting worse over time. Compared to SOFRECO's (2020) findings, arrears for the same 9 cases have increased by almost a third, or by more than US\$7.7 million. This increase is mainly due to an US\$8 million increase in arrears for land rental. According to the data provided by the FDA, only half (48%) of the land rental invoiced has been paid.²³

Despite the large increase in arrears, all the export fee arrears and more than 80% of the stumpage arrears noted by SOFRECO (2020) have reportedly been paid off: US\$212,265 and US\$777,130, respectively.

Principle 10: Export, Processing, & Trade Requirements

The lack of access to LiberTrace left it impossible for the LFCRII to verify any data provided by the FDA and Operators. Thus, it was not possible to verify compliance with these requirements.

Principle 11: Transparency & General Disclosure

Given the above, there is a clear need for greater transparency. Among the documents requested by LFCRII of the FDA and Operators, the vast majority were not forthcoming. When given the opportunity to meet with the LFCRII, only Euro, ICC, Geblo, and Akewa responded, with the team meeting Euro and ICC in person and Geblo and Akewa virtually. When given the right-of-reply to correct any errors or omissions, only Euro and Akewa provided documents.

None of the 11 operators reviewed provided evidence of publication of payments made to the government or to Communities, in satisfaction of their legal requirements. The LFCRII has observed the publication of some of the Operators' contracts on the LIETI's website but see no evidence of any such publication on the FDA's website.²⁴ The LFCRII cannot attribute the publication on LEITI's website to any Operator given that they have provided no evidence of complying with LEITI's disclosure requirements.

²³Proportionately, there are greater arrears in the "other" category (for which 60% of invoiced amounts are in arrears, although combined they total only c.US\$1 million). Here, "other" includes taxes (income and withholding) and the arrears that were carried over from the previous chain-of-custody system into LiberTrace. These were apparently mainly arrears from land rental and the abolished bid premium.

²⁴In the past, the FDA had published some contracts on its website, but those are no longer active. At present, the **Forest Licenses & Permits** page is blank.



IMPLICATIONS

Aside from undermining governance and the rule of law, the violations described above have obvious direct impacts on loss of government revenue and the capacity of GoL to deliver services to its people, on the safety of workers, and on Communities, whose SAs have been abrogated so that forests and roads are degraded with only minimal return in benefit. However, the environment of impunity in which these violations flourish, and their widespread and recurrent nature (as documented by every review and investigation since 2005), are clear indications of a much more profound problem. The implications of these violations include, for example:

1. **A failure to enforce requirements for a performance bond** removes the assurance of payment of arrears or compensation for lost value of degraded forest resources and environmental damage.
2. **A failure to enforce requirements for Business Licenses** makes it virtually impossible to recover arrears when the beneficial owners are unknown (especially when the loggers abandon their operations, which may be the case in six of the Operators reviewed by LFCRII that have not operated in the last year).
3. **A failure to pre-qualify those obtaining Forest Resources Licenses**, as required by law, has attracted speculators looking to flip their License or, worse, illicit loggers who use their License to overharvest high-value species and/or launder illegal timber harvested outside of their licensed area.

In addition, failure to pre-qualify owners may result in violations of the requirement of majority Liberian ownership (for TSCs and small FMCs). For example, the FDA allowed TSC A2 to be held by Renaissance, Inc., a company without majority Liberian ownership.

4. **Arbitrary enforcement** provides fertile ground for patronage and corruption to flourish. The 2005 Forest Concession Review found that ignoring pre-existing licenses meant that 72 logging companies held overlapping claims that were 2.5 times the total area of forests in Liberia.

The violations noted for the 11 cases demand that the FDA address the violations and compel compliance or pursue termination. The widespread and recurrent nature of non-compliance across the entire sector demands a whole-sector approach to reform, not just focusing on Operators, but also the government, Communities, and other stakeholders. This next section examines the Corrective Actions that can help achieve this reform, as well as appropriately addressing the breaches noted in the 11 cases in the scope of the LFCRII.



Corrective Actions

This section highlights the steps that should be taken to prevent further violations of the rule of law in the forestry sector of Liberia. The evidence from the LFCR II, and all previous reviews, is that there are widespread issues with a lack of compliance on the part of all stakeholders (Annex 6). To be clear, the assumption is not perfection, rather the aim is the progressive realization of compliance with the terms in the Operators' own contracts and with the most basic and material laws and regulations that govern the sector to put Liberia on a path to sound forest management. As the Terms of Reference for the LFCR II states, one of the goals of the review is to:

“Explore paths to regularization and agree on realistic corrective actions that forest companies should complete within a specific time frame (unless the Liberian Law prescribes that a given documented offense must be sanctioned with cancellation).”

To that end, the Corrective Actions discussed herein are also arrayed in a hierarchy of compliance, starting with the minimum standards that must be met before threshold behavior is even considered. If Operators are in compliance with these first two steps, then corrective actions should begin to address the additional requirements. Even these, however, should be taken in context of their relative importance to the sound management of the forestry sector.

Corrective Actions, as defined in Box 4, must have a realistic timeline. The LFCR II was tasked to identify actions that can be implemented within one year.



BOX 4

Defining “Corrective Actions”

“Corrective Actions” are those steps that must be taken to identify, correct, and prevent further violations of the laws and regulations that govern the forestry sector of Liberia. Violations create serious impacts, and in many cases, these are difficult to calculate, like the effects of poor labour standards on the lives of forestry workers, or the effects of mismanagement on the sustainability of forests themselves. Ideally, corrective actions would take steps to redress these wrongs. For practical reasons, in the LFCR II, corrective actions focus on those losses that are relatively easy to calculate, which are mainly financial. Given that redress is not part of the corrective actions herein, **in the interest of justice, Liberia should pursue appropriate remedies through other formal mechanisms for these other serious impacts.**



CORRECTIVE ACTIONS TABLE

In the development of the Corrective Actions Table (CAT), the LFCRII undertook a comprehensive approach, considering all the legal standards the Operators, Communities, and government agencies would ordinarily be held accountable for according to the relevant legislative framework for forestry in Liberia. Reviewing the legal standards used by the SOFRECO (2020) and LEITI (2013) reviews, the 11 principles covered are comprehensive enough to serve as the basis of the legal review. These principals are particularly grounded in Liberian laws to assuage any concern of these principles being aspirational or borrowed. Annex 2 provides a description of the legal rationale behind each of the requirements in the 11 principles.

The CAT also carries a section that explicitly identifies certain actions that are classified as criminal and civil violations according to Liberian law. Because these violations and offenses are linked to specific standards under the 11 principles, they are placed alongside each standard to ensure coherence in the CAT.

Also provided for in the CAT are penalties and sanctions prescribed by law for the commission of civil or criminal violations. The summary categories of penalties and sanctions provided for are, but not limited to,

1. Suspension (with notice and period to cure);
2. Termination;
3. Debarment;
4. Payment of fines;
5. Imprisonment;
6. Confiscation actions; and
7. Revocation of licenses.

Based on the foregoing categories of penalties stipulated in the CAT, the stakeholders at the consultative meetings and the LFCRII team recommended correction actions deemed to be practicable, easily implemented, and with an element of promoting deterrence.



Table 8. Corrective Actions Table. All amounts are in US\$ unless otherwise noted.

Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 1: Legal Existence/Recognition & Eligibility to Operate in Forestry Sector		
<p>Legal Existence Associations Law Section 12.1; 1.7(2)); NFRL Section 1.3 (Persons- legal and natural) & 5.1.</p> <p>Prohibited Persons Section 5.2(b) of NFRL; Regulation 103-7(21-22); Regulation 104-07(62), Section 44, PPCA; CRL 4.1(e); Regulation 103-07, Sections 21 & 23 (Debarment)</p>	<ol style="list-style-type: none"> 1. No filings will be accepted from business, no access to Court, possible dissolution by Registrar. (Associations Law 1.7 & 11.3). 2. Prohibited persons: Fines <US\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison (NFRL 20.1; 20.7; 5.1(a), 5.2(b)). 3. Failure to transfer License to an entity outside of an individual's control: Fines <\$25,000, or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison (NFRL 5.2(b)(v-vi); 5.2(c)). 4. The Authority shall place on the list of suspended Persons those who have defaulted on their financial obligations related to forest use (Reg 103-07 Sec. 21 & 23). For violators, if gross negligence: fines <\$25,000 or thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison (NFRL 20.7b) Otherwise, a fine of \$10,000 or twice the economic value obtained through the violation, whichever is greater (NFRL 20.7a). 	<p>The FDA, upon notice of the expiration, should request a Tax Clearance Certificate (FDA).</p> <p>No business should be done with a nonregistered business. Terms of imprisonment or confiscation of goods for disposal applies if same continue with business (FDA, MoJ, LBR).</p> <p>The Law should be repealed to represent present day reality by applying minimum and maximum fines reflecting % of the economic benefit obtained. (FDA to draft the preparation of the amendment and bring to attention of MoJ and the Executive.)</p> <p>In addition to placement on the list, the publication of the list (90 days upon approval) should be enforced, if not the senior staff and or official responsible should be fired and prosecuted (FDA (Lead), MoJ, and Executive Mansion).</p> <p>Debarment list (Public Procurement and Concessions Commission [PPCC] and MoJ)</p> <p>List of Debarred and/or Suspended entities (FDA)</p> <p>Prohibited individuals (FDA)</p> <p>List of persons interested in forest management (FDA)</p> <p>FDA will issue harvesting certificate only on valid business registration.</p> <p>Publication of suspension/debarment listing on FDA website (FDA).</p> <p>Amend regulation to require the disclosure of beneficial ownership and shareholding, which will require companies to file with LBR, LEITI, and FDA on an annual basis (FDA Board & Management, MoJ).</p> <p>Amend regulation to explicitly provide for obtaining FDA's approval on any transfer, issuance, assignment, reissuance of shares to new shareholders (FDA).</p> <p>Recommend the establishment of an electronic and manual archival system to store all information (FDA).</p> <p>Non-compliant Operators should be immediately suspended and required to renew registration in 1 month; if consistent noncompliance after 3 months, terminate (FDA).</p> <p>Transfer of interest to a permitted individual/entity within 1 month or terminate. (Prohibited persons to transfer interest in forest license to permitted individual/entity within 1 month or termination.)</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 2: Forest Allocation		
<p>For CFMAs Completion of the 11 steps CRL 2.2i; 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>For FMCs 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>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>Obtain Concession Certificate from Ministry of Finance and Development Planning (MFDP); Regulation 104-07 (5.2(a)(i)); PPCA (46)</p> <p>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>If the bidder or holder fails to post a performance bond, the government shall not grant the bidder or holder permission to use or harvest forest resources (Reg.104-07 Sec. 61 (g)).</p> <p>Assigning or receiving a Forest Resources License that does not have the prior, written approval of the FDA: Fines <\$25,000 or twice/ thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison (NFRL Section 6.2(a)).</p> <p>Violation of any provision of this PPCC Act commits an offence and when convicted be liable to imprisonment <5 years and/or a fine <US\$100,000. Violation of provisions of this Act may also constitute grounds for debarment</p> <p>No Concession shall be implemented unless the proposed project has been issued with a Certificate for Concession (PPCC 88).</p>	<p>Performance bonds should be renewed annually. FDA to annually monitor to ensure compliance (automatic monitoring system) (FDA).</p> <p>Operators to procure performance bonds consistent with legal requirements within 1 month or issue a notice of suspension with intent to terminate in 90 days (FDA).</p> <p>Transfer of interest to a permitted individual/entity within 1 month or issue a notice of suspension with intent to terminate in 90 days. (CSO and Communities to take the lead on reporting violations while the FDA Management and Board commence investigation to establish reported violations from CSOs and Communities.)</p> <p>Government actors involved should be penalized for procurement violations (FDA (Lead), MoJ, and Executive).</p> <p>Sanction imposed in addition to the fines. Revoke license of the Operator (FDA)</p> <p>The sanction should be maintained (Concession Certificate) (FDA).</p> <p>Annual Harvesting Certificate and export license issued on an expired bond should be revoked/suspended (FDA).</p> <p>Forest Resource Licenses must be advertised first before allocation (FDA).</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 3: Social & Financial Obligations & Benefit Sharing		
<p>Execution of a SA with authorized representatives of Affected Communities; Regulation 105-07 (31&32); NFRL 5.6(d)(vi)</p> <p>Minimum contents of SA included; NFRL (5.3(b) & 5.6(d)), Regulation 105-07 (33); Regulation 117-17</p> <p>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>Attestation by FDA on SAs and CUCs; Regulation 105-07 (36) COCS Standard Operating Procedure (SOP) (9)</p> <p>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>Termination for failure to satisfy, consistent with the terms of a Forest Resources License, any financial obligations to the Government (including payment of taxes, rents, or fees) or to local communities, except when such failure is due to Force Majeure. NFRL 6.1; E. Manual 1.5(a)</p> <p>Termination for assignment to a third party of the whole or part of the License without the consent of the Authority. NFRL 6.1</p> <p>The Authority shall place on the list of suspended Persons those who have defaulted on their financial obligations related to forest use. (Reg 103-07 Sec. 21 & 23)</p>	<p>Suspension (failure to pay in a specified time, License should be terminated).</p> <ul style="list-style-type: none"> Dispute resolution mechanism (stakeholders: FDA, Community, & Operator) to avoid violence (Community, Company, FDA). Execution of payment plan for Community payment (FDA, Community, Company). Before Export Permit (EP) is issued by FDA, FDA should confirm that Community payments/arrears have been paid in accordance with stipulation if existing (FDA, Community, company). All payment should be submitted to FDA by the Communities and companies. FDA to work with Operators and Communities (FDA, CFDC, CFMB). Recommendation for Community to allow FDA to have viewing rights to bank account for verification purposes to address accountability issues. (FDA Management & Board, Community). By law, companies need to open an account for cubic meter fee. (The logging companies established that there is already an existing account for all payments to the Community that address this, and it is written in the social agreement.) (FDA, CFMB, CFDC) No harvesting certificate should be issued in the absence of evidence of payment obligation to Communities (FDA, Community). CFDC: FDA should approve the management of the cubic meter fee account by National Benefits Sharing Trust Board (FDA, CFDC, NBSTB). Recommendation that similar benefit-sharing mechanisms be established for CFMAs (FDA, MoJ, CSO, Board of FDA). Consider amending the law to make provisions for such a mechanism (FDA). Reactivate the quarterly meetings among the Operators and the Communities where FDA will be present (FDA). In FMC's quarterly meetings, all information (activities in the Communities, number of companies existing, etc.) is shared, including payments to the Community (CFDC, FDA, LRA). Project must be approved before money is transferred into the accounts that are managed by NBST (NBST, MFDP, FDA). Enforce the law against Communities that are mismanaging Community funds (FDA, NUCFMB, NUCFDC). Amend existing SAs or CUCs to describe obligation requirements (FDA, Community, Company). Settlement of arrears or execute stipulation: suspend all activities until payment is completed or terminate license (FDA, Communities, Company). Communities should hold their leaders (CFDC & CFMB) accountable (i.e., request bank statements, etc.) (NUCFMB, NUCFDC, CSOs, FDA). To serve as CFMB member, leader must reside in the Community. Review the election of Community representatives who do not reside in the affected cCommunities. Update and publish the suspension listing to include companies in arrears with Community payments (FDA). Prevent companies on suspension list (and their subsidiaries/affiliates) from contracting with other Communities (FDA, CSOs, NUCFMB, NUCFDC). Properly disburse land-rental share: both Counties & Communities receive 30% through the MFDP and NBST, respectively (MFDP, NBST, FDA).



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 4: Forest Management Operations & Harvesting		
<p>a. AOP, 5yFMP & 25 year, Strategic Forest Management Plan (FMP); NFRL (4.5, 5.3,5.4, 5.6); Regulation 104-07 (62a); Environmental Protection and Management Law (EPML) (23); COCS SOP (9); CRL Regulation (10.3, 10.4); Code of Forest Harvesting Practices (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, FMC Contract (B3.11)</p> <p>e. Annual Harvesting 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.; Community Assembly (CA)-->CFMB</p> <p>b. CFMA; Reg. 7.1</p> <p>c. Acceptance by Community; Reg. 7.5</p> <p>d. Acceptance by FDA; Reg 7.7</p> <p>e. Community Forest Management Plan (CFMP) to be developed and reviewed every 5 years; CRL Reg. 8.1</p> <p>f. No third party can operate on >250,000 ha at a time; Reg. 10.4</p>	<p>Termination for felling of trees not covered by a valid Annual Harvesting Certificate. NFRL 6.1</p> <p>Termination for intentional extraction of any natural resource or forest product not authorized by the License or otherwise expressly permitted by the government. 5.1(h)</p> <p>If the bidder or holder fails to post a performance bond, the government shall not grant the bidder or holder permission to use or harvest forest resources. (Reg.104-07 Sec. 61 (g))</p> <p>Suspension of the FMC if the company is in breach of material provisions of the FMC (B8.7) and give 30-day windows to correct the breach. (FMC (B8.7))</p> <p>Termination for any material breach of an FMC or TSC. (NFRL 6.1)</p>	<p>Terminate Licenses where Operators have been harvesting outside of their AOP and/or without a valid Annual Harvesting Certificate (FDA, MoJ).</p> <p>Within 1 month, suspend all forest activities until a performance bond is procured consistent with legal requirements, or issue a notice of suspension with intent to terminate in 90 days (FDA, MoJ).</p> <p>Instead of termination, where appropriate apply lesser penalty in the form of suspension and fine (FDA, MoJ).</p> <p>Provide funding for Compliance Audits and FMC reviews (GoL and partners, FDA).</p> <p>For CFMAs: Community to develop their CFMPs within 3 months or risk the termination of their CFMAs with FDA.</p> <p>Suspend activities for 6 months for all pre-felling requirements (e.g., FMPs) to be produced, otherwise FDA to issue notice to suspend with an intent to terminate if requirements are not met (Community, MoJ, FDA, CFMB; Communities to initiate).</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 5: Environmental Obligations		
<p>ESIA report and ESIA Permit obtained; EPML (6,21-23); Reg (105-107) COCS SOP (9); Regulation 112-08 Forest Products Processing and Marketing (11); FMC Contract (B3.11)</p> <p>Compliance with environmental standards and ESIA Report; EPML (24-27)</p> <p>Compliance with Code of Harvesting Practices; EPML (parts IV & V); CFHP 2.5.1; GFMP; FMC Contract (B3.43, B6.41)</p> <p>Compliance with Forest Management Guidelines; NFRL (8.1)</p> <p>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>Reforestation within 5 years; FMC Contract (B6.42)</p>	<p>Conducting certain/prohibited activities in protected areas: Fines <\$10,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison. (NFRL 9.10(b))</p> <p>Conducting wildlife-related activities (hunting, capturing, and trading protected animals) without certificate of legal ownership: Fines <\$10,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or <12 months prison. (NFRL 9.12 (b,d,f,g,i); NFRL 13.1(a.); 13.1(b)(i); 13.1(c))</p> <p>Failure of holder to notify FDA of the transfer of an Environmental Impact License Fines <\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 10 years prison. (EPML 28(6))</p> <p>Person who fails to comply with EIA process: commits a felony in the 2nd degree and is liable upon conviction. Fines <\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 10 years prison. (EPA Act, 38.1(a))</p>	<p>Penalties should be maintained (FDA).</p> <p>FDA should not allow an Operator to do business without an EIA permit (FDA).</p> <p>Operations should be suspended when permit is expired until renewal (FDA).</p> <p>Failure to renew the permit, the License should be revoked (FDA).</p> <p>Commence investigations and subsequent prosecution of these offenses (MoJ).</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 6: Timber Transportation & Traceability		
<p>Timber placed in the Chain of Custody System (COCS); COCS SOP (10-19); Reg. 108-07; FMC Contract (B6.63)</p> <p>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>Termination for intentional misclassification or mislabeling of forest products for any purpose. NFRL 5.1 (i)</p> <p>Importing, transporting, processing, or exporting timber unless the timber is accurately enrolled in the COCS: Fines <\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison. (NFRL 13.5(e))</p> <p>Payment of \$5,000 fine: Falsifying data declaration (species, diameter, height, log length, volume, barcode/identification) or reports or documentation submitted to the Authority. (Reg. 108-07)</p>	<p>The License should be revoked/terminated in the case of misclassification or mislabeling (FDA, MoJ).</p> <p>Amend the punishment on CoC violation to include the sharing of the proceeds with the Community, consistent with benefit-sharing protocol (FDA, MoJ, Executive Mansion).</p> <p>Confiscation of logs not enrolled into the COCS (MoJ, FDA).</p> <p>Include violator's name on the debarment listing (FDA, MoJ).</p> <p>Administrative actions be taken against any scaler/LVD staff caught in mislabelling (declassifying) logs (FDA).</p> <p>Commence inspection to determine the existence of abandoned logs and take legal actions on all abandoned logs to allow their auction (FDA, MoJ).</p> <p>Create database to record abandoned logs or those confiscated, preferably within Libertrace (FDA).</p> <p>Perform Compliance Audits and document reports within 3 months (FDA).</p>
Principle 7: Transformation & Timber Processing		
<p>Sawmill, ply/veneer mill (expenditures) requirement; FMC contract (A2)</p> <p>Sawmill permit required; Regulation 107-07 (46); COCS SOP (20, 26); Regulation 112-08 Forest Products Processing and Marketing (7,8)</p> <p>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>Traceability of products from Sawmill permit; NFRL 13.5; COCS SOP (19)</p>	<p>Payment of \$5,000 fine: Falsifying data declaration (species, diameter, height, log length, volume, barcode/identification) or reports or documentation submitted to the Authority. (Reg. 108-07)</p> <p>Importing, transporting, processing, or exporting timber unless the timber is accurately enrolled in the COCS: Fines <\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison. (NFRL 13.5€)</p>	<p>Contract to be suspended until sawmill is installed.</p> <p>Government's obligation to create conditions to operate sawmills should be examined. Companies and other stakeholders (LibTA) recommended that existing structure is not realistic for sawmill installation (limited port facilities, limited roads, inactivity of port, etc.). Recommend government put in the right infrastructure to accommodate sawmills before this requirement is enforced (FDA, LibTA, MoJ).</p> <p>Fines, prosecution, and possible cancellations depending on the gravity (FDA, MoJ).</p> <p>Depending on company location, 2 or 3 years is given to build sawmill.. (See companies concern above) (FDA).</p> <p>Determine % of logs versus sawn logs to be exported (FDA).</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 8: Workers Rights, Health, Safety, & Welfare		
<p>Preference for Liberians; work permits duly issued for foreign workers; Section 45.1(a), DWA</p> <p>Payment of minimum wage; DWA (5.1-5.6, 13.1, 16.1, 16.2, 16.3)</p> <p>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>Violation of minimum wage: MOL is to issue cease and desist from continuing such violation and take such affirmative and remedial action as is specified in the law or, as in the judgment of the Ministry, will effectuate the purposes of this Act; may order the respondent to pay a fine not exceeding \$500. (DWA 9.5(c))</p> <p>Failure to pay to the fund: Guilty of a misdemeanor punishable by a fine not less than US\$500 but not greater US\$2,000, or 1-year prison term. (NASSCORP Act 89.47)</p>	<p>Contracts to be reviewed on employment (FDA).</p> <p>DWA standard should be enforced (FDA, MOL).</p> <p>Written employment contract should be issued to both skilled and unskilled workers (MOL, FDA).</p> <p>Review existing contracts for compliance with the minimum wage (MOL).</p> <p>Validate company compliance before licenses are issued (FDA).</p> <p>Audit all concessions and prepare compliance reports (NASSCORP).</p> <p>Audit all concessions (MOL inspectors).</p>
Principle 9: Taxes, Fees, & Other Payments		
<p>Settlement of taxes, fees, levies, tax arrears; Section 2108 of Tax Code; Section 14.2 of the NFRL; Regulations 107-0761-63; COCS SOP (9)</p>	<p>Termination: Failure to satisfy, consistent with the terms of a Forest Resources License, any financial obligations to the government (including payment of taxes, rents, or fees) or to local Communities, except when such failure is due to Force Majeure. NFRL 6.1; E. Manual 1.5(a)</p> <p>The Authority shall place on the list of suspended persons those who have defaulted on their financial obligations related to forest use. (Reg 103-07 Sec. 21 & 23)</p> <p>Terminate or suspend Forest Resources Licenses until the fees are paid. If timber harvested under a Forest Resources License is exported without paying the required log stumpage or export fees. (Reg. 105-07 Sec. 64 (d))</p> <p>Tax evasion: Fines <\$200,000 &/or < 5 years prison. (LRC 90)</p>	<p>Settlement of arrears or execute stipulation: suspend all activities until payment is completed within 6-12 months or terminate license. (LRA, FDA)</p> <p>Suspension, termination, and court action (FDA, MoJ).</p> <p>Enforcement of the provisions on performance bonds (FDA, MoJ).</p> <p>Mechanism to be put in place to allow companies to pay through installments (LRA).</p> <p>Hold meeting(s) to develop payment plans; if companies fail to follow plan, they will be taken to court (LRA).</p> <p>Conduct compliance audit and impose fine where tax evasion is determined. All reconciliations of tax credits and waivers be concluded within 3 months (LRA).</p>



Issue	Penalty/Sanction for Violations	Corrective Action Remedy/Prevention with Implementing Agency/Partner
Principle 10: Export, Processing, & Trade Requirements		
<p>Annual registration of exporter with FDA; Regulation 108-07 (41)</p> <p>Confirmation that all logs/timber to be exported were enrolled in the CoC; Regulation 108-07 (42); COCS SOP (23-37); NFRL 13.5</p> <p>Pricing in accordance with LVD; Regulation 108-07 (43); COCS SOP (18 & 21)</p>	<p>Termination or suspension of Forest Resources License until the fees are paid if timber is exported without paying the required log stumpage or export fees. (Reg. 105-07 Sec. 64 (d))</p> <p>Importing, transporting, processing, or exporting timber prohibited unless the timber is accurately enrolled in the COCS.</p> <p>Exporting forest products without an EP from FDA: Fines <\$25,000 or twice/thrice the economic benefit obtained, whichever is greater; &/or < 12 months prison. (NFRL 13.5(e), 13.7, 13.8)</p> <p>Fine of 2 times the FOB unit price for product before export: Understating FOB unit price. (Reg. 112-08)</p>	<p>Settlement of arrears or execute stipulation: suspend all activities until payment completed within 6-12 months or terminate license (LRA, FDA).</p> <p>Withholding of EP (FDA).</p> <p>Community participation in monitoring of CoC (in the tracking of production) (company, Community, CSO).</p> <p>FDA rangers are present on all production sites (FDA).</p> <p>Companies that have defaulted should not be granted a new contract (FDA).</p> <p>The market price is updated based on market changes, which must be approved by the board (FDA, LRA).</p> <p>Harmonize price with other stakeholders (LRA, FDA, FMAC).</p>
Principle 11: Transparency & General Disclosure		
<p>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>Companies compliant with LEITI disclosure requirements; LEITI Act (4.1 & 5.4)</p> <p>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>Termination: Failure to comply with any provision of this Law or of any Regulation promulgated under this Law. (NFRL section 6.1(d))</p>	<p>Immediate fine of US\$25,000, and a requirement that the publication must be done within 3 months' time.</p> <p>Prerequisite to obtain Annual Harvesting Certificate (FDA).</p> <p>The responsible FDA staff for publication should be:</p> <ul style="list-style-type: none"> • First offence: warning letter • Second offence: 3-month suspension • Third offence: dismissal (in line with applicable laws) <p>Develop an information clearinghouse to post legally required documentation within 6-12 months (FDA, MoJ, MOI, LEITI, LRA).</p>



TYPES OF CORRECTIVE ACTIONS

Dissuasive actions

The most obvious actions to be taken immediately are those penalties and other sanctions proscribed in law and regulation. These penalties are punitive, but they are also meant to deter future violators. If the GoL, through the FDA and MoJ, do not punish violators, then there should be little expectation that the violations will not occur again. Thus, penalties need to be sufficiently dissuasive.

The NFRL of 2006, as written, tries to accomplish this by creating significant economic disincentives to breaking the law. It allows the FDA to assess administrative penalties²⁵ that include:

1. A fine of up to US\$5,000, plus
2. FDA's expenses in dealing with the offense, plus
3. Fees that should have been paid, plus
4. "[A]n amount equal to the damages to the natural resources and the Environment caused by the offense," all of which could be large (NFRL §20.9b)

Further, under the NFRL (§20.7), the fines for a person showing "gross negligence" in breaking the law are even larger:

1. "[T]hree times the economic benefit that the Person obtained through the violation"
2. Up to 12 months in jail, plus
3. "[A]n additional fine of twice the reduction in market value of the damaged property, twice the cost of restoring the Forest Resources, or twice the cost of Environmental Restoration, whichever is greatest."

To date, the FDA has not imposed such large penalties. As an example, in the recent case of Renaissance, Inc. and TSC A2, the FDA first fined the Operator only US\$5,000 for an illegal harvest valued at US\$4 million.²⁶ While the fine was later increased by US\$100,000, it is still much lower than permitted by the NFRL (arguably at least US\$12 million), and certainly lower than the benefit received by the company, and thus, likely of little deterrent value.

RECOMMENDATION: Reflecting the aim of the initial 2005 Forest Concession Review (to "reinforce the fundamental goals of restoring the rule of law and addressing the culture of pervasive illegality and corruption"), the first recommendation of the LFCRII is that *the FDA and MoJ should enforce appropriate and dissuasive penalties against those with material violations of forestry law and regulation*. These penalties should be proportionate to the harms caused and benefits enjoyed, as defined by law (Table 8).

²⁵Section 20.9b also requires the person to agree "in writing to accept administrative punishment for the offense."

²⁶<https://thedaylight.org/2023/01/17/fda-submits-to-courts-order-to-allow-export-of-us4m-illegal-logs/>



Curing violations

In addition to penalizing the violator, and rather than simply terminating the License, the regulator should pursue actions that will compel the Operator to come into compliance as soon as possible, to remedy or “cure” the violation. In the case of FMCs, when material non-compliance has been detected, the FDA should notify the Operator that they have 30 days²⁷ to cure the violation. In the case of financial arrears, the Operator may enter into a time-bound plan to pay off the balance, including anything owed to Communities, for example under SAs. In any case, 90 days after a notice, a continuing breach will require termination.²⁸

Termination

When violations are not cured within 90 days or any other period as may be determined by law or regulation, and where the offense warrants (e.g., NFRL §6.1), then the FDA should proceed with immediate termination of the License.

Legal proceedings

Where the “conduct giving rise to the offense...support[s] a felony criminal charge” or where damage to the forest exceeds US\$10,000, then the FDA must refer the offense to the MoJ (FDA Regulation 104-07 §41).

CORRECTIVE ACTION RECOMMENDATIONS FOR EXISTING LICENSES

As previously mentioned, the LFCRII did not review all active Operations, much less all those that exist but are not active (see Annex 7). Consistent with the above generic recommendations, the LFCRII recommends not only that all 11 cases in the scope of the LFCRII review be treated equally, but that any of the additional active cases listed by the LFCRII (Annex 7), or any others existing, should be treated the same if they are also found to be non-compliant. The LFCRII review criteria and the corrective actions outlined in this report are generic and should be applied to all those practicing industrial forestry in Liberia. This is the only way to ensure that the FDA’s goal of ‘regularization’ of the sector is achieved.

RECOMMENDATION: The FDA should investigate each existing License and “promptly refer violations of the NFRL of 2006 and its regulations to the MoJ for enforcement. The Authority shall use best efforts to provide such assistance as the MoJ may reasonably require to investigate and prosecute referred matters” (FDA Regulation 104-07 [§21]). The FDA should apply all appropriate Corrective Actions, including termination, where warranted.

Suspension with the intent to terminate

Based on the evidence presented and consistent with the LFCRII review, all 11 cases appear to have failed to meet the Minimum Standards (Test 1), and all have failed to meet most of the threshold criteria to avoid termination (Test 2). Therefore, the FDA should give notice of suspension with the intent to terminate to all Operators. The Operators should have 30 days to cure all breaches. If these breaches are not remedied,

²⁷As provided in FMC contract §B8.73.

²⁸As provided in FMC contract §B8.73; the contracts also only allow 30 days to remedy individual breaches (§B8.7).



the FDA should terminate the Licenses within 90 days.

Where necessary, the FDA in consultation with MoJ should determine the appropriate additional administrative and criminal fines and other penalties.

Where the Operators are unable to pay off all arrears immediately, the LRA and FDA should negotiate a time-bound plan to pay off arrears to the Government and the Communities, and to settle other non-financial obligations.

While the FDA did not provide the LFCRII with a list of all active Licenses, the FDA's MD noted that among the cases in the scope of the LFCRII, FMC A, K, and P, as well as CFMA Bluyeama, Beyan Poye, and Zuzohn, were not active. For these cases, and any others that have not conducted harvesting for more than 12 months, the FDA should begin immediate termination proceedings.

ADDITIONAL CORRECTIVE ACTIONS THAT FACILITATE THE RULE OF LAW

The ongoing, documented, widespread lack of compliance in the forestry sector is not only due to the behavior of the Operators, but due to the failure of the GoL to implement the law (as illustrated by the Process Findings). This section outlines what the GoL, and the FDA specifically, should do to improve the management of Liberia's forest resources, and to improve the collection of revenues due from the sector.

Thus, the remainder of this section explores actions that will:

- Improve the capacity and 'political will' to comply with the legislative framework.
- Increase the ease of achieving compliance through improved governance by increasing transparency (conducting Monitoring and Evaluation (M&E) and better reporting), coordination across government and with stakeholders, and building accountability.
- Reduce the risk of illegal wood entering the legal supply chain.
- Incentivize compliance, where possible.

To be realistic, the actions must be accomplished within the next 12 months.

1. Building accountability

Where forest-sector governance is a challenge, one needs to assess why the capacity and 'political will' appear to be missing from the forestry sector, or at least insufficient to ensure compliance. One way to build 'political will' is to build capacity and enforce the rule of law by building strong and interconnected governance structures that operate under the principles of good governance and that drive greater accountability for compliance.

Accountability mechanisms establish clear lines of responsibility and ensure that those entrusted with managing resources are answerable for their actions. When individuals or institutions are held accountable for their decisions and actions, it promotes responsible behavior, discourages misconduct, and improves overall resource management outcomes. Accountability is strengthened through three self-reinforcing key components of good governance: M&E, reporting, and enforcement.



Transparency is a foundational aspect of accountability. It involves disclosing information that enables stakeholders to support government agencies in effective governance: enabling identification of potential conflicts of interest, corruption, or mismanagement. Historically, reviews in the sector have been plagued by inadequate or unavailable records and data. LEITI, SIIB, SOFRECO, and now the LFCRII have all recorded this challenge.

Within 12 months, the LFCRII recommends that the GoL clarify or implement the following:

- Institute beneficial ownership reporting requirements.
- Review the suitability of LiberTrace to serve its purpose.
- LiberTrace should be upgraded so that all appropriate documents are placed in the public domain, and easily accessible on-line and anonymously (username/password not required). Note the NFRL, Section 18.15 Public Access to Information grants “free public access to read and to copy all documents and other information in its possession, including all audits, all Forest Resources License fee invoices and fee payment information, business and FMPs, strategies, resolutions from the Board of Directors, public comments, reports, inventories, regulations, manuals, databases, contract maps, and contracts.”
- Produce guidelines for stakeholders to initiate requests under the Liberian Freedom of Information Act (FOIA) of 2010. These guidelines should outline the process by which individuals can request and obtain information from government entities and public institutions (including contracts, reports, policies, and more), the timelines for processing such information requests, and mechanisms for appeals, complaints, and protection of requesters.
- Set up accounting systems that can generate accurate accounting of payments made to Community bank accounts and make available reports of these payments on at least a quarterly basis.
- Require Operators to book every payment with evidence to Communities into LiberTrace, including the relevant calculations behind the payments.
- Support Communities and the NUCFDC to collect data from rural areas, and reconcile the amounts with information from Operators and the GoL.
- Institute requirements that Communities not only report on receipts of funds expended, but also reconcile them. Communities should be encouraged to use the expertise of the National Benefits Sharing Trust to help manage revenue from the sector.

M&E and reporting systems support accountability by facilitating the systematic collection, analysis, and documentation of information related to the implementation of programs, projects, or policies. Regular reporting, a mainstay of the most basic M&E systems, enables stakeholders to assess progress, identify gaps, or challenges, and hold parties accountable.

Within 12 months, the LFCRII recommends that the GoL clarify or implement the following:

- Establish an M&E office that would follow-up on the recommendation that the FDA itself noted in 2022: a “permanent concession review mechanism is needed to ensure adequate oversight and accountability for existing concessions...The system could be organized around FDA’s annual concession audits, LiberTrace’s [Chain of Custody] CoC system and payments reports, and the LEITI’s annual reconciliation and audit of payments by concessionaires to government. The system could also benefit from support, as needed, from the [General Auditing Commission] GAC...the new Bureau of Concessions, Ministry



of Planning and Economic Affairs, Ministry of Lands, Mines, and Energy (MLME), Ministry of Agriculture, and the Liberia Land Authority (LLA) ...There is also an important role for local communities in the ongoing monitoring and oversight of concessions.”

- Conduct and publish annual audits as per the NFRL (§3.4). By law, the report shall contain information on (inter alia): ownership; volume and location of trees available for harvest under the Annual Coupe; the volume and value of actual harvest, sales, and exports; the fees/taxes assessed and paid, including benefits paid to each Community; and enforcement actions, including penalties assessed and paid, charges laid, arrests, settlements, and convictions associated with each concession.

The FDA has not been publishing these audits. If the FDA did, and the results were made publicly available, it would help inform Liberians and help build public support for greater accountability.

- Conduct and publish annual enforcement reports, as required by the NFRL (§20.11) and FDA Regulation 109-07 (§3), which mandate that the FDA publish such an annual report with a description of all violations, including the names of violators, and the penalties assessed and collected. This requirement has also been unfulfilled.
- Conduct an evaluation of the reporting requirements of other Ministries, agencies, and Operators that have reporting responsibilities that are going unfulfilled and recommend reporting that would fill gaps. For example, the Ministry of Labor should maintain comprehensive statistical records related to labor compliance, such as regularly providing labor inspection reports to assess compliance levels by both regulators and Operators. These requirements appear to also be unfulfilled.
- Set up incentive or punitive measures to ensure the implementation of NFRL (§5.8), which requires FMC and TSC Operators to publish a list of all payments made to the government twice a year in a Monrovia newspaper. This requirement has also been unfulfilled.
- Set up incentive or punitive measures to ensure implementation of CRL Regulation (§3.13d), which requires CFMBs to submit quarterly reports on the management of the Community Forests, volumes harvested, and annual financial audits. Section 1.6 ensures that all information is public (unless explicating restricted by legislation). This requirement has also been unfulfilled.
- Support the implementation of the LEITI Act of 2009 by setting up information sharing mechanisms for data not already publicly accessible. (i.e., “on a disaggregated basis, all taxes, royalties and other fees paid to all agencies and levels of the Government and the revenues received by the Government from the Companies”). Unlike LiberTrace, the LEITI reconciles government and corporate reporting and then makes their results public in annual reporting.
- Establish a system for regular renewal or review of SAs, as required by law, especially after the initial 5-year period.

2. Facilitate compliance using existing tools

To facilitate the immediate curing of violations, the FDA should require Operators to use existing handbooks, templates and other aids to implementation (listed in Annex 11). When the FDA made use of the Nine Steps Handbook for allocation CFMAs, compliance with the process appears to have increased dramatically.

3. Incentivize compliance

Based on the public’s support for greater accountability, the GoL should use their authority to compel greater compliance. One way to do this is to make violations costly. At the moment, all Operators are in arrears to



government and communities. By implementing the requirement to post a performance bond before being awarded an Annual Harvesting Certificate, the FDA will make it much more expensive for an Operator to default. Within 12 months, the GoL should:

- Revise the performance bond requirement. Operators have suffered from low capital or liquidity issues, which have affected their ability to operate and/or to comply with financial obligations to government, Communities, employees, vendors, etc. Some of this can be attributed to losses from operations or the refusal of their shareholders to infuse capital into the business. However, the legal framework has measures to ensure that Operators can satisfy their payment obligations. The process of pre-qualification and the provision of a performance bond have been noted as some of these measures. Even though they exist, there are still lapses. Therefore, the LFCRII recommends that (i) during the pre-qualification process, a minimum capital requirement be established for companies to comply with and maintain throughout their operation, and (ii) the current calculation of the value of the performance bond be adjusted to cover total exposure to government, Communities, and employees.

4. Increase efficiency

- Create an inter-ministerial committee on forests to enhance inter-agency collaboration. It is evident from this and previous reviews and consultations that coordination among agencies is either non-existent or simply ceremonial. The continuing non-compliance with requirements on labor conditions, social welfare, environmental protection, and the lack of data on prosecution of forest violations are indicative. Such an inter-ministerial committee with inter alia, the MoJ, LRA, MFDP, Ministry of Internal Affairs, Ministry of Labor, EPA, NASSCORP, and the FDA can set the stage for the periodic review of compliance of the Operators and monitor enforcement in the sector. The legislature should provide oversight of the committee's work.
- Create suspension and debarment lists. The 2005 Concession Review noted that many of the same bad actors reappear repeatedly as logging Operators under new corporate identities, and some of the same noncompliant companies continue to get Licenses despite clear violations of the rule of law. Liberia's legislative framework aims to bar these bad actors from operating in the future, or at least suspending them until their violations can be corrected.²⁹ Under the PPCA (§44), the PPCC is tasked to maintain a government-wide list. In addition, FDA Regulation 103-07 (§22) states that the FDA "shall keep a list of debarred Persons and a list of suspended Persons."

Despite this legal requirement, no such lists exist. The LFCRII recommends that the FDA immediately create such lists based on FDA Regulation 103-07 Standard and Procedure for Listing (§23-24).

In the interest of full disclosure, the LFCRII notes that the FDA's stated position during the consultative meetings was that the FDA cannot create these lists unless and until the PPCC and other government agencies create their own lists. However, it is the LFCRII's legal opinion that this is incorrect. FDA Regulation 103-07 (§22) clearly states that the FDA lists are to be "in addition" to these lists and not dependent on them.

²⁹This is standard practice. For example, the Africa Development Bank (ADB), as part of its "fiduciary and legal duty to ensure that funds are used for the purposes for which they were intended," has sanctioned more than 1,000 individuals and firms that have been "found to have participated in coercive, collusive, corrupt, fraudulent or obstructive practices...These individuals and firms are therefore considered ineligible to participate in contracts financed or administered by the ADB."



5. Establish a moratorium on all new allocations until responsible agencies of government develop the safeguards to ensure compliance

Any future allocation of Licenses/contracts that involve any forest use under any 4Cs will only further perpetuate the culture of complacency and non-compliance. Allocating new contracts will send a negative signal to the stakeholders that the sector is not prepared to effect the required changes and that reviews are only conducted to satisfy donor requirements for funding. Compliance needs to be entrenched in the sector through the enforcement of the legal framework, which, at present, would require all the Operators reviewed to be terminated unless they can cure the defects within the specified timeframe.

Annexes

Annex 1 Rationale for the minimum standards

1. Business registration and disclosure of ownership

Liberian law contains an explicit prohibition on entities doing business in Liberia without obtaining an authorization. A company failing to obtain a Business License runs the risk of having its activities deemed illegal or null and void. Once a business entity complies with the registration requirement, it must thereafter always maintain a current business registration by undertaking an annual renewal thereof.

To ensure that these requirements are maintained by all registered businesses, the Business Corporations Act/Associations Law of Liberia prescribes specific penalties or forfeitures a defaulting business suffers for its failure to maintain a current business registration. Amongst them are that the entity (i) ceases to be in good standing and until restored is prevented from filing any instrument with the Corporate Registry, (ii) shall not have access to the Courts or be able to maintain any action in court, and (iii) risks the possibility of being dissolved by the Corporate Registry.

In addition to these requirements under the general corporate laws, the forest laws also require companies seeking to and holding Forest Resources Licenses to be duly registered under Liberian law and legally doing business in Liberia. The LFCRII has seen from the review that although all the companies under review were registered to do business in Liberia, complying with the requirement to maintain a current business registration has been yet a challenge. Monitoring compliance from both the Corporate Registry and the FDA standpoint has been almost non-existent. Although the FDA has asserted the impossibility of companies not being registered or maintaining a current registration due to the compliance checklist in LiberTrace, the LFCRII did not cite the current business registration for most of the companies under review. Of the 11 cases in the scope of the review, only five had a valid Business License.

Of key significance for registration is the essence of having Articles of Incorporation that outline what activities the company is authorized to engage in and the individuals or legal entities holding ownership rights of the company. The ownership right of each company is relevant information to be disclosed either in the Articles of Incorporation or by other statutory or voluntary disclosure regimes. Its purpose is to inform stakeholders, especially the government, as to whether the person is a prohibited person by law that is suspended or debarred from engaging in forest activities. In addition to this is the requirement (under the NFRL and the attending FDA Regulation 103-07) of disclosure at the point of pre-qualification and where any transfer or assignment of



individual ownership (“Significant Individuals,” including those that own more than 10% of shares) must be given prior approval by the FDA, in part to ensure that no prohibited person is involved with the License.

Operators have vehemently opposed this mandatory disclosure and pre-approval regime relative to the transfer of ownership.³⁰ The FDA does not agree with this conservative interpretation of the meaning of assignment or transfer under the law. The LFCRII agrees with the FDA that the transfer of any rights to ownership in a company holding a Forest Resources License (including subcontracts for harvesting or processing) as defined by law³¹ must be approved by the FDA. This will allow the FDA to conduct proper due diligence on the potential owner and their suitability to hold a forest resource license in Liberia. As a result of the Operators’ disagreement with this principle and the FDA’s dereliction in monitoring transfers of ownership, the sector has remained vulnerable. First, should an Operator go into default, when the GoL does not know the ownership structure, it makes it difficult to pursue claims (e.g., after the 2005 Forest Concession Review, it became clear that the GoL did not know the individuals behind the logging companies that had previously operated, and so more than US\$64 million in arrears went unpaid). Second, without knowing beneficial ownership, the FDA may be allowing unknown individuals to own Licenses that are (or would be if the FDA maintained such lists) suspended, or worse, debarred.³² Third, for Licenses that require majority Liberian ownership, it allows for inappropriate ownership structures (e.g., TSC A2 was held by Renaissance, Inc, which did not have at least 51% Liberian ownership). And fourth, for CFMAs, it becomes challenging or near impossible for communities to distinguish between companies with owners that are prohibited from engaging in forest activities in Liberia, and those that may owe them arrears.

2. Contract allocation

After satisfying the requirement to establish a legal corporate existence under Liberian law, an Operator must comply with forest related laws and the standards contained therein to qualify for and obtain a License to undertake forest activities. The right to harvest and extract logs can only be legally conferred under a contract duly executed in keeping with the law applicable to the contractual process.

3. Performance bond

Section 5.1(e) of the NFRL states that the FDA must make sure that those involved in commercial forestry activities post performance bonds to guarantee their performance of work, including securing payment of fees, redress of injuries, compensation of employees, reclamation of land, and return of property. (The minimum bond is half

³⁰Section 6.2 of the NFRL says a. “No Person shall assign a Forest Resources License without prior, written approval” of the FDA, and b. “The Authority shall not approve an assignment or transfer of a Forest Resources License to a Person who fails to satisfy the basic qualifications” to hold such a License. However, the companies argue that they are not transferring licenses, rather they are merely transferring shares in the companies that hold the licenses. However, the act of transferring ownership includes the act of assigning any rights (including the Forest Resources License) held by the assignor, and thus, the FDA must ensure that the assignee meets the pre-qualification and other standards before approving the transfer of ownership and assignment of rights. Prior to awarding a license or approving the transfer of ownership, Schedule 1 of FDA Regulation 103-07 requires the FDA to evaluate all significant individuals involved to ensure that they can be pre-qualified to hold a license.

³¹NFRL (§1.3) “Forest Resources License: Any legal instrument pursuant to which the Authority allows a Person, subject to specified conditions, to extract Forest Resources or make other productive and sustainable use of Forest Land. Includes, without limitation, FMCs, TSCs, Forest Use Permits, and Private Use Permits.”

³²FDA Regulation 104-07’s schedule notes that even a 1% stake in a company by a person restricted from holding a license or convicted of a crime would disqualify the company from being pre-qualified to hold a license.



of the next year's expected tax revenue,³³ and the maximum is US\$1 million [FDA Regulation 104-07 §61].)

Over the years, one thing that the sector has seen is the inability of the FDA and the Community to recover payments owed by companies that have defaulted on their obligations and/or have abandoned their operations. This happens because there is no valid or existing security to cover this exposure of both the government and the Community. That is the key reason why the NFRL made provision for a performance bond. The required bond is to be posted during the pre-qualification process, and on an annual basis to secure performance of contractual performance. In the absence of monitoring the validity or even existence of such bond, the government and the Community remain vulnerable.

Annex 2 Rationale behind the legislative framework in the Eleven Principles

Under the legal framework governing the forestry sector, each Operator, Community, and the FDA are obliged to comply with specific standards that would align forest activities with sustainable forest practices and enhance the protection of Liberia's rainforests. Essential amongst the standards and requirements that these actors must follow are those covered under the 11 general thematic areas:

1. Legal Existence/Recognition & Eligibility to Operate in Forestry Sector

An Operator doing business or intending to do business in the forest sector must be able to (i) demonstrate that it has and has maintained the authority to do business in Liberia, and (ii) the ultimate beneficiaries of the proceeds from the forest activities must not be those statutorily prevented from engaging in forest activities. The FDA must maintain a list of suspended and debarred individuals and companies. (Reliance: Associations Law (§12.1; 1.7(§2); NFRL §1.3 & 5.1, 5.2(b); Regulation 103-7(§21-22); Regulation 104-07(§62); PPCA (§44); CRL (§4.1); Regulation 103-07 (§21 & 23)).

2. Forest License Allocation

There must be a substantiation that the Operator legally obtained permission from the FDA and the Community to conduct forestry activities in Liberia. All the steps required for a Community to contract with an Operator must be evident and complied with. Additionally, a License that is to be obtained via a competitive bidding process, like the FMCs, must follow all the steps provided for by law. This will include, but not be limited to, obtaining a Concession Certificate from MFDP and procuring a Performance Bond. (Reliance: CRL (§2.2(c), 6.3); CRL Regulation (§2.2, 2.6, 2.5, 2.8, 2.7, 2.9, 2.10, 3.4, 3.8, 3.11, 7.1, 10.3, 10.4); NFRL (§3.3, 4.1-4.5, & 5.2(a)); PPCA (§115(1) & (2), 46, 87 and 116); FDA Regulations 104-07 (§ 31-36, 5.2(a)(i) & 62); Regulation 102-07(§2 1-22); Regulation 103-07 (§41-46); CRL Regulation (§10.3, 10.4)).

3. Social & Financial Obligations & Benefit Sharing

It is a fundamental principle under the legal framework governing the forestry sector that Communities, who are now owners of customary land, must receive equitable benefits from the forests housed on those lands.

³³Except for FMCs, in which case the minimum is US\$250,000 or US\$150,000 (if less than 100,000 ha). For TSCs, it is US\$25,000. Non-industrial "Major Forest Use Permits" (FUPs) are exempt from the performance bond requirement (FDA Regulation 104-07 §81[b]3). Under the NFRL §5.5, FUPs that log may only harvest timber in small amounts for local use.



In this regard, an Operator is required to, and FDA must ensure, that (i) Community engagement and a contractual agreement (an SSA and a CUC (also termed a TPA) is executed, which will explicitly document the benefits Affected Communities will receive as a result of the forest operations, (ii) the obligations thereunder are timely and strictly complied with, and (iii) the FDA, as sector regulator, is aware of those commitments and expected to perform compliance audits to ensure their fulfillments. (Reliance: Regulation 105-07 (§31, 32, 33, 36, 36(10)); NFRL (§5.6(d)(vi), (5.3(b) & 5.6(d)); Regulation (§117-17); CRL (§3.1(d), 6.5); CRL Regulation (§9.1, 9.7, 9.8, 10.2, 10.3, 10.4, 10.5, 11.1, 11.2, 11.3, 11.4); COCS SOP (§9); Regulation 107-07 (§33)).

4. Standard for Forest Management Operations & Harvesting

As much as the Operators have obtained the permission to conduct forest activities and make commitments to Communities, their operations must be guided by the FDA to ensure that they sustainably manage the forest. This has resulted in the well-defined rules for forest operations that all Operators must comply with, and the FDA must monitor compliance. Amongst these standards are (i) the preparation of OPs (Strategic Forest Management Plan, 5Y FMP, AOPs) by the Operator, obtaining the FDA's approval of those plans, and conducting activities in accordance with them, (ii) the Community developing a CFMP and obtaining the approval of the Community's governing structure, and (iii) the FDA issuing an Annual Harvesting Certificate when satisfied that the Operator is in compliance with the operational requirements. (Reliance: NFRL (§3.2;3.4, 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); COCS SOP (§7-11); FMC Contract (§B3.1, B3.13 & B3.11, B3.14, B6.13, B8.81, B8.82); CRL Reg. (§10.1, 7.1, 7.5, 7.7, 8.1, 10.4)).

5. Environmental Considerations

As the Operators commence and continue their commercial activities, it must be determined and established that those activities will not result in or cause hazards to the environment and the people living in Affected Communities. Therefore, Liberia environmental law requires that an ESIA is conducted and thereafter an Environmental Permit be issued. Following the issuance of the permit, a periodic audit is to be performed to monitor compliance with environmental standards. These reports and permits must be available to substantiate compliance. (Reliance: EPML (§IV & V); CFHP 2.5.1; GFMP; FMC Contract (§B3.43, B6.41); NFRL (§8.1, 9.11 and 9.12); CFHP (§2,5.3); NWL Chapter 6; FMC Contract (§B6.3 & 6.42)).

6. Timber Transportation & Traceability

To curb illegal logging, Liberian law requires that every log harvested must be enrolled into a COCS. Therefore, each log harvested during the Operator's forest activities must be properly marked and enrolled according to the SOPs established under the COCS. Additionally, it is required that FDA take steps to address the issue of 'abandoned' logs by having them auctioned and enrolled into the COCS. (Reliance: COCS SOP (§10-19); FDA Reg. 108-07; FMC Contract (§B6.63); FDA Regulation 118-17 (§4, 5, 6); Reg. 116-117 (§4,7)).

7. Transformation & Timber Processing

In some cases, the Operator's contract may provide for the installation of a sawmill to process logs harvested or imported. The regulatory framework states that the Operator must obtain a sawmill permit and pay the required fees before the activities can commence. (Reliance: Regulation 107-07 (§46); COCS SOP (§20, 26);



Regulation 112-08 (§7,8); COCS SOP (§15, 19 & 20); Regulation 112-08 (§9); FMC Contract (§B6.63); NFRL 13.5; COCS SOP (§19)).

8. Workers' Rights, Health, Safety, & Welfare

Labor and social welfare laws must also be applicable to the activities of the Operators. The minimum conditions of employment must be adhered to, as well as the participation of these Operators in the social welfare schemes operated by NASSCORP for the benefit of their employees. FDA, NASSCORP, and Ministry of Labor are government agencies that are responsible for providing reports of compliance with the requirements and conditions to be followed by Operators. (Reliance: DWA (§45.1(a), 5.1-5.6, 13.1, 16.1, 16.2, 16.3, 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)).

9. Government Payments/Obligations

Applicable taxes, fees, and other payments are required to be paid to the government. Therefore, before any harvesting activities or exportation is done and an Annual Harvesting Certificate awarded, an Operator should have cleared any and all tax arrears to the government or have entered into a stipulation agreement with the government in respect thereof. In this regard, a tax clearance issued by the LRA with accompanying payment receipts can serve as an authority to confirm that for a specific period, the Operator has no tax liability to the government. Where applicable, fees (stumpage and land-rental, in particular) must be paid to those communities most affected by the logging or on whose land the logging takes place. For FMCs, the GoL is required to share 30% of land rental with Communities through the National Benefits Sharing Trust and a further 30% with Liberia's counties. (Reliance: Section 2108 of Tax Code; NFRL (§14.2); Regulations 107-07 (§61-63), COCS SOP (§9)).

10. Export, Processing, & Trade Requirements

Operators are required under Liberian law to (i) obtain an exporter's registration, (ii) confirm that the logs to be harvested are all enrolled in the COCS, and (iii) have FDA confirm that logs to be exported are valued based on the market intelligence database. (Reliance: FDA Regulation 108-07 (§41, §42); COCS SOP (§23-37); NFRL (§13.5); FDA Regulation 108-07 (§43); COCS SOP (§18 & 21)).

11. Disclosure and Transparency Obligation

Both the FDA and Operators are required by Liberian law to publish pertinent information about forest activities. To achieve this, Operators are required to publish annually all the payments made to the government pursuant to the holding of Forest Resources Licenses as well as participate in the LEITI's disclosure regimen. Additionally, the FDA is to make publicly available annually the contracts/Forest Resources Licenses and bid evaluation reports, among many other documents. (Reliance: NFRL (§3.4, 5.8, & 20.11); LEITI Act (§4.1 & 5.4); FOIA (§Section 2.6)).



Annex 3 Assessment of the allocation process

The **LEITI (2013)** contracted the audit firm Moore Stephens to review compliance with the allocation process for FMCs, TSCs, and PUPs. Despite a lack of cooperation by the FDA, the audit found that the FDA was not in compliance with national laws and regulations during the allocation process for all three concession types.

There is, however, no comparable review for CFMAs. Therefore, in this section the LFCRII first briefly reviews the relevant allocation process, then evaluates compliance for the six CFMAs within the scope of the LFCRII review.

Legislative requirements for CFMA allocation

The 2017 Regulation to the Community Rights Law with Respect to Forest Lands (CRL) of 2009 outlines the Nine Steps necessary to obtain Authorized Forest Community (AFC) status from the FDA and be awarded a CFMA. The subsequent, tenth step is for the Community to develop its own CFMP. As outlined in the 2017 **Nine Steps Handbook**, only once Step 10 is completed can a logging company be contracted under a TPA.³⁴ The FDA Technical Manager for Community Forests further confirmed that “at no point in time companies are allowed to interact with these people.”³⁵ In fact, Community representation during Steps 1-8 is limited as the bodies that legally represent the Community’s interest (i.e., the Community Assembly, Executive Committee, and CFMB) are not identified until Step 8. This puts responsibility on the FDA to ensure compliance with the first 8 steps.

9 steps to CFMA allocation³⁶

1. The Community applies to the FDA for Authorized Forest Community (AFC) status. The FDA gives 30 days’ notice to all relevant Communities that a Socio-Economic Survey and Resource Reconnaissance (the ‘Survey’) will be carried out.
2. The Survey is then carried out by the FDA in collaboration with Community representatives. The FDA gives 30 days’ notice of demarcation and mapping of the proposed Community forest boundaries.
3. The boundaries are demarcated, including physical boundary markers, and mapped by the FDA in collaboration with the Community.
4. A draft of the Survey, demarcation report, and maps are posted for 30 days in the relevant and adjacent communities.
5. Adjacent communities and other third parties may object. Objections are investigated and addressed.³⁷
6. Once disputes are resolved, the FDA oversees the election of the CA and Executive Committee, who then appoint the members of the Community Forest Management Body.

³⁴CRL 2017 Regulation §4.9 & 8.1 Request for Assistance by CFMB: financial and technical assistance for development of the CFMP is to come from the Authority, relevant public institutions, donors, or other sources. This is not intended to include logging companies. Step 10 reiterates that the CFMB “may approach the Authority, and other government bodies for assistance in the preparation of the Community Forest Management Plan.” Again, this does not include logging companies.

³⁵Front Page Africa, 19 April 2017, **Failed by Logging Companies, Communities Turn to Forest Ownership**.

³⁶Adapted from Chapter 2 and the Appendix of the **2017 Regulation to the Community Rights Law of 2009 with Respect to Forest Lands**; summarized in **The Nine Steps Handbook**. Note: those CFMAs established before the revised regulations in 2017 did so under the 2011 Regulation, which generally has a less well-defined set of rules.

³⁷Objections are addressed by the FDA within 30 days if limited to forest issues, or 90 days if they involve other government agencies.



7. The Community is given AFC status and signs a CFMA with the FDA.³⁸
8. Once the CFMA is signed, a CFMP is prepared by the CFMB for approval by the Executive Committee, the CA, and then the FDA.
9. Once the FDA approves the CFMP, the CFMB begins to implement the plan. The CFMB (and sub-contracted third parties), periodically report progress to the Executive Committee, CA, and the FDA. Only at this stage—to avoid a conflict of interest—can a third-party logging company enter the process.

Review of compliance with CMFA allocation

After reviewing compliance with the relevant allocation processes for each of the six CFMAs in the scope of the LFCRII (see Annex 8), the LFCRII concludes that the FDA has failed to ensure compliance with the relevant Regulations to the Community Rights Law with Respect to Forest Lands (CRL). In fact, none of the CMFAs reviewed are fully compliant.

There is evidence that logging companies became involved in the process of obtaining CFMA status far before they were legally permitted. This sets up an obvious conflict of interest, where the company wants to ensure approval so that they can start logging, regardless of whether this is in the Communities' best interest. It also appears that in many cases, people now living outside the Communities in urban centers have more power in the negotiation process than do members living in Affected Communities. There is further cause for concern because many of the CFMAs appear to overlap directly with former PUPs, all of which were terminated "given massive fraud, misrepresentations, abuses and violations" of the rule of law (see Executive Order 44 of 2013).

However, the LFCRII also recognizes that the FDA has been more proactive in recent years in ensuring compliance since the 2017 amendment. (See, for example, documentation associated with the Nine Steps for nine CFMAs on the FDA website.)³⁹

³⁸Several documents must be attached to the CFMA, including the AFC's constitution and bylaws, a list of the Executive Committee and CFMB members, maps, summary of the surveys, etc.

³⁹Substantial evidence of progress through the Nine Steps was available on the FDA website for more than 100 CFMAs until late 2018, when some 900 documents relating their applications were removed. At present, documents are still available online for nine CFMAs only: <https://www.fda.gov.lr/index.php/general/Community-forestry-management-agreement> (Note: the same documents for Central River Dugbe CFMA are in both the River Cess and Sinoe folders.) Also note that none of the six CFMAs within the scope of the LFCRII review are among the nine CFMAs included on the FDA website.



Annex 4

Financial status of the 11 cases within the scope of the LFCRII

LFCRII findings	FMCs				CFMAs							TOTAL		
	A – Alpha	F – Euro	I – Gablo	K – ICC	P – Atlantic	Beyan Poye – Akewa	Bluyerna – Sing Africa	Gbi – LTTC	Gheegbam #1 – WAFDI	Sewacajula – Mandra	Zuzohn – Booming Green			
Land Rental	Invoiced	\$ 7,768,486.00	\$16,678,802.50	\$ 8,841,088.50	\$17,788,826.50	\$7,363,524.80	\$	174,998.25	\$210,296.28	\$ 74,145.95	\$ 107,784.00	\$ 28,374.76	Invoiced	\$59,167,883.37
	Paid	\$ 5,815,637.73	\$ 6,438,611.54	\$ 3,478,973.44	\$ 9,496,939.47	\$4,914,220.79	\$ -	94,999.50	\$127,860.00	\$ 74,145.95	\$ 89,820.00	\$ 7,093.69	Paid	\$30,538,902.11
	Arrears	\$ 1,952,848.27	\$10,240,190.96	\$ 5,362,115.06	\$ 8,291,887.03	\$2,449,304.01	\$ 131,255.83	79,998.75	\$ 82,436.28	-	\$ 17,964.00	\$ 21,281.07	Arrears	\$28,629,981.26
Other community payments	Invoiced						\$ 98,781.00	212,474.50	-	-	\$ 317,535.00	\$ 8,670.00	Invoiced	\$ 637,460.50
	Paid						\$ 35,781.00	103,310.50			\$ 282,579.00	\$ 8,670.00	Paid	\$ 430,340.50
	Arrears						\$ 63,000.00	109,164.00			\$ 34,956.00	\$ -	Arrears	\$ 207,120.00
Stumpage	Invoiced	\$ 2,186,490.04	\$ 1,917,371.94	\$ 2,029,799.10	\$ 2,870,345.86	\$ 38,422.27	\$ 301,505.82	842,953.34	\$1,011,694.37	\$ 713,494.06	\$ 2,303,580.26	\$ 115,506.13	Invoiced	\$14,331,163.19
	Paid	\$ 2,186,490.04	\$ 1,917,371.94	\$ 2,029,790.99	\$ 2,840,050.62	\$ 38,422.27	\$ 301,505.82	705,042.25	\$1,011,694.37	\$ 702,373.07	\$ 2,303,580.26	\$ 115,506.13	Paid	\$14,151,767.76
	Arrears	\$ -	\$ -	\$ 68.11	\$ 30,295.24	\$ -	\$ -	137,911.09	-	-	\$ 11,120.99	\$ -	Arrears	\$ 179,995.43
Export fees	Invoiced	\$ 2,435,998.49	\$ 1,855,404.06	\$ 1,962,555.67	\$ 2,267,420.37	\$ 46,936.60	\$ 316,152.89	710,385.17	\$ 38,603.89	\$ 729,373.01	\$ 2,748,627.17	\$ 808,258.63	Invoiced	\$13,919,615.95
	Paid	\$ 2,435,998.49	\$ 1,855,404.06	\$ 1,962,555.67	\$ 2,267,420.37	\$ 46,936.60	\$ 316,152.89	710,385.17	\$ 38,603.89	\$ 729,373.01	\$ 2,748,627.17	\$ 808,258.63	Paid	\$13,919,615.95
	Arrears	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-	-	-	\$ -	\$ -	Arrears	\$ -
W/H taxes	Invoiced		missing				\$ 2,514.35	72,221.72	\$ 3,337.68	\$ 23,996.82	\$ 79,614.60	\$ 10,583.90	Invoiced	\$ -
	Paid	\$ 11,441.90			\$ 65,560.44	\$ 512,150.64							Paid	\$ -
	Arrears	\$ -			\$ -	\$ -							Arrears	\$ 782,207.66
CTT	Invoiced		missing				\$ -	22,223.08	\$ -	101,781.31	\$ 286,938.39	\$ 46,472.30	Invoiced	\$ -
	Paid	\$ 111,247.45			\$ -	\$ -							Paid	\$ -
	Arrears	\$ -			\$ -	\$ -							Arrears	\$ 646,923.79
Others	Invoiced	\$ 93,675.00	\$ 139,200.00	\$ 94,450.00	\$ 2,083,655.09	\$ 45,985.91	\$ 19,925.00	72,700.00	\$83,675.96	\$ 47,150.00	\$ 89,350.00	\$ 18,250.00	Invoiced	\$ 2,788,016.96
	Paid	\$ 91,675.00	\$ 136,350.00	\$ 93,450.00	\$ 1,098,466.48	\$ 22,300.00	\$ 8,175.00	44,750.00	\$ 54,350.00	\$ 47,150.00	\$ 89,350.00	\$ 15,250.00	Paid	\$ 1,701,266.48
	Arrears	\$ 2,000.00	\$ 2,850.00	\$ 1,000.00	\$ 985,188.61	\$ 23,685.91	\$ 11,750.00	27,950.00	\$ 29,325.96	\$ -	\$ -	\$ 3,000.00	Arrears	\$ 1,086,750.48
GRAND TOTAL	Invoiced	\$ 12,607,338.88	\$20,590,778.50	\$12,928,678.88	\$25,154,069.52	\$8,007,020.22	\$ 870,134.89	2,107,856.06	\$1,347,608.18	\$ 1,689,941.15	\$ 5,933,029.42	\$ 1,036,115.72	Invoiced	\$90,843,839.97
	TOTAL PAID	\$ 10,529,801.26	\$10,347,737.54	\$ 7,564,710.10	\$15,702,876.94	\$5,021,179.66	\$ 661,614.71	1,658,387.42	\$1,132,508.26	\$ 1,553,042.03	\$ 5,513,956.43	\$ 954,778.45	Paid	\$60,741,292.80
	% arrears	\$ 2,077,537.62	\$10,243,040.96	\$ 5,363,968.78	\$ 9,451,192.38	\$2,985,140.56	\$ 208,520.18	449,668.04	\$ 115,099.92	\$ 136,899.12	\$ 419,472.99	\$ 81,317.27	Arrears	\$51,531,678.62
		16%	50%	41%	38%	37%	24%	21%	9%	8%	7%	8%		35%
Softcore findings (Arrears)	Land rental	\$ 1,018,857.00	\$ 8,093,777.00	\$ 4,377,120.00	\$ 5,929,753.00	\$ 957,504.00	\$ 138,756.00	\$ 111,110.00	\$ -	\$ -	\$ 79,840.00	\$ -	Land rental	\$ 20,706,717.00
	Stumpage	\$ 119,571.00	\$ 240,802.00	\$ 68.00	\$ 432,937.00	\$ 38,422.00	\$ -	\$ 18,610.00	\$ -	\$ -	\$ 106,115.00	\$ -	Stumpage	\$ 956,525.00
	Export fees	\$ 59,074.00	\$ -	\$ -	\$ 63,037.00	\$ 46,937.00	\$ -	\$ 10,046.00	\$ -	\$ -	\$ 33,171.00	\$ -	Export fees	\$ 212,865.00
	Other	\$ 1,000.00	\$ 205,762.00	\$ 345,915.00	\$ 1,040,581.00	\$ 22,686.00	\$ 6,950.00	\$ -	\$ -	\$ -	\$ 2,000.00	\$ -	Other	\$ 1,624,894.00
	TOTAL	\$ 1,198,502.00	\$ 8,540,341.00	\$ 4,723,103.00	\$ 7,466,308.00	\$ 1,065,549.00	\$ 145,706.00	\$ 139,766.00	\$ -	\$ -	\$ 221,127.00	\$ -	TOTAL	\$ 23,500,402.00



Table 9. The amount of land-rental payments that should have been and was invoiced, collected, and paid to communities through the NBST for the five FMCs in the scope of the LFCRII.

FMC	Operator	Start	Area	Bid /ha	Land rental owed	Of which, Bid premium	FDA Invoiced	FDA claims Paid	% paid
FMC A	Alpha	May-09	119,240	\$ 13.50	\$ 10,567,645	\$ 6,841,395	\$ 7,768,486	\$ 5,815,638	75%
FMC F	Euro	Sep-09	253,670	\$ 11.07	\$ 19,001,151	\$ 11,232,508	\$ 16,678,803	\$ 6,438,612	39%
FMC I	Geblo	Sep-09	131,466	\$ 15.10	\$ 11,966,693	\$ 7,940,546	\$ 8,841,089	\$ 3,478,973	39%
FMC K	ICC	Sep-09	266,910	\$ 10.75	\$ 19,651,249	\$ 11,477,130	\$ 17,788,827	\$ 9,496,939	53%
FMC P	Atlantic	Sep-09	119,344	\$ 13.50	\$ 10,099,486	\$ 6,444,576	\$ 7,363,525	\$ 4,914,221	67%
GRAND TOTAL			890,630		\$ 71,286,224	\$ 43,936,155	\$ 58,440,728	\$ 30,144,383	52%

Community benefits sharing:							
FMC	Operator	Community share of the land rental paid [†]	Amount paid communities, according to NBST	% collected	% owed (paid to communities vs. invoiced)	% owed (paid to communities vs. owed) [‡]	
FMC A	Alpha	\$ 1,482,988	\$ 630,282	43%	32%	23%	
FMC F	Euro	\$ 1,641,846	\$ 537,969	33%	13%	11%	
FMC I	Geblo	\$ 887,138	\$ 269,128	30%	12%	9%	
FMC K	ICC	\$ 2,421,720	\$ 688,169	28%	15%	14%	
FMC P	Atlantic	\$ 1,253,126	\$ 583,698	47%	31%	23%	
GRAND TOTAL		\$ 7,686,818	\$ 2,709,246	35%	18%	15%	

[†] Community share of land rental = 30% of land rental (bid premium + base) * 85% ; the remaining 15% is for NBST overhead.
[‡] Amount owed to communities = Land rental owed * 30% * 85%

Source: FDA LVD, cross-referenced with SGS, LRA, and NUCFDC.



Annex 5 Silvicultural requirements

Liberia's 2006 National Forest Policy and Implementation Strategy includes commercial forestry as one of the key approaches to managing the country's forests sustainably. The National Forest Management Strategy reiterated this objective, stressing the need to "re-start and regulate commercial forestry activity in accordance with Liberia's laws and the FDA's regulations" (FDA 2022). To help ensure sustainability, this legislative framework is based on the principles of silviculture: the art and science of managing forests to meet the diverse needs of society on a sustainable basis.

Minimum Legislative Requirements for Silviculture

Annex 9 outlines in detail the legislative framework related to silviculture. However, the LFCRII did not examine compliance with the entirety of these requirements, rather, like the previous SOFRECO Review (2020), this review focusses on the main instruments that the FDA use in their short-, medium-, and long-term management of commercial logging operations. That is, according to the FDA's Guidelines for Forest Management Planning (GFMP) in Liberia, the following critical components are required in the three major planning documents for each Operator:

■ Long-term Plan: 25-Year Strategic Forest Management Plan (SFMP)

- A map stratifying the forest by cover type and use, dividing the timber production area into 25 Annual Coupes (for a 25-year rotation)
- A multi-species inventory of trees,
 - With a minimum sampling of 0.8% of the area to estimate stocking densities for commercial species
- Socio-economic diagnosis and economic/financial assessment
- Schedule of industrial projects over the following five years

The SFMP must be ratified by the FDA and updated within 3–4 years of the contract effective date.

■ Medium-term plan: 5-Year Forest Management Plan (5yFMP)

- A synthesis of the SFMP's multi-resource inventory
 - A table of timber density, basal area, and volumes, by species
- A description of the five Annual Coupes
- A schedule of activities
- Starting with the second 5yFMP, an evaluation of the previous 5-year harvest vs. expectations

■ Short-term plan: the Annual Operation Plan (AOP)

- A map of cut-blocks within the Annual Coupe (scale 1/15,000 and 1/30,000)
 - Stock map (1/1,000 and 1/5,000) with 100% inventory of trees
- A map of road network and log landings
- Harvest forecasts and other activities
- Lessons learned from previous harvests

Additional requirements related to silviculture include:



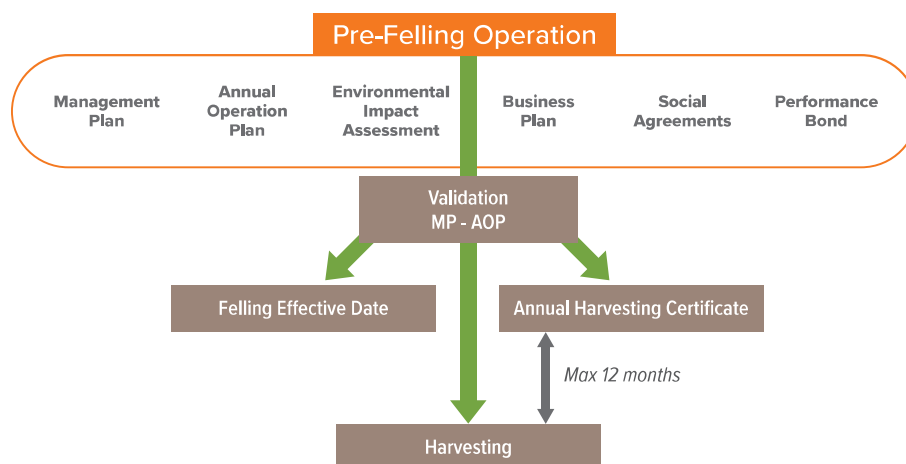
■ **An EIA**, including:

- A detailed statement of critical activities during both the construction and operational phases
- A socio-economic analysis of the project
- Public consultation
- An Environmental Management Plan with mitigation measures, including an identification of alternatives activities
- A monitoring program

■ **A Corporate Business Plan**⁴⁰

- For FMC's, the NFRL states that the business plan must “demonstrate to the Authority’s satisfaction that the Holder has the technical and financial capacity to manage the forest sustainably” (§5.3b[v]).

Figure 3. Pre-Felling requirements for logging Operators.



Source: [Guidelines for Forest Management Planning in Liberia](#) (FDA 2009).

If the Operator complies with these requirements, the FDA will award an Annual Harvesting Certificate.

Finally, in terms of requirements, the FDA itself is obliged [NFRL (§3.4)] to conduct:

■ An annual Compliance Audit of all Operators assessing:

- Volumes and values harvested, processed, and exported, by species
- Amount of fees and taxes assessed and paid
- Benefits shared with each Community
- Charges and arrests, settlements and convictions, penalties assessed and paid

Review of Compliance for Silviculture

SOFRECO results

In their review, [SOFRECO \(2020\)](#) found widespread non-compliance with the most important silvicultural requirements (Table 10). In their final report, SOFRECO (2020) observed that:

⁴⁰This requirement was not reviewed by SOFRECO.



- “[N]one of the companies undertook the basic studies required to design a credible management plan...”
- “No multi-resources inventory was conducted...”
- “No socio-economic diagnosis was made...”
- “Absence of enumeration prior to the design of the AOP”
- “The failure of designing and executing the 5 year and annual operating plans appears to more closely aligned [sic] to lack of technical capacity and lack of will.”
- “As a result, it can be concluded that there is no sustainable forest management plan complies [sic] with legal and regulatory requirements resulting in a lack of long-term forest management planning.”
- While none of the Operators were fully compliant with the EIA requirements, all were given Environmental Impact Permits; “this EPA approval indicates that Governance of the environmental processes is weak.”
- Despite all this, “the FDA generally accepts the plans and always issues a harvesting certificate.”

Table 10. Sofreco findings: legal compliance with the most important silvicultural requirements (FMPs, AOPs, and EIAs for which Annual Harvesting Certificates and Environmental Permits are issued by the FDA and EPA, respectively).*

Issue	FMCs					CFMAs			
	A — Alpha	F — Euro	I — Geblo	K — ICC	P — Atlantic	Beyan Poye — Akewa	Bluy-eama — Sing Africa	Sewacajua — Mandra	Zuzohn — Booming Green
SMFP/5yFMP	x	x	x	x	x	x	x	x	x
Annual OP	x	x	x	x	x	x	x	x	x
Harvest Cert									
EIA	x	x	x	x	x	x	x	x	x
Env Permit									

Green = document exists; red = no evidence.

* Company names have been abbreviated.



LFCR II results

Similar to SOFRECO (2020), the LFCR II review concluded that there is widespread non-compliance with the most important silvicultural requirements (Table 11). For the most part, neither the FDA nor the Operators produced the appropriate planning documents. Only two Operators had the necessary Environmental Permits; that is, WAFDI and Euro Liberia Logging Company hold valid environmental permits from the EPA. With respect to FMPs, all the documents produced failed to comply with the requirements in the GFMP in Liberia. And, as noted by SOFRECO (2020), despite these material shortcomings, the FDA claimed otherwise and issued an Annual Harvesting Certificate for 2022/23 to Euro Liberia Logging (FMC F).

There is no evidence that the remaining Operators have the necessary planning documents, Environmental Permits, and Harvesting Certificates. This is consistent with the FDA's finding that it "is therefore highly probable that the annual coups [sic] are not mapped and that there are no 100 percent stock surveys undertaken despite this being a requirement of the forest law and concession agreement" (FDA 2022, p. 108). Given this, they note that it "is impossible to set yields and enforce regulations if the legitimate production areas are not defined and known."

Table 11. LFCR II findings: legal compliance with the most important silvicultural requirements (FMPs, AOPs, and EIAs for which Annual Harvesting Certificates and Environmental Permits are issued by the FDA and EPA, respectively).*

Issue	FMCs					CFMAs					
	A — Alpha	F — Euro	I — Geblo	K — ICC	P — Atlantic	Beyan Poye — Akewa	Bluy-eama — Sing Africa	Sewacajua — Mandra	Zuzohn — Booming Green	Gbi — LTTC	Gheegbarn #1 — WAFDI
SMFP/5yFMP	x	x	x	x	x	x	x	x	x	x	x
Annual OP	x	x	x	x	x	x	x	x	x	x	x
Harvest Cert	x		x	x	x	x	x	x	x	‡	‡
EIA	x	x	x	x	x	x	x	x	x	x	x
Env Permit	x									†	

* Company names have been abbreviated

† Certificate expired September 2022.

‡ Permit expired April 2023.



Annex 6 Implementation of recommendations from previous reviews

This annex reviews the findings of the SIIB (2012), LEITI (2013), SOFRECO (2020), and the MoJ's investigation of TSC A2.

Implementation of Recommendations From SIIB Report on the Issuance of Private-Use Permits (PUPs)

In 2012, President Ellen Johnson Sirleaf empaneled the **SIIB** to investigate allegations related to the legality of the 63 PUPs issued by the FDA, which total 2,532,501 ha (23% of the land area of Liberia), and provide “guidance toward a full resolution of the legal and policy issues identified.” Among the findings were that:

- PUPs have “become a mechanism for communities...to engage in commercial forestry in violation of the law.”
- “The level of abuse of power and public trust...was led and sanctioned by the FDA.” Almost all PUPs were issued during the tenure of FDA MD Wogbeh.
- MD Wogbeh intentionally failed to implement the FDA Board's moratorium on PUPs, which “constitutes insubordination.”
- “Senior managers at FDA took advantage of the lack of regulations in ways that were unconscionable, illegal, and a violation of the public interest.”
- The Ministry of Land, Mines, and Energy (MLME) had “fundamental flaws” in the validation process for reviewing land deeds.
- Other regulatory agencies (mainly the EPA) “were negligent” in carrying out their responsibilities.
- The FDA produced insufficient evidence that landowners' permission was obtained.
- “FDA failed to exercise due care and legal prudence” in reviewing documentation, field verifications were falsified, and social agreements inadequate.
- FDA's actions “jeopardized Liberia's conservation goals.”

Implementation of the SIIB's recommendations were evaluated and summarized in Table 12. All PUPs were terminated, and several FDA executives were convicted. Other recommendations were either only partially implemented, not implemented, or no evidence could be found of implementation.



Table 12. Implementation of SIIB recommendations.

Recommendation	Implementation	Notes
Develop an Executive Order that would: 1. Declare all PUPs void and individually revoked. 2. Inventory, confiscate, and auction all logs felled by PUPs. 3. Order the Land Commission to evaluate all deeds. 4. Develop adequate regulations for future PUPs 5. Call for an independent audit of the FDA. 6. Call for the FDA to develop a recording system for all relevant documentation.	Partial implementation	Executive Order 44 (2013) put a moratorium on the operations of all PUPs and the issuance of any new PUPs. It also ordered the ministries to “take appropriate actions to remedy the situation through criminal prosecutions, review of the relevant legal and regulatory framework, validation of deeds, audit of the Forestry Development Authority, public sensitization, and such other necessary measures.” In a departure from the SIIB recommendation, however, EO 44 did not revoke any PUPs, require the auction of all logs felled by PUPs, require the Land Commission to evaluate deeds, or require the FDA to develop a document recording system.
Investigate and prosecute, if appropriate, MD Wogbeh for “gross misconduct, abuse of power, economic sabotage, and insubordination.”	Full implementation	FDA senior officials were prosecuted successfully ⁴¹ and the Board Chair was suspended. ⁴²
Dismiss FDA’s Legal Counsel (Cllr B Sagbeh), bar him “from providing any future legal services”, and dismiss and investigate FDA’s senior managers (and if convicted, “made to retribute payments received illegally”). ⁴³	Full implementation	FDA senior officials were prosecuted successfully and the Board Chair was suspended.
The FDA’s Board be reprimanded (and the Chair suspended for one month), required to implement guidelines for attesting to actions of the FDA, and required to investigate claims against FDA management.	Not Implemented	The LFCRII has not found evidence that the FDA Board has investigated the FDA management or implemented guidelines for attesting to actions of the FDA.
The Ministries of Justice and Finance review the current tax and fee requirements to determine if the “market can bear them,” as well as the financial viability of FMCs and TSCs.	Not Implemented	The LFCRII has not found evidence that the Ministries or the FDA have reviewed the financial viability of PUPs, FMCS, or TSCs.
FDA publicize a fee structure for all costs associated with forestry licenses.	Partial implementation	The LFCRII has found evidence that the fee structure has been created for FMCs and TSCs, but not for the costs of implementing the “Nine Steps” for CFMAs.
Atlantic Resource Limited: 1. Pay all arrears on FMC P. 2. Be permanently barred from “commercial forestry activities.” along with their affiliates, as well as EJ&J Corp., Sarh Miller, Amb. J Gbesie, A Abram, and B Kofie. 3. Compensate communities (as per MOU and SAs).	Implementation uncertain	The LFCRII has not found evidence that any of the enforcement actions have been taken against any of the companies and individuals, except the SOFRECO (2020) report noted that some social payments were made to communities. The LFCRII was not able to independently confirm these payments.

⁴¹ <https://thenewdawnliberia.com/fda-bribery-charge-increases>

⁴² <https://www.africanliberty.org/2013/01/05/liberia-president-ellen-johnson-sirleaf-suspends-two-ministers-over-corruption>

⁴³ Other government agents were also recommended for dismissal or reprimand, including senior officials in the MLME, the Ministry of Agriculture, and the County Surveyor for Grand Bassa.



Recommendation	Implementation	Notes
MoJ prosecute all individuals that submitted forged land deeds and prosecute the illegal actions of: <ol style="list-style-type: none"> 1. Atlantic Resource 2. Forest Venture 3. Nature Orient Timber Corporation 4. Southeast Resources 	Not implemented	The LFCRII has not found record of any prosecutions of companies involved in the PUP scandal.
Capacity building initiatives should help educate communities on relevant issues.	Implementation uncertain	SOFRECO (2020) noted that “capacity building initiatives are undertaken by civil society organizations. These initiatives are on an ad hoc basis and are not standardized.” Again, the LFCRII was not able to independently confirm this.

Implementation of Recommendations From LEITI

LEITI's (2013) Post Award Process Audit Final Report evaluated if the allocation of FMCs F, I, K and P; TSCs A-3, 8, 11, and 15; and 23 PUPs “were in compliance with applicable Liberian Laws at the time of award” and developed sector-specific compliance templates summarizing all relevant laws and procedures applicable. Despite limited cooperation from the FDA, Moore Stephens (contracted by the LEITI to conduct the audit) was able to conclude that none of the forestry operations were in compliance with legislation relevant to the allocation process.

The LFCRII evaluated the implementation of the LEITI recommendations as of June 2023 and found that the only recommendation followed was to revise the PPCA. All others were either not implemented or no evidence could be found demonstrating implementation (Table 13).



Table 13. Implementation of these LEITI recommendations.

Recommendation	Implementation	Notes
Punitive actions should be incorporated into the PPCA	Full implementation	The PPCA was amended (§138) to make violators liable to 5 years in prison and/or US\$100,000 fine, and violation may “constitute grounds for debarment.”
The GoL (FDA in particular) develops document control.	Implementation uncertain	The LFCRII has not found evidence that any document-control system exists.
Private land should not be included within FMCs/ TSCs. <ul style="list-style-type: none"> 103,022 ha of the Theinpo Chieftdom should be removed from FMC F. The FDA itself raised this issue in a field verification visit prior to allocation of FMC F, and still the area was included in the FMC. Thus, LEITI (2013) alleges that its inclusion “constitutes a deliberate circumvention of the applicable law as it would appear that FDA had acted in full knowledge of the facts.” 	Not Implemented	The land claimed by the Thienpo Chieftdom was not removed from FMC F.
Award TSCs according to the PPCA.	Implementation uncertain	The LFCRII has not found evidence that a regulation was developed for TSCs.

Implementation of Recommendations From SOFRECO Report, 2020

The LFCRII was also tasked to review those contracts evaluated by **SOFRECO (2020)**. SOFRECO’s overall assessment revealed a universal lack of compliance with all aspects of the legislative requirements for all contracts reviewed (see Box 2 and Section 4.3 of their report), and that this lack of compliance went beyond the responsibility of the companies themselves and included a lack of enforcement by the GoL, in particular the FDA.

The detailed findings and recommendations by SOFRECO are reviewed in the LFCRII’s own findings for each of the 5 FMC and 4 CFMAs (see **Volume 2**, Case Briefs).

Implementation of Recommendations from the Joint Implementation Committee of the VPA’s 9th Aide-Memoire, 2022

As part of LFCRII’s literature review, the LFCRII notes the findings of a fourth investigation conducted independently of the FDA: the Joint Implementation Committee of the VPA’s 9th aide-memoire (**March, 2022**) notes the findings of the MoJ’s Report of the Independent Panel’s Forensic Investigation into Irregularities in Operations of Timber Sale Contract A2, Grand Bassa County. The report has never been made public. However, the issue has been reviewed by Liberian civil society and journalists citing the report. The latter quotes the report as finding that a “major failure” was FDA’s “management’s ‘persistent tendency’ to make “unlawful decisions in assessing the severity of offenses.”

The LFCRII found the implementation of the JIC aide-memoire recommendations to be mixed, with only 3 of the 14 recommendations showing evidence of being fully implemented, and the rest either not implemented or with no evidence of having been implemented (Table 13).



Table 14. Implementation of these JIC Aide-Memoire.

Recommendation	Implementation	Notes
The MoJ should communicate its findings to the President, the FDA should be ordered to explain their decisions related to TSC A2 before a Special Presidential Committee, and the MoJ should advise the Committee on corrective actions.	Not Implemented	Foreign ambassadors apparently discussed the issue with the President, but the LFCRII has no evidence of the formation of a Special Presidential Committee.
The Court should assess the adequacy of the penalty imposed by the FDA on RGL.	Not Implemented	RGL won a ruling to allow export of reportedly more than US\$4 million in illegally harvested logs after paying a fine of US\$105,000. Although the ruling was appealed to the Supreme Court, the FDA failed "to serve and file a notice of completion of appeal." ⁴⁴ The appeal was dismissed and the Court ordered the shipment of the logs. At first the FDA did not comply. The Court ordered the arrest of the FDA's senior management and the Technical Manager of FDA's LVD was jailed temporarily.
FDA should deem illegal and seize all logs in the TSC A2 Resource Area, and their disposal placed under the jurisdiction of the Court.	Partially implemented	The Second Judicial Court did not require additional fines. ⁴⁵
Investigate and prosecute further illegal actions by Freedom Group Liberia (FGL), including unauthorized alteration of data and log markings.	Not Implemented	"SGS has acknowledged that pitfalls in their system allowed their former staff to facilitate the unauthorized alteration." FGL has reportedly been deactivated from LiberTrace, but LFCRII has not been able to independently confirm this or any other action taken against FGL.
Terminate TSC A2.	Full implementation	TSC A2 has been terminated.
FDA and MoJ should consider the legal status of all other TSCs.	Full implementation	All TSCs have been cancelled by FDA Board of Directors Resolution #14-2021.
Stakeholders should debate the suitability of TSCs.	Implementation uncertain	The LFCRII has not found evidence of a stakeholder debate related to TSCs, but the FDA told SOFRECO (2020) that the FDA "has no intention of awarding new TSCs as the majority of forests are owned by communities."
The rights of the Doe Clan to forest area should be deliberated.	Implementation uncertain	The LFCRII has not found evidence that the rights of the Doe Clan have been dealt with.
Investigate payments by RGL to the Doe Clan.	Implementation uncertain	The LFCRII has not found evidence that the FDA has investigated payments to the Doe Clan.
Stakeholders should consider whether TSCs' terms should be extended (and the law amended as necessary).	Implementation uncertain	The LFCRII has not found evidence of stakeholder consultation around TSCs.
The FDA's Compliance & Enforcement Handbook should be approved and training provided.	Partial implementation	The Handbook has been approved by the FDA Board, but training has not been verified by LFCRII.

⁴⁴ [221104 SupremeCourtJudgement-RGLvsFDA.pdf](#).

⁴⁵ Under NFRL (§20.7), the fines for gross negligence should have been up to three times the economic benefit (i.e., US\$12 million instead of \$105,000). Additionally, the Law allows for a "fine of twice the reduction in market value of the damaged property, twice the cost of restoring the Forest Resources," and 12 months in jail.



Recommendation	Implementation	Notes
The FDA, its Board, and the MoJ should set out clear procedures for documenting communications between them.	Implementation uncertain	The LFCRII has not found evidence of procedures to document communication between the FDA, its Board, and the MoJ. However, the JIC noted that the government “acknowledges compliance challenges at the FDA and that decision making across the Government needs to be transparent.”
SGS should use independent experts to stress-test (and fix) LiberTrace.	Implementation uncertain	The LFCRII has not found evidence of compliance tests by SGS (or the FDA) on LiberTrace.
Wider stakeholder access to LiberTrace should be allowed on a continuous basis.	Not Implemented	LiberTrace is not accessible to the public and LFCRII was not given access to LiberTrace.



Annex 7 Operational status of logging operations as of June 2023

This annex provides the details behind the information presented in [Table 3](#). LFCRII notes that independent confirmation of much of this information was not possible as access to LiberTrace was not provided during the review.

Table 15. Operational status of logging Operations as of June 2023⁴⁶

#	Concession	Operator (abbreviated)	Area (ha)	Operational Status	Date of Termination	Source
TSCs						
1	A2	Tarpeh Timber	5,000	Terminated	Sep-21	FDA
2	A3	Akewa Group	5,000	Terminated	Oct-18	FDA
3	A6	Bulgar & Vincent	5,000	Terminated	Apr-18	FDA
4	A7	Bargor & Bargor	5,000	Terminated	Feb-20	FDA
5	A8	Thunder Bird	5,000	Terminated	Sep-13	FDA
6	A9	Bulgar & Vincent	5,000	Terminated	Apr-18	FDA
7	A10	Bulgar & Vincent	5,000	Terminated	Apr-18	FDA
8	A11	Bassa Logging	5,000	Terminated	Jun-21	FDA
9	A15	Sun Yeun Logging	5,000	Terminated	Apr-17	FDA
10	A16	Sun Yeun Logging	5,000	Terminated	Apr-17	FDA
Total area			50,000			

PUPs						
All 63 PUPs			2,532,501	Terminated	Jan-13	Executive Order #44
Total area			2,532,501			

FMCs						
11	A	Alpha	119,240	Inactive		FDA
12	B	EJ&J → Mandra	57,262	?		No info
13	C	LTTC → Mandra	59,374	?		No info
14	F	Euro	253,670	Active		FDA
15	I	Geblo	131,466	Active		FDA

⁴⁶Company names have been abbreviated.



#	Concession	Operator (abbreviated)	Area (ha)	Operational Status	Date of Termination	Source
16	K	ICC	266,910	Inactive		FDA
17	P	Atlantic	119,344	Inactive		FDA
Total area			1,007,266			

CFMAs

18	Beyan Poye	Akewa Group	33,338	Terminated	contested	FDA
19	Sewacajua	Mandra Forestry	31,936	Active		FDA
20	Zuzohn (Zuzon)	Booming Green	12,611	Terminated		FDA; FDA2
	Zuzohn	?		Inactive		FDA
21	Bluyeama	Sing Africa	49,444	Inactive		FDA
22	Gbi	LTTC	31,155	Active		FDA2
23	Gheegbarn #1	WAFDI	26,363	Active		FDA2

CFMAs outside the scope of the LFCR II review

24	Bloquia	Liberia Hardwood	43,794	Terminated	contested	FDA
	Bloquia	Massayaha	?	Active		FDA
25	Central Moweh	Kisvan	19,091	Active		FDA; FDA2
26	Central River Dugbeh	Iroko Timber	13,193	Active		FDA; FDA2
27	District 3B&C	West Water Group	49,310	Active		FDA; FDA2
28	Gheegbarn2	L&S Resources	26,363	Active		FDA; FDA2
29	Gola Konneh	Akewa Group	49,179	Active		FDA; FDA2
30	Konobo	Horizon Logging	49,625	Active		FDA
31	Korninga A	Coveiyalah	48,296	Active		FDA; FDA2
32	Worr	Massayaha/Magna	35,337	Active		FDA; FDA2
33	Bondi Mandingo	Indo African	37,222	Inactive		FDA; FDA2
34	Gbarsaw & Dorbor	African Wood	21,320	Inactive		FDA2
35	Gbiah-Gblor	Sanabel	7,391	Inactive		FDA; FDA2
36	Korninga B/Kotro	Indo-African	31,318	Inactive		FDA; FDA2
37	Kparblee (Kparlee)	Kparblee Timber/ Sanabel	8,354	Inactive		FDA2



#	Concession	Operator (abbreviated)	Area (ha)	Operational Status	Date of Termination	Source
38	Marblee & Karblee	African Wood	24,355	Inactive		FDA2
39	Marbon	Kisvan	18,680	Inactive		FDA; FDA2
40	Matro & Kotro (Kertro; Kpogblen)	Starwood	8,833	Inactive		FDA; FDA2
41	Putu	African Wood	21,337	Inactive		FDA2
42	Tarsue	WAFDI	9,714	Inactive		FDA; FDA2
43	Tartweh-Draph (-Dropoh)	Sino-Forest	10,369	Inactive		FDA; Global Witness
44	Blinlon	West Water Group	39,409	CUC		FDA2
45	Bodey, Lofa	?	?	CUC		FDA2
46	Boe + Quila	?	8,121	CUC		FDA2
47	Central River Dugbe, Sinoe	?	13,193	CUC		FDA2; Step 5
48	Doru	LTTC	36,192	CUC		FDA2
49	Garwin	Tetra	36,637	CUC		FDA2
50	Gba	Six S/LTTC Thanry	10,939	CUC		FDA; FDA2
51	Gba + Zor/Blei	Sorway Mining	631	CUC		FDA2
52	Globr/Zoduah	Opulence	6,377	CUC		FDA2
53	Marbo #1	African Wood	14,811	CUC		FDA2
54	Marbo #2	?	22,568	CUC		FDA2
55	Neezonie	Ennis Emmanuel	42,429	CUC		FDA2
56	Nimopoh (Numopoh)	Delta	7,320	CUC		FDA2
57	Normon, Gbarpolu	KESHAV Global	12,483	CUC		FDA2; Step 5
58	Nyorwein & Jo-River	Magna	37,872	CUC		FDA2
59	Seeekon + Pellokon	Renaissance Group	6,204	CUC		FDA2
60	Sehzuplay (Schzuplay)	Universal Forest	6,890	CUC		FDA2
61	Tchien Menyén, Grand Gedeh	?	48,365	CUC		FDA2
62	Tonglay, Gbarpolu	KESHAV Global	19,593	CUC		FDA2; Step 5
63	Ziadue & Teekpeh	EJ&J	24,649	CUC		FDA2
64	Zor	?	1,112	CUC		FDA2
65	Chedepo, River Gee	?	42,809	Authorized		FDA2
66	Karluiway, Maryland	?	34,004	Authorized		FDA2



#	Concession	Operator (abbreviated)	Area (ha)	Operational Status	Date of Termination	Source
67	Soblina, Lofa	?	20,640	Authorized		FDA2
68	B LIB Plantation	Build Liberia	?	?		LEITI
69	Glaro Reforestation	Westnaf	?	?		LEITI
70	Kpoyblen	Star Wood	?	?		LEITI
71	Deabo	Unitimber	?	?		Global Witness
72	Geetroh	Universal Forestry	?	?		Global Witness
73	Guehzueh	Global Logging	?	?		Global Witness
74	Karluway 2	Unitimber	?	?		Global Witness
75	Kulu, Shaw & Bo	?	37,402	?		Global Witness
76	Marloi & Vambo	ALEL	?	?		Global Witness
77	Niplaihko & Lower Jloh	Atlantic Resources	59,000	?		Global Witness
78	Rockcess	Universal	?	?		Global Witness
79	Totoe & Duo	Mandra	?	?		Global Witness
80	Whe-Sayn & Gbarsaw	Gedeh Woods	?	?		Global Witness
81	Yeablo	Limetac	?	?		Global Witness
82	Zehnia	L TTC	?	?		Global Witness
Total area			1,307,578			

Plantations

83	Cavalla Teak	Regnals Intl	?	Inactive		FDA
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Sources: FDA = March 2023 letter from FDA MD; FDA2 = February 2023 email from FDA General Counsel; Step 5 = FDA document of the results of Step 5 (demarcation) in the CFMA allocation process; LEITI = 13th LEITI (2022) report for FY2019; Global Witness (2018) Power to the People.

Terminated Concessions

TSCs

In a communication from the FDA to LFCRII on March 10, 2023,⁴⁷ the MD wrote: “we confirm that all Timber Sale Contracts (TSC) have been cancelled. We refer you to the Forestry Development Authority Board of Directors Resolution #14-2021.”

⁴⁷FDA reference letter: MD/036/2023/-1.



PUPs

Executive Order 44 of 2013 suspended all PUPs.⁴⁸

FMCs

In the same correspondence noted above, the MD wrote: “It is important to note that regardless of their designation as “active” or non-active,” none of the FMCs are terminated.”

CFMAs

In the same correspondence noted above, the MD wrote: “there have been several mutual and/or uncontested terminations of agreements between Authorized Community Forest and Companies. These include Booming Green and Zuzohn Community Forest. Several Community Agreements have also been contested, including the Bloquia Community Forest agreement with Liberia Hardwood Company (the case met its finality before the Supreme Court of Liberia), and Beyan Poye Authorized Community Forest and Akewa Group of Companies, currently a subject of cancellation proceedings...The FDA has not terminated any CFMA.”

Active vs. Non-Active Concessions

FMCs

In the same correspondence noted above, the MD wrote: “For the avoidance of doubt, FMC “F” and FMC “I” were listed as active, while FMC “A”, FMC “K”, and FMC “P” were listed as non-active.”

CFMAs

In the same correspondence noted above, the MD wrote: “Sewacajua Authorized Forest Community is operationally active...Zuzohn...signed with another Third Party...[but] is currently not operational active, as there is no approved operational plan...Bluyeama Authorized Forest Community has a Third-Party Forest Management Agreement with Sing Africa, but Blueyama is currently not operationally active due to compliance issues...Beyan Poye is not operationally active.”

In addition to those 23 CFMAs referenced in their March 2023 communication, the FDA had also acknowledged in an email from the FDA’s General Counsel on February 9, 2023, that CFMAs Gbi and Gheegbarn #1 were active, and thus included in the scope of the LFCRII review.

The February email also included reference to the other 14 CFMAs noted in Table 15 under the reference “FDA2.” The vast majority of these CFMAs had entered into CUCs with logging operators but were not yet operational.

Independently, LFCRII collated a further 15 CFMAs that may have been operational over the past decade. These include three CFMAs that have been mentioned by LEITI (2022) in their latest reporting for FY2019 and a further 12 in Global Witness’ (2018) review of the CFMAs. The status of all these 15 is unknown.

⁴⁸ https://web.archive.org/web/20210810035233/www.emansion.gov.lr/doc/Executive%20Order%20_44%20-%20Moratorium%20on%20Private%20Use%20Permits.pdf



Annex 8 Review of the CFMA allocation processes for the 6 cases within the scope of the LFCRII

Bluyeama – Sing Africa

The Bluyeama CFMA was one of the first CFMAs, established in 2012, and it did not overlap with any of the PUPs. There is, however, overlap between Ecowood, the first Operator linked to Bluyeama, and other PUPs to the north in Lofa County.⁴⁹

The Bluyeama CFMA was also established prior to the Community Forest Rights Law (CRL) Regulations, which detailed the Nine Steps.

Table 16. Bluyeama: Evidence of compliance/non-compliance

CFMA: 10-Jan-12	CFMP: Dec-11	TPA: With Ecowood: 12-Jan-12 With Sing Africa: 30-Jan-16
1. Application		
<ul style="list-style-type: none"> A lengthy series of eight letters make up the application process (spanning May to December 2011), which involved two logging companies: Ecowood and Southeastern. Ecowood first obtained confirmation from the Land Commission that the land was “free of any deeds and claims” on 8-Jun-11. A week later, the Community, represented by Clan Chief Henry Gboluma, wrote to the FDA requesting CFMA authorization and stating, “we have engaged a company, prequalified by FDA, and currently operating in Lofa County, Ecowood Inc.” The application is supported by a map of the forest produced by the FDA, dated 9-Jun-11. “Our forest is estimated at approximately 121,846 hectares, of which approximately 49,000 hectares are suitable for commercial logging.” There then follows a protracted period of confusion, as the proposed FMC M occupies the same land. On 26-Aug-11, the FDA informed county authorities that Southeastern would be visiting to assess the FMC (presumably on the assumption it might be auctioned). This led to a series of ‘MOU’ agreements (later cancelled) between Community representatives and each company. Some months later the FDA also began to speak more of a PUP with Southeastern than an FMC. For example, in a 22-Nov-11 letter, the County Supervisor wrote to the FDA and said: “I personally spoke to the Regional Forester Mr. William Pewu who confirmed the MOU and that it was a PUP forest, and I could not understand the term PUP.” Meanwhile, another Community representative, Darkollie Sumo, describing himself as the CFMB Chairman, wrote to the FDA on 30-Nov-11 confirming the establishment of a Community Assembly, Executive Committee, and CFMB. Two weeks earlier, Mr. Sumo, Executive Committee Chairman Cllr Laveli Supuwood, CFMB Member Yassah Weedor Gayflor, and one other person, had incorporated and obtained a business registration for the Bluyeama Forest Management Corporation. 		
2. Notice of Socio-economic Survey and Resource Reconnaissance (SESRR)		
<ul style="list-style-type: none"> On 2-Dec-11, the FDA wrote to CFMB Chairman Darkollie Sumo offering to conduct an SESRR. It is accompanied by a budget for FDA expenses, with a presumption that Bluyeama will pay this. There is no evidence of any other more public notice about the SESRR taking place, as required in Section 7 of the 2011 CRL Regulations. 		
3. SESRR		
<ul style="list-style-type: none"> An internal FDA memo dated 12-Dec-11 reports the completion of the SESRR visit between 8 and 12-Dec-11. There is also an SESRR report dated Oct-11 (i.e., two months before the above memo), but there are a few inconsistencies that suggest it may have been prepared years later. First, it refers to 44,444 ha, which is the portion of the forest allocated to Sing Africa in 2016 (see below). Second, it recommends “competitive bidding,” which is highly unusual in a CFMA context. 		

⁴⁹The SIIB report states Ecowood operated a PUP owned by the Kpoto family in an area proposed as an FMC, with overlap in the proposed Wologizi Protected Area. The PUP was issued on 25-Nov-09, and Ecowood signed an agreement with Kpoto on 5-May-10.



4. Notice of boundary mapping

- A letter from Clan Chief Gboluma dated 3-Jul-11 invites the FDA to conduct a demarcation exercise. The letter mentions the Community's MOU with Ecowood and suggests the company will pay FDA's expenses.
- There is no evidence of any other, more public notice about the demarcation taking place, as required in Chapter 2.9 of the 2011 CRL Regulations.

5. Boundary mapping

- The FDA produced a map, dated 9-Jun-11, which was included in the 16-Jun-11 CFMA application.
- There is also an internal FDA memo dated 29-Dec-11 reporting completion of the demarcation work between December 12 and 19, 2011 (immediately after the SESRR).

6. Share draft SESRR & boundary map

- The FDA prepared **SESRR survey**, dated Oct-11 and covering 44,444 ha, which contains in Annex 2 (pp. 24-25) clear evidence of fraud on the part of the FDA. The inventory data, which was reportedly obtained when "[t]he team measured a total of 69 plots in October 2011" is identical to that presented in the **FMC A's SFMP** (p.27), "collected in a forest inventory during October-November 2007."

7. Opportunity to object

- No evidence has been provided.

8. CA, EC elections, CFMB appointed

- Three editions of the Community Assembly, Executive Committee, and CFMB membership contain differing memberships. The final one appears to have been established over two months after the CFMA was issued.
- There is no evidence of Community Assembly or Executive Committee elections, and no evidence that the appointment of the CFMB followed due process.

9. CFMA issued

- A CFMA was issued on 10-Jan-12, signed on behalf of the Community by Darkollie Sumo as Chairman of CFMB, a position he held for only eight more days according to the information above. It is witnessed but the name of the witness is not provided, and the template did not offer space for other signatures.
- No notarised copy has been made available.

10. CFMP

- Bluyeama CFMP is dated "October/December 2011." This would imply it was written prior to the CFMA being issued.
- It includes the map from 9-Jun-11, which states the area is 121,846 ha, as opposed 44,444 ha in other documents (see Step 1 above).
- Note that the CRL (Section 6.3[a]) requires competitive bidding for a CFMA over 50,000 ha.

A TPA⁵⁰ was signed between Bluyeama and Ecowood on 12-Jan-12, just two days after the CFMA was issued. It was signed on behalf of the Community by the CFMB (only one of whom, Henry O Gayflor, was still a member two months later). The Agreement was signed by Vladimir Maslov, representing Ecowood.

The competing claims by Ecowood and Southeastern continued for a further five months until on 29-May-12, when the FDA instructed SGS, as custodian of the COCS, to register Ecowood.

⁵⁰Inappropriately titled "Community Forestry Management Agreement."



On 30-Jan-16, a new TPA⁵¹ was signed between Bluyeama and Sing Africa Plantations Liberia Inc. This agreement was signed by CFMB Co-Chair Morris Kpadeh (who was a member of the Executive Committee in 2012), both on his own behalf and signing (pp) for his Co-Chair, John V Kokru, as well as by Yassah Bawala.

The Sing Africa agreement is for 44,444 ha only, whereas the initial **Ecowood agreement** was for 49,444 ha. Despite this difference in surface area, the two maps produced by the FDA appear virtually identical, bringing into question the FDA's estimate of the contracted area, and thus the annual land rental amount due from Sing Africa (i.e., compare the map on p. 8 of the **Bluyeama CFMA** indicating a polygon of 49,444 ha and the map in the Bluyeama survey **Socio-Economic and Reconnaissance Survey** indicating a polygon of only 44,444 ha;⁵² it is not clear whether either map is accurate). Neither Sing Africa nor the FDA provided the LFCRIL with any management plans to compare the metes and bounds of the Sing Africa agreement with the original 49,444 CFMA.

⁵¹ Also inappropriately titled a "Community Forest Management Agreement"; LFCRIL has not received documentation related to the termination of the Ecowood agreement.

⁵² The only difference between the two maps in the "metes and bounds/technical description" (other than obvious typographical mistakes) is the description from the common point (425763 N – 844621 W) in both.

- The survey map ends with:
"(425763 N – 844621 W); thence a line runs N 32° W for 4,021 meters to the point of commencement (UTM 29N 0414526-0868512) embracing a total of 44,444 hectares and no MORE."
- The CFMA map ends with:
"(425763 N- 8,44621 W); thence a line runs N 64° E for 2,402 meters to a point (427874 N- 845677 W); thence a line runs N 9° W for 7,670 meters to a point (426651 N- 853288 W); thence a line runs N 84° W for 5,614.5 meters to a point (421096 N- 853899 W); thence a line runs N 16° W for 2,597 meters to a point (420331 N-856509 W); thence a line runs N 45° W for 5,025 meters to a point (416740 N- 860100 W); **thence a line runs Due-North for 4,864 meters to a point (416762 N- 864955 W)**; thence a line runs N 32° W for 4,021 meters to the point of commencement (UTM 29N 0414526-0868512) embracing a total area of 49,444 hectares and no MORE."

Note: there is boundary line on the east side of the polygons in both maps (opposite the village of Balagwalazu) that appears to run "Due-North" but only the CFMA description includes such a reference (highlighted in grey, above).



Gbi – LTTC

Like Bluyeama, the Gbi CFMA was also established prior to the revised CRL Regulations of 2017.

Regardless, there is clear evidence that LTTC violated the 2011 regulations and was involved with Gbi (and Doru) communities since the first stages of the application process. In many ways, the steps have been reversed, as the first step taken was the establishment of a formal partnership between the communities and LTTC. Moreover, in a brief shared with the FDA in 2013, Global Witness concluded that “the majority of Community members interviewed stated that their leaders were rushed into signing an agreement with LTTC. No Community members interviewed either possessed copies of the CFMA or were aware of the terms of agreements with the logging company.” For five of the steps, no evidence of compliance has been provided at all.

Table 17. Gbi - LTTC: Evidence of compliance/non-compliance

CFMA: 18-July-11	CFMP: none provided	TPA: 15-Dec-10
1. Application		
<ul style="list-style-type: none"> No evidence has been provided of an application letter written by Communities. A series of documents, under a cover sheet dated 10-Jan-11, have been attached to some copies of the CFMA and the TPA: <ul style="list-style-type: none"> On 15-Oct-10, the Gbi and Doru communities submitted a petition to LTTC, as “Contract Holder of FMC C” (in River Cess County), to carry out logging operations in the two Community Forests. The forests are not contiguous, but Gbi is about 30 km from FMC C at their nearest points, and Doru only 2 km from FMC C.⁵³ The petition is signed by 21 Community leaders from Gbi (and a similar number from Doru), plus District Commissioner David M Toe and District Superintendent M Mambiah Vamore. It is signed for LTTC by Ricks Toweh and his wife, Nyunyun Toweh. The Community wrote to the FDA on 11-Dec-10 introducing LTTC, which “has approached us for the purpose of operating and managing our Community Forest,” confirming Gbi had signed a logging agreement with LTTC. It is signed by 14 of the 21 Community leaders above, including the same District Commissioner and Superintendent. A TPA between Gbi and LTTC, titled a “Community Forest Agreement,” was signed on 15-Dec-10 and notarised on 4-Jan-11. It is signed by 12 Community leaders. LTTC wrote to the FDA on 10-Jan-11 stating it had “completed negotiation with the Gbi Community,” requesting “all legal instruments that will enable us to manage and operate the said Community Forest.” The letter is signed by Ricks Toweh. 		
2. Notice of SESRR		
<ul style="list-style-type: none"> No evidence has been provided. 		
3. SESRR		
<ul style="list-style-type: none"> No evidence has been provided. 		
4. Notice of boundary mapping		
<ul style="list-style-type: none"> No evidence has been provided. 		
5. Boundary mapping		

⁵³FMC K and Ziadue & Teekpeh forests sit between the Gbi, Doru, and FMC C.



- On 24-Jan-11, the FDA requested US\$3,550 from LTTC to demarcate the Community Forest boundaries. The letter also suggests the application letter “requested the FDA to issue your company Private Use Permit (PUP).”
- On 6-Mar-11, the GIS team at FDA reported to the MD that over 8-9 days, they had conducted “detail ground truthing... along with the tribal people and company representative,” confirming the forest area as 31,155 ha. (An almost identical report was submitted regarding Doru forest.)
- No maps or descriptions of metes and bounds accompany the reports.

6. Share draft SESRR & boundary map

- No evidence has been provided.

7. Opportunity to object

- No evidence has been provided.

8. CA, EC elections, CFMB appointed

- There is no evidence of Community Assembly or Executive Committee elections, and no evidence that the appointment of the CFMB followed due process.
- Instead of a CFMB, there is an undated list of ten members of a “Community Assembly,” plus five on the “Gbi Chieftdom Forest Management Committee,” and seven on the “Gbi Chieftdom Forest Management Executive Committee.” On 2-Jun-11, the Gbi Chieftdom CA created Articles of Incorporation, which were notarised on 29-Jun-11, and were signed by six of the ten CA members.
- The membership of the Assembly and the Committee lists are identical to those prepared for the Doru Community Forest, suggesting members are not representative of the respective communities.

9. CFMA issued

- A CFMA was issued on 18-Jul-11, signed on behalf of the Community by Chairman of the Forest Management Executive Committee Joseph C Zannie, Co-Chairman Alfred J Barcom, and Treasurer Betty Isaac. (The template did not offer space for other signatures.) Given the irregular titles given to the Community representative bodies, it is not easy to determine if they are CFMB members.
- No notarised copy has been made available.

10. CFMP

- No evidence of a CFMP has been provided, let alone one developed by the Community prior to selecting and contracting LTTC. Despite the lack of the CFMP (and any other FMPs), the documents referred to in Step 1 above contain:
 - On 18-May-11, CFMB Chairman James K Zaryou wrote to the FDA to request permission for pre-felling operations to commence under the “Community Forest Agreement” (i.e., a TPA). It was signed on 31-Dec-10 and indicated that the logging operator is now “Mandra LTTC.”
 - The FDA replied on 20-May-11 with “no objection,” but requested “all relevant documents supporting the agreement between the people of the Gbi and Doru Chieftdoms and Mandra LTTC Inc including the Social Agreement for our review, attestation and file.”



Beyan Poye – Akewa Group

Prior to signing a contract to log the Beyan Poye CFMA, the Akewa Group also held a PUP in the same area (75% of the CFMA falls within the area previously allocated to Akewa’s Gibi PUP).⁵⁴

The available evidence raises at least four additional concerns regarding the CFMA allocation process:

1. The presence of the District Commissioner on the CA’s Executive Committee violates the law (CRL §4.1[b]).
2. It is alleged that a series of changes to the CFMA’s boundaries are not consistent with the customary understanding of the extent of the Community’s Forest.⁵⁵ The revised boundaries (removing area in a neighboring county) was allegedly done “to avoid delays in the authorization of the community forest,” i.e., to side-step negotiations with the neighboring communities.
3. It is alleged that Akewa helped to fund the boundary line cutting, thus becoming involved during Step 5 (long before the Regulation permits).⁵⁶
4. Given the short time (1 month) between the Community obtaining a CFMA and signing a logging agreement with Akewa (March 2017), it is unlikely that the CFMB developed a CFMP and then considered other companies for the logging contract. The LFCRII has not been provided by the FDA, Akewa Group, or the Beyan Poye CFMB with a CFMP or any other FMP (i.e., 5yFMP, AOP, etc.).
5. Many of the dates within the steps appear out of sequence.

Table 18. Beyan Poye: Evidence of compliance/non-compliance

CFMA: 22-Feb-17	CFMP: undated	TPA: 25-Mar-17
1. Application		
<ul style="list-style-type: none"> • The first application letter is dated 5-Sep-13 (i.e., some nine months after the PUPs were cancelled). It was signed by 13 Community leaders and attested by District Commissioner Amos Z Boyer. • A second application letter, dated 20-Jun-14, includes the same signatures. • The Community Forest Working Group approved the application on 18-Jul-14. • Commissioner Amos Z Boyer, Elder Bondo Yougbah, Women’s Leader Mini Menyongai, Youth Leader Sham B Menyongai, and Paramount Chief Peter KW. 		
2. Notice of SESRR		
<ul style="list-style-type: none"> • A joint FDA/Community Forest Working Group site visit was made November 17-19, 2014. They were hosted by District Commission Amos Z Boyer, Paramount Chief Peter Barnyou, the District Officer, and an unnamed “representative of the Community.” Other members of the Community, women, and youth leaders attended the meeting. The team visited ten towns. 		

⁵⁴Global Witness, 2018. **Power to the People?**

⁵⁵Roesch, R. 2020. **Under the guise of participation: community forestry as a new form of land rush in Liberia.** p.153.

⁵⁶Roesch, R. 2020. **Under the guise of participation: community forestry as a new form of land rush in Liberia.** p.150.



3. SESRR

- The FDA sought a budget for the SESRR on 1-Jun-15.
- The FDA informed the County Superintendent that the SESRR would take place June 16-23, 2015.
- The attendance sheets were signed by 61 Community members in meetings over three days (June 18-20, 2015).
- The PROSPER Easy Notes template was used for field data collection and a subsequent write-up.
- Five people subsequently signed an undated affirmation that the SESRR is a “true representation of the Community’s views” including: District Commissioner Amos Z Boyer, Paramount Chief Peter KW Barnyou, Youth Leader Sham B Menyongai, Women’s Leader Mary M Gbessey, and Senior Elder Joseph Twehn
- Seven others from the FDA, EPA, and CSO are named in the same document, but only three of them signed (likely at least a year later in 2016).
- This was summarised into a four-page SESRR report that includes a map produced by the FDA’s GIS team and is dated 9-Sep-16.

4. Notice of boundary mapping

- The FDA issued a notice between 8-Aug-16 and 8-Sep-16 regarding the upcoming mapping process. The attendance sheets for posting of these notices were signed by 56 Community members.
- There is an undated FDA budget request for boundary mapping.

5. Boundary mapping

- In an internal letter dated 29-Jun-15, the FDA GIS team requested that the Community Forestry Department conduct several desk-based steps prior to conducting the field validation of boundaries.
- On 12-Oct (the year is not clear, possibly 2015) District Commissioner Amos Z Boyer wrote to the FDA pointing out that some Beyan Poye forest communities were in Grand Bassa County, whilst the forest as a whole is considered to be in Margibi County.
- The GIS team submitted a boundary map report to the FDA Managing Director on 24-Oct-15. The document includes an FDA GIS map dated 24-Oct-15 and another dated 9-Sep-16. The two maps differ on the boundary close to the border with Grand Bassa.
- An internal memo dated 18-Jan-16 reports on a validation visit from January 15-18, 2016 that resulted in five additional towns being added to the map and thereby becoming eligible for a share of the logging revenues and other benefits.
- *“Independent research highlighted concerns about the boundary of the forest: The [October 2015] map produced was inaccurate due to technical problems and time constraints. Community members complained that several towns were missing. Moreover, the size of the forest increased from 22,000 to 39,895 ha, including towns in Bong County and a considerable area of Grand Bassa County. The validation in January 2016 largely confirmed the contours of the proposed Community Forest. The second map is, however, even less accurate than the one produced during the first mapping exercise. In September 2016, a final map was produced which shifted the Eastern boundary line inwards. Much of the area located in Grand Bassa was excluded from the Community Forest”.*⁵⁷
- The FDA wrote to District Commissioner Amos Z Boyer on 5-Sep-16 confirming completion of Steps 1-4 but stating it did not have funds to cut the boundary lines.

6. Share draft SESRR & boundary map

- An FDA team visited the Community to present the SESRR and boundary map from November 7-8, 2016. It reported a low turnout of Community members, and the attendance sheet indicates 30 people.

7. Opportunity to object

- On 6-Dec-16, the FDA Community Forestry Department reported to the Managing Director that no objections had been received.

⁵⁷Roesch, R. 2020. *Under the disguise of participation: community forestry as a new form of land rush in Liberia*. p.149.



8. CA, EC elections, CFMB appointed

- Attendance sheets indicate 80 Community members took part in elections on 2-Dec-16.
- An affirmation signed by 21 Community members dated 2-Dec-16 that the CA states that elections had been conducted properly in each town. This meant two representatives per Community would be on the CA (42 members total).
- There is an additional attendance sheet, dated between November 25 and 30, 2016, with names of six local leaders including District Commissioner Amos Z Boyer. The purpose of this sheet is not clear.
- An internal FDA report dated 24-Jan-17 states the elections were first held in October 2016 and the FDA did not attend “due to budgetary and other constraints” but “gave them the go-ahead to conduct elections amongst themselves.”
- On 16-Dec-16, with the FDA in attendance, the 42-member CA elected the EC. The FDA’s report noted “few people were nominated” to the four-member EC: Chair David S Menyongar, Vice Chair Amos Z Boyer, Secretary Rennie Glegbar, and Finance Officer Deyousor Gaimai.
- The final list of Executive Committee members includes, ex-officio, two legislators with non-executive roles: Hon. Senator Jim W Tornonlah and Hon. Representative J Emmanuel Nuquaye.
- The EC then appointed the CFMB: Chief Officer Jehudi E Barnyou, Secretary Jerome Poye, Treasurer Standic Davies, Marthline Weah, and Sham B Menyongai.
- The Assembly’s Constitution and Bylaws were produced, although not signed or dated.

9. CFMA issued

- The CFMA was issued on 22-Feb-17, signed on behalf of the Community by Chief Officer Jehudi E Barnyou (the template did not offer space for other signatures).
- No notarised copy has been made available.

10. CFMP

- While the FDA has not produced a CFMP for CFMA Beyan Poye, there is a CFMP available [online](#). However, it is unsigned and undated. Furthermore, it has a blank space where the date of the CFMA should be written, suggesting it was drafted prematurely. The Chief Officer reported it was done in 2017. It needed to have been done after the CFMA and before the TPA (i.e., between 22-Feb-17 and 25-Mar-17).
- The two maps in the CFMP are dated, but the scan is not high enough quality to read them.

Local Community members apparently referred to the signing ceremony for the agreement with Akewa as the “cow business,” particularly notable as “cattle are scarce in **Beyan Poye**.”⁵⁸

In January 2021, Beyan Poye began an Alternative Dispute Resolution process with the Akewa Group, as the Community alleges that Akewa has refused to pay its arrears (e.g., only 24% of land rental has reportedly been paid) and abandoned most (60%) of the logs harvested, claiming that the agreement should be terminated. **Beyan Poye** also claim that their contract with Akewa was “unconscionable”⁵⁹ and “unfair,” and therefore should be terminated because they were a “remote forest Community...with no opportunity to have said contract reviewed by a lawyer of its choice...[and] they did not have equal bargaining power.”⁶⁰ However, the arbitration panel rejected termination because the contract includes Clause 32, which reads: “The Community Forest Management Agreement shall be a standing Agreement and that *under no circumstance can it be revoked* by any of the party,”⁶¹ [emphasis added] and that Akewa suffered “factors not contemplated” like the riots that prevented shipments (although the Panel also found no connection between the CFMB

⁵⁸Roesch, R. 2020. **Under the guise of participation: community forestry as a new form of land rush in Liberia**. p.150.

⁵⁹In particular, Beyan Poye object to Clause 32: “The CFMA shall be a standing Agreement and that under no circumstance can it be revoked by any of the party.”

⁶⁰Allegedly, the community used the same lawyers as Akewa in the negotiations of the TPA, inappropriately labeled as a CFMA.

⁶¹LFCRII notes that the Beyan Poye TPA is the only CFMA with such a clause prohibiting revocation under any circumstances among the six CMFAs reviewed.



and the riots, and in fact noted that the CFMB helped calm the violence). The panel did, however, find that Akewa had defaulted on its obligations and must fully compensate Beyan Poye except for “social projects”⁶² and damages. Beyan Poye must allow Akewa “unhindered and immediate access...to carry out its operations without any precondition.” Akewa must pay 25% of calculated cubic meter fees (the balance to be paid in six monthly instalments), 25% of the US\$81,840 in land-rental arrears (the balance paid in 12 monthly instalments), and all outstanding social projects within five years. If Akewa does not “immediately resume operations” (i.e., within three months), then the agreement “shall be terminated by operation of law.”

By 2022, when Akewa reportedly refused the arbitration decision, Beyan Poye took them to the Commercial Court, which Beyan Poye subsequently won. The arbitration panel found that an agreement was reached in principle, but the company refused to sign the agreement, and the process broke down. In a **June 2022 letter to the FDA MD**, Akewa asks the “Arbitral panel” to:

- “[D]eclare the Notice of Arbitration dated January 21, 2021, served and received February 2, 2022 [sic] be denied, dismissed and stricken from the records.”
- To hold the CFMB “in gross breach of the agreement” (specifically clauses 2 & 24) and “liable” for more than US\$1.4 million in losses “due to February 18—March 6, 2019 riot and disruption action that halted [Akewa Group’s] operations...and prevented...39 trucks from taking delivering [sic] of its harvested round logs for export and sale.”
- Declare the CFMB liable for US\$5 million “in general damages for the emotional distress, trauma, embarrassment, loss of confidence with business partners...and loss of employees.”
- Allow Akewa Group to continue operating.

Beyan Poye also challenged the arbitration decision, and on May 9, 2023, the Commercial Court of Liberia required arbitration to again review the challenges of the two parties.

⁶² Under the ‘doctrine of impracticability.’



Gheegbarn #1 – WAFDI

While the boundaries are not identical, most (89%) of CFMA Gheegbarn #1 falls within the area previously allocated to the Campwood-Gheegbarn PUP, which was operated by Mandra.^{63,64}

The Community Forest, initially referred to as Behgbarn, submitted its first application as early as 2007. A series of revised applications finally met FDA approval in 2015, but there was another hiatus until the CFMA was finally awarded in late 2017.⁶⁵

The major concern with the allocation process is that no CFMP has been provided, which is especially problematic given that the FDA apparently had permitted WAFDI to log the entire forest in just the first five years (rather than the legal contract length of 15 years, compared to the legal rotation length of 25 years for FMCs). This led to an investigation by the MoJ, resulting in the FDA management being instructed to sack, suspend, and redeploy certain staff. Most significantly, the FDA Board resolved that the Deputy Managing Director, Joseph Tally, “should be released of his position.”

Table 19. Gheegbarn #1 – WAFDI: Evidence of compliance/non-compliance.

CFMA: 23-Nov-17	CFMP: none provided	TPA: 1-Dec-18
1. Application		
<ul style="list-style-type: none"> Eleven documents, spanning from 2007-2015, relate to the Community asking the FDA for forest management rights. In their response to the initial request, the FDA rejected the request on the grounds that communities do not have such rights. (Note: this was prior to the passage of the CRL in 2009.) An application in June 2013 was signed by nine Chiefs and elders, accompanied by an Aboriginal Title Deed, a letter of support from their Senator, and an Environment and Social Impact Study. It seems like these initial requests related to obtaining a PUP, rather than a CFMA, as the application included a letter from 2010 from the MLME confirming the authenticity of the deed and advising the FDA “to proceed in granting the Private User Permit to the people of Camp Wood / Gbegbarn District.” Furthermore, in notes from a Community meeting held on 31-Oct-13, which the FDA filed under Gheegbarn 2, Paul KG Kahn says: “we the citizens should embrace the new move by the president of Liberia to embark on the Community Forest instead of the private use permit PUP.”⁶⁶ The June 2013 application appears to have been rejected and there is a subsequent application letter dated 31-Oct-14. This is signed by Paul GK Kahn, Acting Chairman, Community Forest Organizing Committee.⁶⁷ This application passed a multi-stakeholder (including six CSO representatives) screening process in July 2015 and received approval by the FDA that August. Given concerns about the representativeness of those acting in the name of the Community to apply for a CFMA, the FDA at that time emphasised an affidavit procedure. On the same day as notices announcing the SESRR (Step 2), an affidavit was signed by five Community leaders: District Commissioner Hon. John Gardour Tarr, Elder Joseph Toe, Women’s Leader Dugbormar Quekeh, Youth Leader Z Harris Joe, and Hon Paramount Chief Archie Doegar. The document follows a template that self-confirms them as “communal owners of Gheegbarn #1.” 		

⁶³The PUP also included what is now CFMA Gheegbarn 2. Community representatives George B Doegar, GN Wycliff Daykeny, James Kuo, SW Sandy Kahn, and Jefferson Zoegbah signed the PUP application in October 2010 (SIIB, 2012. [Report on the issuance of Private Use Permits \(PUPs\)](#), p.123). For the record, in communications with Global Witness prior to the publication of [Power to the People?](#), Mandra reportedly stated it did not operate any PUP in Liberia.

⁶⁴There is evidence that WAFDI (the current TPA holder) and Mandra have a business relationship. For example, in the Liberia Timber Association (2022) Directory of LTA Stakeholders Officials, the entries for Mandra and WAFDI have different email addresses but identical phone numbers, and they both have Augustine BM Johnson as their LibTA representative. Additionally, the 26-Oct-22 Tax Clearance Certificate issued by the LRA for WAFDI lists Augustine BM Johnson as the Taxpayer Representative. (Community interviews by Global Witness in another community forest where WAFDI operates raised similar suspicions.) WAFDI’s Amended Articles of Incorporation, dated 19-Mar-19, do not, however, list Mr. Johnson as a shareholder. The company is reportedly 100% owned by a Chinese national.

⁶⁵The hiatus might be attributed to two factors: first, the moratorium on any new forest permits between 2013 and 2016 meant that there was little urgency to progress to Step 9; and second, the Ebola epidemic between March 2014 and September 2015 would have made fieldwork difficult.

⁶⁶Woe-Gbarn Community forest application letter, 31-Oct-13.

⁶⁷CFOCs were encouraged as precursors to the CFMB.



2. Notice of SESRR

- A full set of documents for Step 2 are available, including an attendance list for a Community notification meeting on 21-Sep-15. This was signed by 19 members representing the Community. The notice period ran from 22-Sep to 22-Oct 2015.

3. SESRR

- Similarly, the set of documents for Step 3 are available, including an attendance list for a Community meeting on 23-Nov-15 with 37 signatures representing the Community, radio announcements, and introduction letters to the County Superintendent and Clan Chief.
- The PROSPER Easy Notes template is the basis for the write-up (dated 26-Nov-15) and an internal FDA memo reporting the results of the SESRR exercise (dated 29-Feb-16).

4. Notice of boundary mapping

- A poster indicates the demarcation notice period ran from 14-Nov to 14-Dec 2015, immediately following the SESRR.

5. Boundary mapping

- There then appears to be some delay, possibly due to the Ebola crisis, as an internal FDA memo dated 2-Dec-16 reports the results of the demarcation exercise. The map in this report is dated 18-Oct-16.

6. Share draft SESRR & boundary map

- The set of documents for Step 6 is available. This includes an attendance list for a community meeting on 31-Jan-17, with 74 signatures representing the Community, radio announcements, posters, and introduction letters to "John Gardour Tarr, Chairman, Gheegbarn #1 Community Forest."
- The subsequent final SESRR Summary Report is dated 2-Feb-17.

7. Opportunity to object

- An internal FDA memo dated 8-Aug-17 confirms no objections.

8. CA, EC elections, CFMB appointed

- According to an internal FDA memo (19-Jun-17), on 7-Jun-17 the community elected 30 CA members, representing the 30 communities that attended.⁶⁸
- The CA then elected four Executive Committee members amongst themselves: Chairman Mr. Robert H. Zoegar, Vice Chairperson Sis. Oretha Towhy, Secretary Mr. Philip Z. Wesseh, and Treasurer Mr. Elijah G. Barnes.
- The Executive Committee then appointed five CFMB members, all from outside the CA: Chief Officer Mr. Taviss Y. Barchue, Jr., Secretary Mr. Junior K. Wesseh, Treasurer Mr. Alphanso G. Wruahwen, member Mr. Jacob Zangar, and member Dugbormar Quekeh (one of the earlier Affidavit signatories).

9. CFMA issued

- The CFMA was issued on 23-Nov-17, signed on behalf of the Community by the Chief Officer of the CFMB, Taviss Y Barchue, and witnessed by Hon J Gardour Tarr (the District Commissioner).
- The template did not offer space for other signatures. No notarised copy has been made available.

10. CFMP

- The CFMP would have to have been developed between Nov-17 (the CFMA) and Dec-18 (the TPA), but no evidence of such a plan was provided.

A TPA was signed between WAFDI and the CFMB in December 2018 (no day has been written in the space provided), signed by Chief Officer Junior K Wesseh, but the name of the witness signing is not provided. The

⁶⁸A constitution and bylaws are also available, but the scan is poor quality, and it appears undated and incomplete.



CFMA was signed by a different Chief Officer (Mr Barchue). Unusually, the TPA has a duration of only seven years. However, an **MoJ** investigation notes that a subsequent Management Plan from 2019 permits logging of the entire 26,363 ha in just five years, “although such management plan violated Section 8.2(a) of the NFRL and Section 6.2(a) of the Code of Harvesting Practices, as well as the current 15-year harvesting cycle established by FDA for Community Forestry.”

Sewacajua – Mandra

Unlike the other CFMAs in the scope of the LFCRII, Sewacajua was reviewed by SDI (2018).⁶⁹ It found that “[t]he CFMA application process was not fully compliant with the legal requirements laid out in the amended CRL Regulation. The logging company, Mandra Forestry Liberia Ltd., paid for the Community to initiate the CFMA application process [and was then] awarded logging rights once the CFMA was approved.”

Table 20. Sewacajua: Evidence of compliance/non-compliance

CFMA: 10-May-17	CFMP: unsigned and no date	TPA: 25-Jun-17
1. Application		
<ul style="list-style-type: none"> The Community submitted its application letter to the FDA on 23-Jun-14, signed by Forest Committee Chairman Alfred N Toteh, attested by Committee Secretary Quiah S Sneh, and approved by Committee Advisor Johnson Jah. Community interviewees told SDI (2018) that Mandra “first approached them in 2014 and offered to pay the \$250 non-refundable application fee on their behalf,” with McCarthy Sehwhy acting on Mandra’s behalf.⁷⁰ (Note: this was before the 2017 amendment, and the initial 2011 CRL Regulations do not mention the involvement of companies at this stage.) 		
2. Notice of SESRR		
<ul style="list-style-type: none"> No evidence has been provided. 		
3. SESRR		
<ul style="list-style-type: none"> There is an undated SESRR report for Sewacajua based on PROSPER’s Easy Notes template. 		
4. Notice of boundary mapping		
<ul style="list-style-type: none"> No evidence has been provided. 		
5. Boundary mapping		
<ul style="list-style-type: none"> No evidence of the mapping exercise has been provided, but there is an FDA map dated 28-Sep-16. 		
6. Share draft SESRR & boundary map		
<ul style="list-style-type: none"> No evidence has been provided. 		
7. Opportunity to object		
<ul style="list-style-type: none"> No evidence has been provided. 		

⁶⁹SDI, 2018. **The Sewacajua community forest the need to strengthen rule of law in the community forestry sector in Liberia.**

⁷⁰SDI, 2018. **The Sewacajua community forest the need to strengthen rule of law in the community forestry sector in Liberia.** Also see Global Witness, 2018. **Power to the People?**, p.37 for details on the role of McCarthy Sehwhy in a number of PUPs and CFMAs



8. CA, EC elections, CFMB appointed

- No evidence has been provided.
- SDI (2018) reported that the Community's constitution and bylaws were brought from FDA in Monrovia to the Community in February 2018, nearly a year after the CFMA was issued.

9. CFMA issued

- Sewacajua's CFMA was issued on 10-May-17. It is signed on behalf of the Community by CFMB Chairman Alfred N Toteh, witnessed by Alvin D Jaryenneh.
- In a 27-Apr-17 letter to CFMB Chief Officer Toteh, the FDA invites him, four other CFMB members, four Executive Committee members, and three local government or traditional leaders to a signing ceremony from May 9-10, 2017. It offers to pay a per diem to each participant.

10. CFMP

- The FDA wrote to CFMB Chief Officer Toteh on 31-May-17 confirming receipt and approval of a CFMP. However, the CFMP itself is not signed or dated. It should only have been developed after the CFMA was awarded. SDI (2018) states:
 "There was no evidence that the Executive Committee of the Community Assembly had approved the Community Forest Management Plan. Logging in a CFMA without a legally approved management plan is also illegal; therefore, Mandra's logging activities in the CFMA may be illegal. Also, during the validation of findings with communities the Executive Committee Chairperson confirmed that the Community Assembly is unaware of how the Management Plan was developed and that the Executive Committee did not approve the plan."

Sewacajua signed a TPA with Mandra on 25-Jun-17, less than two months after the CFMA was issued. Chief Officer Toteh signed on behalf of the Community, but there is no witness and no notarized copy has been made available. (The template did not offer space for other Community signatures.) Augustine BM Johnson signed as General Manager of Mandra. Two different copies of the TPA are available: one with a map annexed and the other with the metes and bounds annexed instead. Although each page of both documents is signed by the same three people, their signatures are in slightly different positions, and one of the versions is missing the final signature page. SDI (2018) reported concerns from the Community that the TPA had been altered in Monrovia following its initial signing in the Community:⁷¹

"[The Community interviewees] claimed that the version attested by former FDA Managing Director, Mr. Darlington S. Tuagben does not contain [Assistant Statutory Superintendent for Development] Mr. Tiawelah's signature. When contacted, Mr. Tiawelah, confirmed affixing his signature as a witness to the Third- Party Agreement in Sewakajua and that the copy signed later in Monrovia by FDA does not include his signature."

Further, SDI (2018) reported that the 2017-18 AOP allowed Mandra to log 10,000 ha, a third of the CFMA, in just one year. This AOP has not been provided to the LFCRII and so this claim has not been independently confirmed.

⁷¹ SDI, 2018. [The Sewacajua community forest the need to strengthen rule of law in the community forestry sector in Liberia.](#)



Zuzohn – Booming Green

About a fifth (19%) of Zuzohn CFMA falls within the area previously allocated to the Sallouyou PUP, and another 19% to the Zuzon PUP, both of which were operated by Global Logging. Smaller areas (<10%) fall within three other PUPs.

Good evidence of Zuzohn's progress through the Nine Steps was made available on the [FDA website](#) until late in 2018 when some 900 documents relating to CFMAs were removed. The Community submitted its first application in 2013, but had to submit another one in 2015 before the FDA would accept it. Other steps also appear to have taken a long time, perhaps as the FDA was inundated with applications.⁷² Zuzohn's CFMA was finally awarded in early 2018.

Table 21. Zuzohn – Booming Green: Evidence of compliance/non-compliance

CFMA: 17-Jan-18	CFMP: Signed by CFMB but undated	TPA: 17-Nov-18
1. Application		
<ul style="list-style-type: none"> The first application letter of 24-Oct-13 is in the name of an Interim Organising Committee and is signed by its chair, Piyigan V Gaybeon; three other committee members; three elders; and witnessed by three chiefs. This application is consistent with a similar letter from the same time, although it appears to fail to meet the requirements of the FDA. A second application was submitted on 27-Feb-15 and is signed by 23 Community representatives, including Piyigan Gaybeon as Development Chairman. Nine of the ten signatures on the 2013 letter are also on this one (only the women's representative is different). The 2013 application is attached to the 2015 re-submission. This 2015 application passed a multi-stakeholder screening process (which included six CSO representatives) in July 2015 and received approval by the FDA in August. Given concerns about the representativeness of those acting in the name of the Community to apply for a CFMA, the FDA at that time emphasised an affidavit procedure. On the same day as notices announcing the SESRR (Step 2), an affidavit was signed by five Community leaders: District Commissioner Hon. Amos L Johnson Sr, Elder Charlie Gartue, Women's Leader Mary Gaye, Youth Leader Junior Jimmy, and Paramount Chief Victor G Smith. The document follows a template that self-confirms them as "communal owners of Zuzohn forests." All the signatures, except for the first, also appear on one or both application letters. 		
2. Notice of SESRR		
<ul style="list-style-type: none"> A full set of documents for Step 2 is available, including an Attendance List for a Community notification meeting on 18-Sep-15, with 48 signatures representing the Community, posters, and radio announcements. The notice period ran from 18-Oct to 18-Nov 2015. 		
3. SESRR		
<ul style="list-style-type: none"> Similarly, the set of documents for Step 3 is available, including an Attendance List for a Community meeting on 17-May-16, with 27 signatures representing the Community, radio announcements, and an introduction letter to the County Superintendent. Although SESRR notification activities took place in September 2015, the actual SESRR was not conducted for another eight months (May 2016). The PROSPER Easy Notes template is the basis for the write-up, dated 18-May-16. 		
4. Notice of boundary mapping		
<ul style="list-style-type: none"> Step 4 also followed a standard procedure, including radio announcements and a list of 39 recipients of demarcation notification posters dated 19-May-16 (two days after the SESRR). The notice period ran from this date to 19-Jun-16. 		

⁷²There were 74 CFMA applications in 2014 representing approximately half of all applications since 2008. This compares to 19 in 2013 and 2015.



5. Boundary mapping

- Again, there appears to be a delay, possibly due to the Ebola crisis, as the internal FDA memo reporting the results of the demarcation exercise is from 23-Oct-17 (i.e., after Step 6). The report does not state when the fieldwork occurred, but the three maps included are all dated 15-Sep-17.

6. Share draft SESRR & boundary map

- The Attendance List for a Community meeting to review the draft SESRR and boundary map on 27-Sep-17 has 39 signatures representing the Community.
- No finalised SESRR summary is available, but there is an FDA internal memo dated 30-Sep-17. Thus, the FDA memos reporting Steps 5, 6, and 7 come in quick succession (and out of order): 23-Oct, 30-Sep and 30-Oct, respectively.

7. Opportunity to object

- An internal FDA memo dated 30-Oct-17 confirms no objections.

8. CA, EC elections, CFMB appointed

- The elections were preceded by an Election Awareness meeting on 27-Nov-17. Twenty-six people signed the attendance sheet.
- Five days later, 76 people reportedly participated in the elections on 2-Dec-17, although only four members signed the attendance sheet. The internal FDA memo of the event states that 31 CA members were confirmed, each one answering yes to “affirmation statements that... ascertained the full implementation of election guidelines as enshrined in the CRL Regulations in the election of the delegates from their respective towns.” The CA then elected four Executive Committee members amongst themselves: Chairperson James Teah (a signatory to the 2nd application letter), Vice Chairperson John Joe, Secretary Jacob Smith (a signatory to the 2nd application letter), and Finance Officer Mulbah Kaye.
- The Executive Committee then appointed five CFMB members, all from outside the CA: Chief Officer Piyigan Gaybian (lead signatory on both application letters), Secretary Sylvanus Reeves, Treasurer Marcus Marley, Member Isaac Garquah (a signatory to the 2nd application letter), and Member Yah B. Letona.
- A constitution and bylaws are also available, but neither are signed nor dated.

9. CFMA issued

- The CFMA was issued on 17-Jan-18, signed on behalf of the Community by the Chief Officer of the CFMB, Piyigan Gaybeon. It was witnessed, but the name of the witness is not provided, and the template did not offer space for other signatures.
- No notarised copy has been made available.

10. CFMP

- There is no date on Zuzohn’s CFMP and although it is signed by the Chief Officer Gaybeon, there are no other signatures, including no approval from the FDA.



Booming Green

Zuzohn signed a TPA with Booming Green on 17-Nov-18, ten months after the CFMA was issued. A notarized copy is available.⁷³

Nexview

In an unsigned MOU dated October 2020, the People of Zuzohn Clan appear to have negotiated a switch from Booming Green to Nexview Liberia Ltd (NELL). The Cubic Meter Fee in the MOU is relatively high (US\$4.00/m³), but it is for “every cubic meter of log felled *and shipped*” [emphasis added], compared to the agreement with Booming Green (which complies with the CUC template) to pay US\$1.50 “for every cubic meter of log felled.”⁷⁴ The MOU is an interim agreement in anticipation of the signing of a five-year “Social Agreement” under the auspices of the FDA. Nexview will not start logging until this is done. The agreement has spaces for signatures by the Chair of the Executive Committee; CFMB Chief Officer Mr. Gibiom; CEO and President of Nexview, McCarthy Sehwhy; and its “OPM,” Reverend J Ebenezar Weede.⁷⁵

Following this, on 1-Mar-21, Nexview, Booming Green, and the Community signed a “Third Party Agreement General Release and Cancellation,” which releases Booming Green of all obligations. The agreement states Booming Green’s arrears to the state and Community (a combined total US\$29,355) will be paid by Nexview in four instalments, with approximately US\$10,000 paid immediately and three subsequent instalments linked to the next three shipments of timber. (Payment of arrears is therefore dependent on exports, rather than, in line with the legal framework, a precondition of obtaining an export permit.) The agreement makes no mention of any liabilities Booming Green may have concerning Cubic Meter Fees, stumpage, or other fees, but the FDA reported in the **March 2022 JIC Aide Memoire** that the company owes US\$92,550.82 (in total, no breakdown by permit or payment type was provided). The MOU also cancels the “Social Agreement” with Booming Green but does not transfer these obligations (other than the scholarship) to Nexview. Although the agreement was not signed by the FDA, it was notarized 4-Mar-21.

A Fern/EU project (2021-22) had intended to support Zuzohn through a contract renewal process, but neither the Community nor the FDA involved the National Union of CFDCs (NUCFDC) nor any civil society organizations/NGOs. The agreement was not made publicly available despite numerous requests.

⁷³When first in Liberia, the company was quite prominent, attracting media coverage in late August 2018 when it imported machinery to operate in Garwin CFMA (**Liberia Daily Observer, 29 August 2018**. ‘Meet up with all Legitimate Tax Obligations,’ Deputy FDA Boss Urges BGL). It had a promotional leaflet and instituted an advertising campaign just outside the FDA headquarters. Representatives of Booming Green told the media its holding company is Shengyang Group, “founded in the 1980s and in the business of producing, processing and marketing of wood and agricultural products and industrialization of leading enterprises,” and that “Booming Green first established overseas in 1998 in Equatorial Guinea. The company has logging operations in other countries, including Gabon and Democratic Republic of Congo”. Booming Green is reported to have acquired the Siforco concessions from Danzer in 2017, making it the third largest logging company in the DRC. An Independent Forest Monitoring investigation in Mongala (formerly part of Equator) Province, DRC, documented in November 2018 that six months after acquiring a concession from Siforco, Booming Green reportedly had still failed to negotiate cahier de charge with affected communities, a situation only remedied after the involvement of the Provincial Minister. Booming Green reportedly still failed to fulfil the agreed obligations.

⁷⁴ClientEarth, HPA, and NUCFMB, 2022, **Commercial Use Contracts Legal Guide: Negotiating and implementing the CUC in Liberia**. Clause 5.2 of the CUC provides for payments to be “per cubic meter of logs harvested as reflected in the tree data forms and the production record, regardless of whether or not the logs are subsequently transported and sold.” Note that this template was adopted by the Board of the FDA for use by all Community Forests.

⁷⁵See Global Witness, 2018. **Power to the People?**, p.37 for details on the role of McCarthy Sehwhy in a number of PUPs and CFMAs.



Annex 9 Principle 4: Silvicultural requirements (forest management operations & harvesting)

Legislative Framework

In its review of the legislation relevant to forestry in Liberia, the FDA (2022) noted that the National Forest Policy and Implementation Strategy (NFPIS) of 2006 determined that commercial forestry was to be one of the key approaches to managing forests. The Strategy, which was developed during the reform period necessary to meet the conditions imposed by the UN Security Council to lift the sanctions on timber, defined three main objectives of commercial forestry:

- “Forest concession management—Maintaining the capacity of the forest to produce economically viable future harvests, and wherever possible, provide social and environmental benefits to a large segment of society.”
- “Reforestation and forest plantation development—Ensuring the provision of new sources of wood for the processing industry and other forest products...”
- “Modernizing the wood processing industry—This is important because the wood processing industry is a source of investment and employment in the Liberian economy and can contribute enormously to value added in the sector.” (From FDA 2022)

This included the goal to allocate up to 2 million ha of forest “into Timber Sale Contracts, Forest Management Contracts, and Private Use Contracts.”

To operationalize the Strategy, in 2009, the FDA developed its Guidelines for Forest Management Planning (GFMP) in Liberia, which “aimed at providing practical and technical information on the methods to use to design and implement FMPs. It also provided the FDA with a set of consolidated procedures to ensure compliance with international standards.” The FDA then developed a Code of Forest Harvesting Practices (CFHP) (amended in 2017) “to help state foresters and logging companies guide forest harvesting operations” (FDA 2022).

These requirements complement the legal framework (the NFRL, the CFRL, and the relevant regulations), all of which are reviewed here for their relevant silvicultural requirements. They are also comprehensively reviewed by the FDA (2022) from pages 81-86.

Liberian law relevant to silvicultural requirements

NFRL (§1.3): “Pre-Felling Operations [requirements]: Posting of any required performance bond and *preparation of the initial annual operations plan*, and for a Forest Management Contract also *preparation of a forest management plan...*” [emphasis added]

Also note that under the NFRL (§6.1c), the FDA may terminate an FMC for “*failure to complete all Pre-Felling Operations* within twelve months of the Contract Effective Date.”

CRL (§4.2c): CFMBs will “develop and implement a community forest management plan under guidelines and specifications issued by the Authority.”



Also note that under CRL (§5), the FDA is to “serve as a repository of community forest management plans and other [relevant] documents,” as well as “provide and assist communities seek and access technical assistance and support for management” and “support building of [their] capacities.”

(§6.4c): “No commercial activities shall occur on Community Forest lands until the [CFMB] has developed a Community Forestry Management Plan (CFMP) that includes the envisaged commercial activities.”

(§6.4d): “A [CFMP] has been approved by the Executive Committee, the Community Assembly, and the Authority.”

(§6.4e): “The [CFMP] is being implemented.”

Regulations

NFRL Regulation 102-07: Forest Land Use Planning, and Regulation 105-07: Pre-Felling Operations

These regulations describe the specific social, environmental, and forest management planning obligations that an Operator must satisfy prior to felling trees:

Reg 105-07: PART FIVE: FOREST MANAGEMENT PLANNING

Section 51. Preparation of a Forest Management Plan

- (a) The FMC Holder shall prepare a forest management plan covering the entire area subject to the contract.
- (b) In developing the plan..., the Holder shall ensure that the plan conforms to the requirements, including the requirements for public consultation, of the following:
 - (1) *The Forest Management Guidelines issued by the Authority; and*
 - (2) *The Code of Forest Harvesting Practices issued by the Authority.* [emphasis added]

Section 52. Approval by the Authority

- (a) Upon receipt of a forest management plan, the Authority shall review it for completeness, accuracy, and conformity with the requirements of the NFRL of 2006, this Regulation, the Forest Management Guidelines, the Code of Forest Harvesting Practices, and the terms of the Holder’s FMC.



CRL Regulation to the Community Forest Rights Law of 2009 with Respect to Forest Lands [as amended]:

CHAPTER 8: COMMUNITY FOREST MANAGEMENT PLAN...

(§8.2) The Community Forest Management Plan shall be reviewed every five (5) years... At the end of each 5-year period the Community Forest Management Body shall review the Community Forest Management Plan and submit a report to the Authority, stating whether the Community Forest Management Plan accurately reflects how the Authorized Forest Community uses or plans to use its forest resources...

APPENDIX: STEPS IN ESTABLISHING AN AUTHORIZED FOREST COMMUNITY...

Step 11. Once the Authority reviews and approves the Community Forest Management Plan, the Community Forest Management Body proceeds to implement it.

Contractual obligations

In addition to the laws and regulations, silvicultural requirements appear in the Operators' Contracts.

FMCs (2009 VERSION):

B3.0 – OBLIGATIONS OF CONTRACTOR ...

B3.11 – Forest Management Plan

At least 90 days before the first annual operating season, HOLDER shall submit to AUTHORITY a *Forest Management Plan covering the entire term of this contract and looking far enough into the future to demonstrate that the HOLDER's proposed management activities during the contract term will be sustainable.* [emphasis added]...

B3.14 – Initial Annual Operational Plan

(a) Within 90 days before the first annual operating season, HOLDER shall submit to AUTHORITY an initial ANNUAL OPERATIONNAL PLAN...

B6.11 – Annual Operations Plan

At least 60 days prior to the beginning of each annual operating season, HOLDER shall submit to AUTHORITY an ANNUAL OPERATIONAL PLAN

The ANNUAL OPERATIONAL PLAN must describe the next operating season's major activities, including logging, environmental protection measures, road construction and maintenance, and other actions required by law or AUTHORITY regulations.



The ANNUAL OPERATIONAL PLAN must be consistent with the Forest Management Guidelines, the Liberia Code of Forest Harvesting Practices, HOLDER's five-year Forest Management Plan, and HOLDER's Strategic Forest Management Plan. The ANNUAL OPERATIONAL PLAN must identify Harvesting Blocks and all MERCHANTABLE TREES within the HARVESTING BLOCKS on block maps, according to the specification of the CHAIN OF CUSTODY SYSTEM standards for operations.

CFMAs

While the Planning Guidelines were developed with respect to FMCs and TSCs, the current FDA-MD in communication with CFMA holders has stated that the planning requirements for CFMAs “are prescribed in the FDA Guidelines for Forest Management Planning in Liberia and the Ten Core Regulations.”

Code of Forest Harvesting Practices (updated in 2017⁷⁶)

The Code lays out in detail (over 83 pages) what is expected by Operators across all stages of logging from pre-felling through road and bridge building, harvest, transport, and post-felling closure. It specifies what Operators “shall” do, as well as “should” and “may” do. The “Code follows a risk-based approach in managing performance indicators in forestry...This risk management approach is typically referred to as ‘Hazard Identification, Risk Assessment and Control Measures.’”

Table 22. Obligatory risk assessments for various performance areas in forestry.

Key Performance Area	Legislative Requirement	Responsible Government Ministries/ Departments	Risk Management Tool
Safety and health	Occupational Health and safety Act	Ministry of Labor Forestry Development Authority	Safety risk assessment
Environment	Environment Protection and Management Law EIA regulations	Environmental Protection Agency Forestry Development Authority	Environmental Impact assessment (EIA)
Social	Community Rights Law Social agreement	Forestry Development Authority	Social risk assessment (SIA)

The Code states that:

Forest areas designated for sustainable forest management by applying the Liberian selective cutting system (i.e., FMC and CFMA areas) must be managed according to a 25-year rotation/cutting cycle. For these areas, the following planning levels are obligatory:

⁷⁶Note: the FDA website still has the 2007 version, which should be updated with the amended 2017 version.



- Strategic planning (25 years) covering the background, conditions and plans for the entire contract area;
- Detailed planning for operations covering activities to be carried out within a 5-year period; and
- Annual planning covering the previous year's activities and operational plans for the following year including block plans...

Two types of field inventories shall be required for proper sustainable forest management planning:

- First, the forest Operator shall complete a general inventory of the entire contract area to provide basic data on forest resources and sustainable forest management practices including yield regulation.
- Second, the operator shall complete pre-harvesting enumeration to define the harvestable trees and associated risks to achieve annual harvesting targets.

Guidelines for Forest Management Planning in Liberia (2009)

Guidelines respond to the FDA's wish to provide a clear set of instructions to help forest managers and logging companies allocated FMCs to prepare the required Forest Management Plans and Annual Operational Plans. It should be read together with the FDA's "Code of Forest Harvesting practices" and the "Ten Core Regulations" (FDA 2022).

As with the Code, the **Guidelines** divide management into three planning horizons:

- SFMP, a long-term strategic document that sets all forest activities for the duration of the license (FMCs are 25 years; CFMAs are usually only 15 years)
- 5YFMP, a medium-term tactical document that sets management provisions for each five-year Forest Compartment (FC) of the FMC
- AOP, which sets the annual program and monitoring procedure of the management plan on each Annual Coupe.

The Guidelines contain numerous requirements for the three planning documents, most based on principles like the existence of a permanent consultation process with Communities most affected by the logging. For example:

- According to the Regulation 105-07 on Major Pre-felling Operations, Section 51, the SFMP must be submitted to a public consultation process. This consultation will be held before the approval of the Final Version of the SFMP, within 90 days of the technical approval of the SFMP by the FDA. The Holder will be responsible for the organization of this public consultation.



- For this public consultation, representatives of the Affected Communities (inside the FMC and within 3 kilometres) must be informed and invited to two meetings. For their information, the executive summary of the SFMP will be distributed; the main decision of the SFMP will be presented and discussed during a first public meeting.

Rather than documenting all these requirements, the LFCRII simply notes here the tables and maps that must be included in the planning documents as an indication of the overall requirements. For example, for the SFMP, **the Guidelines** require the following table:

Table 23. Regulated activity for various Forest Management Units

Activity	Timber Production	Conservation	Protection	Reforestation	Agriculture
Logging activities	Towards SFMP agreement	Forbidden	Regulated by the Code of Forest Harvesting Practices	Forbidden	Authorized with regulations
Extraction of sand, gravel and laterite	Authorized	Forbidden	Forbidden	Forbidden	Authorized with regulations
Road network and log landings	Authorized and according to the Code of Forest Harvesting Practices	Forbidden	Regulated by the Code of Forest Harvesting Practices	Authorized with regulations	Authorized with regulations
Eco-tourism	Authorized	Authorized	Authorized	Authorized	Authorized
Pit-sawing	Forbidden	Forbidden	Forbidden	Forbidden	Authorized
Collection of firewood and craft products	Authorized and according to the current legislation	Authorized and according to the current legislation	Authorized and according to the current legislation	Authorized and according to the current legislation	Authorized and according to the current legislation
Hunting	Authorized and according to the current legislation	Forbidden	Authorized and according to the current legislation	Authorized and according to the current legislation	Authorized and according to the current legislation
Fishing	Authorized	Forbidden	Authorized	Authorized	Authorized
Collect NTFPs	Authorized	Authorized	Authorized	Authorized	Authorized
Agriculture	Forbidden	Forbidden	Forbidden	Forbidden	Authorized
Mining	Authorized with regulations	Forbidden	Authorized with regulations	Forbidden	Authorized with regulations

Source: Guidelines for Forest Management Planning in Liberia (2009).

In total, the following table of contents summarizes all tables and maps that the Guidelines require to be included in a 25-year SFMP, a 5yFMP, and an AOP.



The Guidelines require the following tables:

Tables to Include in the SFMP

Table 1: Summary of surface areas by land cover type on the FMC area, calculated by GIS

Table 2: Volume equations and valorisation rates used for the inventory analysis
(to be included only in Final Version of the SFMP)

Table 3: Synthesis per species and class of species of the multi-resource inventory: density and basal-area per hectare (to be included only in Final Version of the SFMP)

Table 4: Volumes per tree species, and class of species, per hectare
(to be included only in Final Version of the SFMP)

Table 5: Synthesis on NTFP records (to be included only in Final Version of the SFMP)

Table 6: Management units created on the Forest Management Contract

Table 7: Species and Diameter Cutting Limits

Table 8: Forest Compartment n° 1: surface areas (to be included only in version 1 of the SFMP)

Table 9: Forest Compartments: surface areas and gross standing volumes
for the Class A tree species (to be included only in Final Version of the SFMP)

Table 10: Forest compartments: Gross standing volumes per tree species for the Classes A,
Band C tree species (to be included only in Final Version of the SFMP)

Table 11: Forest compartments: Commercial volumes per tree species, for the Class A
tree species, and per year (m³/year) (to be included only in Final Version of the SFMP)

Table 12: Regulated activity for forest management unit

Table 13: Social measures of the SFMP (a table must be provided for each of the following
sections: 10.2, 10.3, 10.4 and 10.5) (to be included only in Final Version of the SFMP)

Table 14: Timetable for the preparation of the Final Version of the SFMP
(to be included in SFMP Version 1 only, see model in section 1, table 2)

Maps to Include in the SFMP

Map 1: Location of the Forest Management Contract area

Map 2: Relief and hydrography

Map 3: Forest stratification and land cover types on the Forest Management Contract area

Map 4: Sampling plan of the multi-resource inventory on the FMC area
(to be included only in Final Version of the SFMP)

Map 5: Timber resource location maps (for each species of the Class A and B tree species)
(to be included only in Final Version of the SFMP)

Map 6: Mammal population density maps (for the main species identified during
the multi-resource inventory) (to be included only in Final Version of the SFMP)

Map 7: NTFP abundance location maps (for the main NTFP identified during
the multi-resource inventory) (to be included only in Final Version of the SFMP)

Map 8: Demography on the FMC area

Map 9: Social infrastructure on the FMC area

Map 10: Forest management units within the FMC area



Tables to Include in the 5YFMP

Table 1: Definition of the Forest Compartment's boundaries

Table 2: Summary of surfaces per land cover type on the Forest Compartment, calculated by GIS

Table 3: Summary of forest management units on the Forest Compartment

Table 4: Synthesis by species, and class of species, on the Forest Compartment: density and basal-area per hectare

Table 5: Volumes per tree species and per hectare on the Forest Compartment

Table 6: Gross standing and commercial volumes per tree species, for Class A tree species, and per year (m³/year) on the Forest Compartment

Table 7: Annual Coupes on the first Forest Compartment
(to be included only in the first 5YFMP)

Table 8: Annual Coupe delineation criteria (not to be provided for the first 5YFMP)

Table 9: Indicative Annual Coupes on Forest Compartments 2-5
(not to be included in the first 5YFMP)

Table 10: Annual Coupes opening schedule on the Forest Compartment

Table 11: Program of the road openings and the other Infrastructure on the Forest Compartment

Table 12: Planning schedule of logging activities

Table 13: Planning schedule of the other activities during the Forest compartment period

Maps to Include in the 5YFMP

Map 1: Location of the Forest Management Contract area

Map 2: Location of the Forest Compartment within the Forest Management Contract area

Map 3: Forest Compartment delineation

Map 4: Forest stratification and land cover types on the Forest Compartment

Map 5: Forest management units on the Forest Compartment

Map 6: Location of the Annual Coupes on the first Forest Compartment

Map 7: Location of the indicative Annual Coupes on the Forest Compartments 2-5

Map 8: Management map of the Forest Compartment

Figures to Include in the 5YFMP

Figure 1: Forest Compartment boundaries

Figure 2: Partitioning the first Forest Compartment into Annual Coupes (Example)

Figure 3: Example of partitioning the Forest Compartment 2 into Annual Coupes

Figure 4: Order of coupes

Figure 5 : Annual Coupe opening schedule on the Forest Compartment

Figure 6: Example of a road network



Tables to Include in the AOP

Table 1: Description of the Annual Coupe boundaries

Table 2: Summary of surface areas per land cover type on the Annual Coupe, calculated by GIS

Table 3: Management units on the Annual Coupe

Table 4: Pre-harvest enumeration results: number of trees

Table 5: Pre-harvest enumeration results: volumes

Table 6: Harvesting forecasts in effectives and volumes by species

Table 7: Harvesting forecasts in effectives and volumes by blocks for all class A species

Table 8: Annual Coupe delineation compliance

(not to be included in AOP for the Annual Coupes of the Forest Compartment 1)

Table 9: Program of the road openings and the other Infrastructure on the Annual Coupe

Table 10: Planning schedule of logging and non logging activities

Maps to Include in the AOP

Map 1: Location of the Annual Coupe on the concerned Forest Compartment within the Forest Management Contract area

Map 2: Annual Coupe delineation

Map 3: Forest stratification and land cover types on the Annual Coupe

Map 4: Annual Coupe delineation

Map 5: Forest management units on the Annual Coupe

Map 6: Forest management units on the Annual Coupe

Map 7: Location of the timber resource on the Annual Coupe

Map 8: Annual Coupe map

Map 9: Stock maps (Annual Coupe's Km-square blocks)

Source: [Guidelines for Forest Management Planning in Liberia \(2009\)](#).



Annex 10 Participants at LFCRII consultation meetings

Zwedru, Grand Gedeh County List of Participants

No.	Name	Position	Institution
1	Kerstin Canby	Sr. Director	Forest Trends
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21	Jolly Neewary	Co-chair	
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38	Timothy Wilson	CoC Manager	ELLC
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40	Lorpu Kantor Sangai	Project Accountant	
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45	Alieu Lomax	Contractor	Forest Trends
46	Francis K. Colee	Representative	Green Advocates
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30	Decontee T. King-Sackie	Coordinator	Forest Trends
31	Silas Siakor	Consultant	



Annex 11 Quick links to handbooks, templates, and other aids to implementation

Handbooks & Manuals:

- The “Nine Steps” Handbook: Checklist for Establishing a Forest Community
- Social Agreement Negotiations Guide
- FDA’s Social Agreements Handbook
- CFMP processes and draft template for CUC negotiations in community forest operations
- FDA’s Forest Compliance and Enforcement Handbook: Manual 101-22
- Making Community Forest Rights Real: A Manual for Community Outreach and Awareness Raising
- Trainer’s Manual: Developing Community Forest Enterprises in Liberia
- The Importance of Free, Prior and Informed Consent: Strategies for Realization
- Customary Land Governance & Options for Community Forests
- Best Practices for Community-based Low Impact Timber Harvesting in Liberia

Templates:

- Management Plan and Rules Template Development for Authorized Forest Communities
 - Appendix B: CFMP Template
 - Appendix C: Template and Guidelines for a CFMP
 - Appendix D: Forest Management Rules Template

Document guides:

- Timber Trade Portal’s guide to Liberia forestry.
- Nepcon’s Liberia Timber Document Guide provides a list of documents that indicate legal harvest, transport, and trade as required in Liberia.



Annex 12 Open-source reporting of volumes of abandoned logs

A further risk to the legal supply is through the process for auctioning and providing legal permits for abandoned logs. LFCRII concludes that given the volume/value of abandoned logs in just open-source references (Table 22), the issue presents a material risk to Liberia.

In addition to the laundering of illegal wood, abandoned logs also represent an environmental waste (to both forests from where the logs were harvested and the damage done in transporting and storing the logs), as well as a financial loss to Liberia in unpaid royalties (known as stumpage), taxes (like an export tax), and other fees. The terms of the FMC contracts also require payment for unnecessarily damaged trees, specifically those cut below the diameter limit.

Table 24. Summary of public reporting of abandoned logs across Liberia

Company Linked to Abandoned Logs	Areas	# of logs/ m ³	Institution
B&B		716	https://www.liberianobserver.com/iberia-company-abandons-over-700-logs-fda-looks
Masayaha Logging Company		600	https://www.liberianobserver.com/iberia-company-abandons-nearly-600-logs-amid-illegal-logging-spree
Mandra Forestry Liberia	Sewacajua CFMA	7,000	https://smartnewsliberia.com/iberia-logging-company-in-sinoe-abandons-likely-7000-logs/?noamp=available
ICC	Gbi-Doru CFMA	5,000 (18,272 m ³)	https://www.thefreelibrary.com/Liberia%3A+FDA+Watches+Company+Abandon+%27%2C000%27+Logs+in+Nimba.-a0702432924 https://thedaylight.org/2022/05/03/fda-watches-as-company-abandons-5000-logs-in-nimba/
Sing Africa Plantation	Bluyeama CFMA	2,500	https://thedaylight.org/2022/07/24/company-abandons-some-2500-logs-in-lofa-and-bassa/
Sing Africa Plantation	Buchanan	675 ekki	https://thedaylight.org/2022/07/24/company-abandons-some-2500-logs-in-lofa-and-bassa/
Star Wood		465	https://thedaylight.org/2022/07/24/company-abandons-some-2500-logs-in-lofa-and-bassa/
Alma Wood Corporation	Vanjah, Grand Cape Mount	5,000 m ³	https://thedaylight.org/2022/06/19/fugitive-businessman-abandons-logs-in-cape-mount/ https://frontpageafricaonline.com/news/iberia-abandoned-logs-turn-out-as-collateral-in-illegal-deal%E2%82%AC%82/
Delta Timber Company	Numopoh CFMB	500+	https://loggingoff.info/wp-content/uploads/2019/04/VOSIEDA2019-Numopoh-IFMreport.pdf



Company Linked to Abandoned Logs	Areas	# of logs/ m ³	Institution
RGI	TSC A2	251 m ³ ekki	<p>RGI requested an EP for these abandoned logs.</p> <p>"Records obtained by the Panel show that in August 2018, RGI had applied to FDA for an EP [export permit] covering 251.366 m³ of ekki 'chewing sticks' destined for Singapore and claimed to be abandoned logs felled under a previous Private Use Permit (PUP). The EP was approved on August 21 2018 but neither the invoice nor the EP (signed by the Technical Manager of FDA's Commercial Department, approved by the DMDO, and attested to by the MD) were in the standard formats or entered into LiberTrace, and the payment for the EP was made to a FDA account, at the Liberian Bank for Development and Investment, and not the Transitory Account with Ecobank that had been established to receive all payments generated timber export transactions." (TSC A2 investigation)</p>
RGI	TSC A2	20,000 m ³	<p>"A further document provided to the Panel, dated June 1, 2019 under a RGI letterhead and signed by 'Jonas Robertson, Owner,' transferred all rights of '...approximately 20,000 m³ of cut and abandoned logs in Compound 1 at a price of \$2 per cube' with '...funds to be paid on Freedom Group' ... although Mr George of RGI claimed the letter was fraudulent." (TSC A2 investigation)</p>



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