



INVESTMENT IN THE LIBERIAN FOREST SECTOR 投资利比里亚的林业

A ROAD MAP TO LEGAL FOREST OPERATIONS IN LIBERIA
在利比里亚开展合法森林作业的路线图



JOHN WOODS
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ROBERT SIMPSON

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John Woods, Arthur G. Blundell and Robert Simpson

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ABOUT FOREST TRENDS

Forest Trends (<http://www.forest-trends.org>) is a non-profit organization that advances sustainable forestry and forestry's contribution to community livelihoods worldwide. It aims to expand the focus of forestry beyond timber, and promotes markets for ecosystem services provided by forests such as watershed protection, biodiversity and carbon storage. Forest Trends analyzes strategic market and policy issues, catalyzes connections between forward-looking producers, communities and investors, and develops new financial tools to help markets work for conservation and people. It was created in 1999 by an international group of leaders from forest industry, environmental NGOs and investment institutions.

SPONSORING INSTITUTIONS

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关于森林趋势组织

森林趋势(<http://www.forest-trends.org>)为一个国际性的非赢利组织，由一些来自于森林工业，环保非政府组织和投资机构的国际人士于 1999 年发起。森林趋势致力于促进全球的森林可持续以及森林对社区生计的贡献。其宗旨在于将林业贸易从以木材产品为主，扩展到以广泛的森林服务及产品为主的贸易；推动森林的生态服务如流域保护，生物多样性和碳汇市场。森林趋势分析战略性市场和政策问题，促进前瞻性生产者，社区和投资者之间的联系，并为帮助建立为森林保护和居民服务的市场寻求新的金融手段。

赞助机构

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FROM THE PRESIDENT OF FOREST TRENDS

Forest Trends' seeks to promote sustainable forest management and enhance the livelihoods of the communities living in and around those forests. This report is indeed a tool for advancing those goals in Liberia, and we are glad to take part in the reform process for the good of Liberia's forests and people.

森林趋势总裁的致辞

森林趋势致力于推动森林可持续经营和提高依赖森林为生的社区的生计。该报告正是为在利比里亚实现这些目标的工具。我们很高兴能够参与有利于利比里亚森林和人民的改革进程。



Michael Jenkins
President, Forest Trends
森林趋势总裁

FROM THE MANAGING DIRECTOR OF LIBERIA'S FORESTRY DEVELOPMENT AUTHORITY



Early in 2008, industrial logging will restart in Liberia. As Managing Director of the Forestry Development Authority (FDA), I am pleased to see the progress that has been made to institute the reforms needed to ensure that logging no longer contributes to conflict in Liberia, and in fact contributes to the sustainable management of the country's natural resources. In this new era of hope in Liberia, the FDA will insist that investors honor the new laws and regulations that have been developed from this reform so that together we can help play a positive role in the redevelopment of a country that has suffered too long from war.

We have produced this briefing document to explain why the reforms were necessary and how logging will be conducted under our new law and regulations that govern the management of Liberia's forests. We are pleased with the progress that has been made since 2006 when the Government of Liberia passed a reformed Forestry Law that forms the backbone of a new legal framework for logging. Since then, the FDA has adopted new international standards of logging to increase accountability and transparency in the sector, including requirements for chain of custody timber tracking, and forest management plans.

All new forest management will be developed based the recently approved National Forest Management Strategy and the Liberian Forestry Policy, which call for the FDA to manage for the benefit of communities, conservation and commercial forestry (the "three Cs"). The FDA is working to maintain forest cover, maintain the structural and biological integrity of our forest systems and restoring forests previously over harvested, with a priority that the Liberian people reap the benefits from their natural recourses.

We welcome all investors to work with the FDA and other stakeholders in Liberia to create a healthy and vibrant forest sector which contributes to the sustainable development of the country. Please contact the FDA if you have any further questions (www.fda.gov.lr).

John Woods

Managing Director, Forestry Development Authority of Liberia

利比里亚林业发展局执行局长的致辞



兴。

2008年初开始，利比里亚将重新进行森林的商业性采伐，作为林业发展局（FDA）的执行局长，看到森林采伐不再作为利比里亚国内冲突的资助来源，我为能够发起这样的改革并取得如此巨大的进步而感到高兴；事实上，这也有益于国内自然资源的可持续经营。在利比里亚充满希望的新时代，林业发展局将坚持让投资者遵从来自改革中的新法律法规，因而，我们将共同努力来推动一个长期遭受战争之苦的国家的林业复

我们出版这一简短报告，是为了说明为什么需要改革，以及在主导利比里亚森林管理的新法律法规的约束下如何进行森林采伐。我们欣喜地看到，2006年利比里亚政府通过了改革的森林法后所取得的进展，这部法律成为规范森林采伐新的法律体系的中坚。之后，林业发展局又引入了新的国际采伐标准，以增强该产业的责任感和透明度，其中包括对木材流向监管和森林经营方案的要求。

所有新的森林经营方案将根据最近批准的国家森林经营战略和利比里亚林业政策来制定，这就要求林业发展局要为社区利益、森林保护和商品林业（三“C”）而经营。林业发展局致力于维持森林面积，保持森林生态系统的结构和生物完整性，恢复过伐的森林，赋予利比里亚人民从开采自然资源中获益的优先权。

我们欢迎所有投资者与林业发展局及其他利益相关方合作，共同推动建立一个健康和充满活力的林业，这将有助于这个国家的可持续发展。如有疑问，请与利比里亚国家林业发展局联系 (www.fda.gov.lr)。

John Woods

利比里亚林业发展局执行局长

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CHAPTER 1: BACKGROUND

PAST ABUSE OF FOREST RESOURCES IN LIBERIA

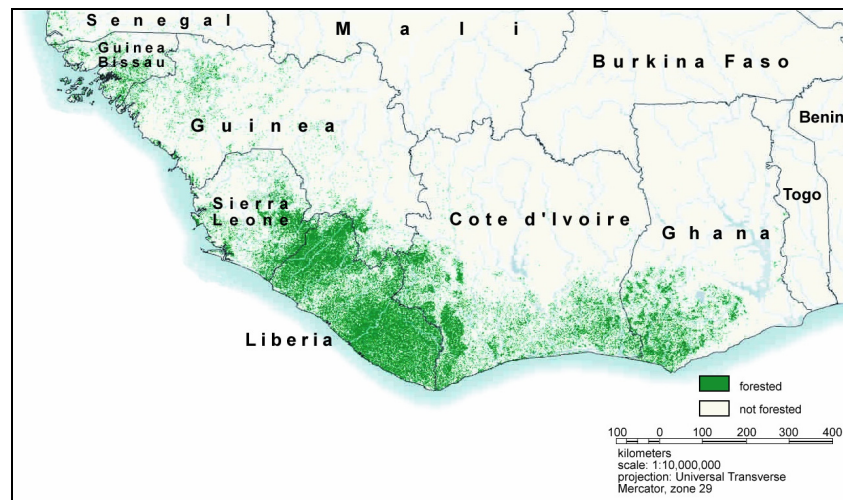
West Africa is blessed with some of the richest tropical rain forest in the world. Home to rare and endangered wildlife, like chimpanzees and the endemic pygmy hippopotamus, the area is one of only 34 biodiversity hotspots worldwide.¹ Liberia has a special status within West Africa—almost half of all the forest that remains in the hotspot is found in Liberia (see map).

This forest is also the base of Liberia's timber industry. In the 1980s, the industry expanded unsustainably—producing almost three million cubic meters (m³) a year. But the industry stagnated during the civil war of the 1990s. Once Charles Taylor gained power in 1997, a resurgence in harvesting began, and timber became an important source of revenue for his government. By 2002, one million m³ was exported; almost 60% to China and 28% to the European Union — although the exact amount is unknown because reporting was so poor. Most of the logging was pre-financed by buyers, as capital is extremely scarce for loggers in Liberia.

In 2003, as civil war raged in Liberia, the U.N. Security Council sanctioned timber exports because the revenue from logging was financing the purchase of weapons used in the war and therefore fueling the regional conflict. For example, the largest company, the Oriental Timber Corporation (OTC) based in Indonesia, paid US\$1.5 million to known arms dealers. In addition, OTC paid millions into Charles Taylor's personal bank account; all for which they received tax credit. In other cases arms were traded directly for logging rights. The Taylor regime also made logging companies pay his soldiers for protection, and these soldiers then committed crimes against humanity. In one case, General Sumo, who was paid by the Maryland Wood Processing Industry, used his militia to massacre more than two hundred people in the village of Youghbor.

Unable to operate in the midst of the growing war and fearing looting of their equipment, the remaining logging companies fled Liberia in 2003 and the U.N. sanctions prevented their return once the war ended.

Figure 1: Map of West Africa's Forests



Source: Fauna & Flora International/Conservation International.

¹ Globally, hotspots represent the 34 areas with 75% of the planet's most threatened mammals, birds, and amphibians, while covering just 2.3% of the Earth's surface.

2004: THE RE-OPENING OF THE LIBERIAN FOREST SECTOR

When the war ended in 2003, the UN Security Council began to work with the Government of Liberia on forest sector reforms that would ensure that logging would no longer fuel conflict in Liberia or in the neighboring countries. The Security Council insisted on these reforms before the timber sanctions could be lifted. The first action was to review the conduct of logging companies during the Taylor period.

Review of Logging Concessions

In 2004, the Government of Liberia, assisted by the international community—especially the US Forest Service and the World Bank—examined all 70 companies that claimed the right to log in Liberia. The first finding was that for the last 20 years, previous administrations had granted overlapping concession areas, producing contracts for a total area 2.5 times greater than the area of forest. Contracts were used as a form of patronage to reward cronies, with no respect for previous ownership.

With multiple owners claiming rights to the same area of forest, a more thorough review of legal ownership was conducted. The legal right, as defined in law and contract, is a company that had:

- a business license;
- articles of incorporation;
- a valid contract signed by all appropriate parties;
- posted a performance bond; and until 2000,
- legislative ratification.

When the review committee examined each of the companies that had been logging between 1979 and 2003, not one company could meet these simple legal criteria for even one year. Thus, despite the overlapping claims, not a single company actually had the *legal* right to log. In 2006, the first Executive Order of the new government established that all of these alleged contracts were null and void, and therefore, they would not stand in the way of allocating new, legal contracts.

In addition to the lack of legality, the concession review found that the 70 logging companies had violated many environmental, labor, and forestry laws and regulations. Furthermore, they were US\$64 million in tax arrears. The bottom line was that the Taylor regime had been complicit with the logging companies in defrauding the people of Liberia, as well as fueling civil war. This reality required massive reform.

Forest Sector Reform and Lifting of the UN Sanctions

Following the recommendations of the concession review, the new government began reforming the timber sector. The Liberia Forest Initiative—a consortium of national and international agencies (www.fao.org/forestry/site/lfi)—provided technical assistance to this effort. Shortly thereafter, the FDA itself was reformed to become more efficient: staff was cut in half, salaries dramatically increased, and the remaining positions given clearly defined tasks. In June 2006, the Security Council acknowledged the reforms of the new government and lifted the sanctions on timber. Once new logging contracts are awarded in 2008, exports will be allowed to resume.

CHAPTER 2: GUIDELINES FOR NEW FOREST OPERATIONS IN LIBERIA

In September 2006, the Government of Liberia passed a reformed forestry law that codified many of the reforms (www.unep.org/dec/docs/Liberian%20forestry%20law.pdf). The FDA has made the conditions for engagement in the forest sector high because the stakes for West Africa are high. As mentioned above, logging played a major role during Liberia's 14 years of brutal war, a war that spread to surrounding countries, destabilizing the entire region. Although Liberia is currently at peace, research has shown that half of all countries recovering from civil war return to war within a decade, often because natural resources are exploited to fund conflict. The Government of Liberia does not intend to allow logging to play that role in civil unrest again.

REQUIREMENTS UNDER THE NEW LAWS

In sum and further detailed below, under the new Forestry and the recently approved National Forest Management Strategy (www.loggingoff.info/media/articles/article_526.pdf) and Liberian Forestry Policy, the FDA must now base management decisions on scientific principles and in consultation with local communities. Once areas suitable for logging are identified, the FDA must award the harvesting contracts through competitive bidding. This process will provide legal certainty. Any future concession review will recognize the sanctity of these legal contracts.

Verification of Legality

The new laws require the larger logging companies to have a plan to achieve international accepted standards for certification, such as that of the Forest Stewardship Council (www.fsc.org) or Gabon's Forest Certification Scheme (www.pefc.org), to ensure that their operations are sustainable—environmentally, socially, and economically. More immediately, the FDA has asked the European Union (EU) to reinforce the reforms by ensuring that only Liberian timber that can be verified as complying with all the new Liberian laws be imported into the EU. The EU would achieve this by requiring that all shipments be accompanied by a license issued by the FDA declaring that the timber is legal. Any unlicensed timber from Liberia would be excluded from entry into the EU. This licensing scheme would be codified under a Voluntary Partnership Agreement (VPA) with Liberia (www.ec.europa.eu/environment/forests/flegt.htm).

Land Use Planning

One of the biggest challenges facing the FDA is to manage the forests to ensure that community, conservation and commercial interests are all met. Liberians are dependent on forests for their lives and livelihoods. For example, most people rely on charcoal for their cooking fuel. Liberia is also a leader in agroforestry; it has the largest rubber plantation in the world. Furthermore, climate change has focused the world's attention on the remaining tropical rain forests as an important reservoir of carbon. These demands overlap with logging for the use of Liberia's forests.

The FDA has tried to resolve this conflict through scientific planning that accounts for the relative value of specific areas to alternative uses. This planning effort has identified areas good for logging, but that are unlikely to have conflicting claims from local communities. The government is developing a community forestry law that will clarify the management rights of these communities to have their own logging operations. Although the communities will manage their forests, they will still be responsible for complying with all the regulations, just like loggers elsewhere.

Types of Logging Contracts

The National Forestry Strategy contains two distinct types of logging contracts meant to achieve different objectives:

1) Forest Management Contracts (FMC): long-term contracts for large areas of up to 400,000 hectares. Small FMCs (50,000-100,000 hectares) are reserved for majority-owned (51%) Liberian companies – although they represent an opportunity for joint ventures between domestic and foreign partners. There are no restrictions on company ownership for larger FMCs; and,

2) Timber Sale Contracts (TSC): short-term (less than 3 years) contracts for smaller areas (less than 5,000 hectares) TSCs are focused on areas that will likely be cleared for plantations or farming, and as such, the management requirements for harvesting the timber is less onerous. Thus, TSCs require less planning and can be awarded more easily than FMCs. TSCs are also reserved for majority-owned Liberian companies.

Competitive Bidding

All contracts—both FMCs and TSCs—awarded by the GoL must be awarded on the basis of competitive bidding. The Public Procurement and Concessions Act (PPCA, www.mofliberia.org/procurement.pdf) is designed so that the process is fair and open to the public.

Pre-qualification: All companies wishing to bid on a contract must be pre-qualified in compliance with the PPCA and FDA Regulation 103-07 (www.fda.gov.lr/doc/FDA%20TEN%20CORE%20REGULATIONS_1.pdf).

Firstly, companies must not be suspended or debarred from bidding, for example, because of tax arrears or criminal convictions. Secondly, the company must demonstrate that it is incorporated; involved with logging; has a main office in Monrovia; the officers/directors have not been penalized for violating corporate- or forestry-laws, and have not declared bankruptcy; and that the company is in good standing in payment of taxes, social security, forest- and trade-fees.

If the company was involved with logging prior to 2006, then individuals with a significant interest must file a sworn statement with the Liberian Truth and Reconciliation Commission describing their involvement in the sector and they must cooperate with the government in recouping funds lost due to illegal activity. If the individual fails to cooperate, contracts may be canceled.

In addition to these criteria, pre-qualification includes an assessment of the bidder's business plan to determine whether the applicant has the capability to carry out the proposed operations. If the FMC is larger than 250,000 hectares, then the bidder must also demonstrate experience implementing sustainable forest management as recognized by an international certification system, or retain employees with such expertise.

Bidding: Pre-qualified companies are then entitled to bid on logging contracts according to the procedures outlined in FDA Regulation 104-07 and in the bid document.

For each contract area the FDA will publish a bid document that outlines the timber volumes, by species, based on inventory data, and the deadline for bid submissions. Interested parties are permitted to enter and inspect the contract area offered. Bids are based on what companies are willing to pay for an annual land rental for the contract area. (Forestry fees, including an additional stumpage and export fee, are outlined in FDA Regulation 107-07.)

Before the deadline, companies must submit to the FDA their bid submission form in a signed, notarized, and sealed envelope together with a bond worth 1/6th of the minimum annual land rental (\$2.50 per hectare per year for FMCs, \$1.25 for TSCs). If the bid is unsuccessful, the bond is returned. (Anyone found interfering with an open and fair competition—through bid rigging or price fixing, for example—is thereafter permanently prohibited from winning a contract.)

Prior to bid evaluation, an independent evaluator contracted by the FDA will determine a reserve bid, based on the contract's net timber value. The reserve bid is kept confidential until the opening of all sealed envelopes on the bid evaluation day.

The company willing to pay the highest amount for the land rental—provided it exceeds the reserve—is awarded the contract. In the event of a tie, the highest bidders will resubmit bids until one exceeds all the others. The FDA will then verify that the winner meets all the eligibility requirements, and the FDA will ask the Public Procurement and Concessions Commission to provide a letter of no objection.

For FMCs of 100,000 hectares or more, where competition is open to international companies, bids may be adjusted using a Margin of Preference for domestic bidders. The PPCA (Section 58(3)f*i*) requires bidders to be informed of the criteria in the bid document (Note: that 'domestic business' means a private sector entity or firm incorporated under the laws of the Republic of Liberia and operating in Liberia.)

Requirements of Successful Bidders

Formal Authorization: All FMCs must be signed by the President of Liberia and ratified by the Legislature, whereas TSCs need only be signed by the FDA. In order to deter speculation, the FDA must give their written approval before a company can transfer or assign a contract to another company, and the proposed company would have to meet all the same qualification criteria.

Performance Bonds: The operator must then post a performance bond worth a minimum of US\$25,000 (for TSCs), US\$150,000 (for small FMCs), US\$250,000 (for large FMCs), or half of the expected government revenue (excluding land rent) for the first year, or a maximum of US\$1 million.

Labor Requirements: The operator must give hiring preference to citizens from countries of the Economic Community of West African States (ECOWAS), and must not hire any unskilled labor from outside of ECOWAS. Security personnel must be vetted to exclude convicted violent offenders and those with credible allegations of human rights violations, crimes against humanity, or war crimes (Section 18.16 of the Forestry Law).

The operator must meet all Liberian labor laws and internationally recognized standards for worker safety.

Environmental Impact Assessment & Social Agreements: Prior to logging, the operator must comply with the pre-felling requirements under FDA Regulation 105-07. These include an environmental impact assessment (EIA) approved by the Liberian Environmental Protection Agency, and a signed social agreement with local communities that will be affected by the logging. The social agreement, as negotiated by the company and the community, articulates the rights (including access) and responsibilities of both the communities and the logging company and its employees. It also details the financial benefits the communities will receive, which are paid by the company into an escrow account on a quarterly basis. This benefit must be at least US\$1 per cubic meter harvested.

Forest Management Planning: For FMCs, a forest management plan approved by the FDA must also be prepared prior to logging. The plan must include an annual operations plan and less detailed plans for each 5-year period of harvesting activities that eventually cover the entire contract area. The annual operations plan includes major activities such as road construction, as well as detailed projections of harvest volumes based on individual stand maps. Within two years, the operator must meet the requirements for processing facilities as specified in the bid document.

For TSCs, forest management plans are unnecessary, but the operator must still file annual operations plans. Likewise, they must comply with all environmental and forestry laws, in accordance with generally accepted silvicultural practices as outlined in the Forest Management Guidelines and Code of Forest Harvesting Practices, for example.

Audits & Chain-of-custody: All operators are subject to annual compliance audits and they must provide timely information, under Section 18.13 of the Forestry Law, so that each year the FDA can publish, under Section 3.4: 1) the volume available for harvest for each contract; 2) the volumes and monetary values of the harvested, processed, and exported forest products by species; 3) the fees and taxes assessed and paid; 4) nature and monetary value of benefits provided to each community; and 5) violations and penalties assessed and actually paid. Under Section 5.8, the company itself must publish twice a year all payments it makes to the government.

This reporting is facilitated by the chain-of-custody system through which all timber must be tracked (Section 13.5), and which requires accurate records from maps of harvest-trees to transport waybills to export permits (FDA Regulation 108-07). The system is run independently by SGS Group—a Swiss inspection company.

Public information: Under Section 18.15, the public has complete access to any information, provided it is not confidential business information, as narrowly defined, or will interfere with law enforcement or national security. This freedom extends to monitoring and oversight, citizens suits and civil enforcement (Section 20.10).

RESOURCES AND CONTACTS

The FDA has professional foresters that can provide further detailed information on contract bidding and management procedures. The regulations and other documents referred to in this briefing are freely available from the National Authorized Contracts Officer at the FDA: Mr. Alfred Kotio. His office is at FDA headquarters, Kappa House, Lonestar Compound, Monrovia, Liberia. His email is: al_kotio_fda@yahoo.com

Documents can also be found online at:

The FDA's website www.fda.gov.lr

National Forestry Reform Law 2006 www.unep.org/dec/docs/Liberian%20forestry%20law.pdf

Public Procurement and Concessions Act PPCA www.mofliberia.org/procurement.pdf

FDA Regulations www.fda.gov.lr/doc/FDA%20TEN%20CORE%20REGULATIONS_1.pdf

The Liberia Forest Initiative can also provide impartial assistance. At present, Decontee King is the representative. Her office is also in the FDA headquarters, and her email address is: deconteeeking@yahoo.com.

The U.S. Forest Service provides technical assistance to the FDA and other stakeholders. At present, Robert Simpson and Daniel Whyner are the in-country representatives, and their office is with USAID, at the U.S. Embassy in Monrovia, and available on e-mail at: bsimpson@usaid.gov and dwhyner@usaid.gov.

第一章：背景

利比里亚滥伐森林资源的历史

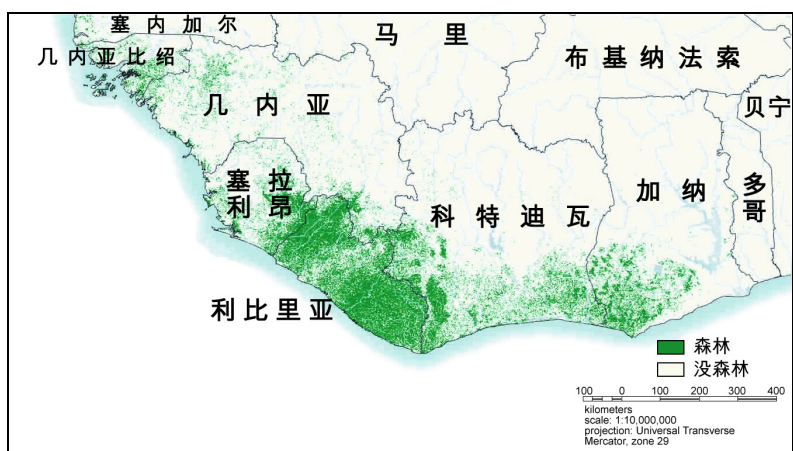
西非是世界上热带雨林富饶的地区。作为稀有濒危野生动植物（如黑猩猩和特有的侏儒河马）栖息之地，这一地区是全球仅有的 34 个生物多样性热点区域²之一。利比里亚在西非有着特殊地位，处于热点区域的森林几乎有一半在利比里亚境内（见地图）。

森林也是利比里亚木材工业发展的基础。20 世纪 80 年代，该行业以不可持续的方式在发展，每年木材采伐量接近 300 万立方米，但在 90 年代因国内战争停止了采伐。直到 1997 年查尔斯·泰勒（Charles Taylor）总统当政，才恢复了森林采伐，木材成为政府财政收入的重要来源。2002 年出口木材 100 万

立方米，其中约 60% 销往中国，28% 出口到欧盟；因上报数据质量较差，准确的流向数据不得而知。因为利比里亚国内采伐者的资金极度短缺，采伐作业的大部分费用都是由木材购买者提前支付。

2003 年，利比里亚国内战争激化，联合国安全理事会对其木材出口进行制裁，因为来自木材采伐的收入被用于资助购买战争所用武器，从而导致区域冲突升级。比如，印度尼西亚最大的东方木材公司（OTC）向著名军火商支付了 150 万美元，同时向查尔斯·泰勒（Charles Taylor）个人账户注入了上百万美元，这些都是以免税为回报。此外，军火贸

图 1. 西非地图



来源：野生动植物保护国际（FFI），保护国际（CI）

²全球生物多样性热点区域代表了 34 个地区，这些地区拥有 75% 受威胁最严重的哺乳动物、鸟类和两栖动物，覆盖地球表面的 2.3%。

易直接与获得采伐权挂钩，泰勒政权还要求木材采运公司为保护森林的士兵支付工资，而这些士兵犯有反人类罪。有一次，由马里兰木材加工公司扶持的素默（Sumo）将军指使民兵在 Youghbor 村屠杀了 200 多村民。

由于在不断升级的战争中期难以掌控局面，也害怕他们的采伐设备遭到抢劫，2003 年，仅有的几家留在利比里亚的木材采运公司纷纷撤离，联合国的制裁措施阻止了他们在战争结束后返回利比里亚。

2004 年：利比里亚林业复苏

2003 年内战结束，联合国安理会与利比里亚政府合作开展了林业改革，以确保木材采伐不再为利比里亚及其邻国战争提供资助。在木材贸易制裁撤销之前，安理会坚决执行这些改革措施，第一步就是审查泰勒政权时期木材采伐公司的行为。

木材采伐特许权的回顾

2004 年，在国际社会（特别是美国林务局和世界银行）的援助下，利比里亚政府考察了所有的声称在利比里亚有采伐权的 70 个木材采运公司。一个重大发现就是，过去 20 多年时间里，原有管理部门认可的特许采伐区域重叠，签订合同的面积超过实际森林面积的 2.5 倍。合同只是用来支持奖励合伙人的一种形式，并不考虑以前存在的采伐所有权关系。

由于多个所有者对同一块林地提出所有权主张，政府又开展了更详尽的有关合法的所有权的评估，在法律和合同中规定，具有合法权利的公司应该拥有营业执照、公司章程、相关各方签订的有效条约，可以信服的执行保障，以及截止到 2000 年的立法机关的认可。

评估小组对 1979-2003 年之间从事森林采伐的所有公司的考核结果是，所有公司没有一个符合这些简单的法定标准，甚至一年内符合的都没有。因此，尽管所有权重复，实际上没有一个公司拥有采伐的合法权利。2006 年，新政府签署了第一号行政令，宣布所有合同声称的森林特许采伐权无效，因此这些公司不能阻止签订新的合法合同。

除不具采伐的法定权利外，特许权评估还发现，70个采伐公司违反了许多有关环境、劳动和森林方面的法律法规，还拖欠6400万美元税款。这就是泰勒政权勾结木材采运公司欺骗利比里亚人民、推动国内战争的基本情况，这些现实必须通过大规模改革来改变。

林业部门改革与联合国制裁的解除

继特许权评估后，新政府开始改革木材生产部门，一个名为“利比里亚森林倡议”的国际国内机构的联盟(www.fao.org/forestry/site/lfi)为此改革提供技术支持，紧随其后，林业发展局进行自身机构改革以提高效率，将其职员削减一半，工资显著增加，并将剩余职位清楚地界定了职责。在2006年，安理会认可了新政府的改革，取消了对木材贸易的制裁。2008年将启动新的采伐协议签订，恢复木材出口。

第二章：利比里亚新的采伐作业指南

2006年9月，利比里亚政府通过了改革后的森林法，并将许多改革措施写入法律条文 (www.unep.org/dec/docs/Liberian%20forestry%20law.pdf)。林业发展局将进入森林采伐业的条件限定很高，因为森林采伐对于西非风险性较大。正如前文所述，森林采伐在利比里亚14年的野蛮内战期间起到了主要作用，这场战争殃及了其他国家，使整个地区处于动荡状态。尽管目前利比里亚处于和平状态，但调查发现，10年内国内战争重新爆发的所有国家中，通常有半数是因为国内自然资源开采为其提供了资金援助。而利比里亚政府不希望森林采伐在其国内动荡中再次起到类似作用。

新法律的要求

大体上，详细的要求如下：在新的林业和最近批准的国家森林经营战略 (www.loggingoff.info/media/articles/article_526.pdf)，以及利比里亚森林政策指导下，林业发展局现在的经营决策必须基于科学的原则，必须与当地社区协商；一旦适合采伐的范围确定，林业发展局必须通过竞标来签订采伐合同。这一过程须有法定程序确定，将来任何特许权评估都将认可这些合法的合同。

合法性认证

新法律要求，较大的木材采伐公司须有一个完善的取得按国际上接受的标准进行认证的计划，如由森林管理委员会 (www.fsc.org)，或加蓬的森林认证体系 (www.pefc.org) 等机构出具的认证，以确保他们的采伐活动的环境、社会和经济的可持续性。更直接的做法是，林业发展局要求欧盟(EU)推动改革，即欧盟只能进口依照利比里亚所有新法律要求生产、通过验收的木材。为实现这一要求，欧盟将规定所有出口欧盟的木材必须具有林业发展局核准其生产合法性的认证标志，任何来自利比里亚、没有认证标识的木材将被拒绝进入欧盟。这一认证制度将写入欧盟与利比里亚签订的自愿伙伴关系协议 (VPA) 中 (www.ec.europa.eu/environment/forests/flegt.htm)。

土地利用计划

林业发展局面临的一个最大挑战就是如何管理好森林，使其兼顾社区、资源保护和商业获益的需求。森林是利比里亚人生存和生计的依靠，比如，大多数人依靠木炭作为基本生活的燃料。利比里亚也是农林复合经营比较先进的国家，拥有世界上最大的橡胶种植园；此外，气候变化使得世人开始关注仅存的热带雨林这一重要的碳储库。这些需求与采伐利用利比里亚森林的需求同时存在。

林业发展局试图通过科学规划来缓解这一冲突，为相对价值不同的地区选择特定的利用方式，这一规划将确定适合采伐，但与当地社区不可能有所有权主张纠纷的地区。政府正在制定社区森林法，明确这些社区对其所有森林采伐行为的管理权限，尽管社区将管理自有森林，但他们仍要像其他采伐者一样遵守所有法律规定。

采伐合同的类型

为了实现不同的目标，国家林业发展战略中包含了两种不同的采伐合同类型：

- ① 森林经营合同 (FMC)：针对最大可达 40 万公顷的大面积森林签订的长期合同。小规模经营合同 (5-10 万公顷) 主要针对利比里亚控股 (51%) 的合资公司，这些公司代表了国内外合伙人的共同利益，大规模经营合同没有公司的所有权构成限制。
- ② 木材销售合同 (TSC)：针对小面积森林 (不到 5000 公顷) 签订的短期合同 (少于 3 年)，主要是为种植园和农场清地的区域，或为经营需要而进行木材采伐。因此，木材销售合同很少需要规划，也比森林经营合同容易批准。木材销售合同也主要针对利比里亚控股公司。

竞标

所有同利比里亚政府签订的合同 (包括森林经营合同和木材销售合同) 必须通过竞标确定，公共采购与采伐特许法案 (PPCA, www.mofliberia.org/procurement.pdf) 就是为确保这一过程的公正和公平而制定的。

资格预审：所有希望在某一合同中竞标的公司必须依照公共采购与采伐特许法案和林业发展局的法规第 103-7 号进行资格预审

(www.fda.gov.lr/doc/FDA%20TEN%20CORE%20REGULATIONS_1.pdf)

首先，公司必须具备竞标资格，比如不能有欠税或刑事犯罪指控；其次，公司必须出具合法组成、从事木材采伐的证明，在首都蒙罗维亚有办事处，官员或主管没有因违反集团或林业法规而受到过处罚，不曾被宣告破产，且公司在纳税、社会保障和林业及贸易相关税费的缴纳方面声誉良好。

如果某公司早于 2006 年从事森林采伐，与之相关有重大利益关系的个体必须在利比里亚真相与和解委员会保留一份誓词，其内容是声明其从事这一行业，并与政府合作，对因违法采伐活动提供资金赔偿。如果个体不能与政府合作，合同可能被取消。

除上述规则外，资格预审还包括评估竞标公司的经营计划，以确定申请者是否有能力开展既定的采伐作业。如果森林经营合同所涵盖的面积超过 25 万公顷，竞标者还必须阐述自身的可持续经营经历，这一经历还要得到了国际认证体系的认可，或有具备相关专业技能的雇员参与经营。

竞标：根据林业发展局法规第 104-7 号和竞标方案中的程序，通过资格预审的公司就取得了竞争采伐合同的资格。

林业发展局对每一标的地块制定了竞标方案，根据调查数据，标明地块上的木材蓄积树种等信息，明确标书有效期限。相关当事人允许进入并核查合同所指区域，标价基于公司同意支付的协议区土地年租金。（林业发展局法规第 107-7 号列出了林业规费项目，包括立木附加和出口税费等）。

标书有效期到期前，竞标公司必须用一个密封的信封向林业发展局递交一份署名和经过公证的标书提交表，同时支付相当于年最低土地租金（森林经营合同每公顷 2.5 美元，木材销售合同每公顷 1.25 美元）1/6 的保证金。如果竞标失败，保证金退还。（任何人通过串通投标或限定标价等方式妨碍竞标过程的公开和公平，都将永远禁止其通过竞标取得签订合同的资格）。

评标之前，林业发展局将委托独立的评估机构根据目标区域的木材净价值确定基础标价，这一基础标价在评标当天，开启所有密封标书提交表之前是保密的。

愿意对土地租金出价最高（前提是高过基础标价）的公司将会得到签约的资格。如果出现相同最高竞价，将继续出价，直至其中之一超过了其他所有竞买人。林业发展局将会核实胜出者是否符合所有要求，并委托公共采购与采伐特许委员会出具一份“不存在异议”的书面文件。

10 万公顷以上的森林经营合同向国际公司公开竞标，竞价会采用“优惠差额”的办法为国内公司进行调整，公共采购与采伐特许法案（58 节(3) f) i) 要求在竞标方案中要向投标人明示相关标准（注：“国内公司”是指私营实体或依利比里亚法律组建并在其国内经营的公司）。

对中标者的要求

正式授权：所有森林经营合同必须经利比里亚总统签署，并通过司法机关认可；而木材销售合同只需林业发展局签署。为了阻止投机行为，林业发展局必须在中标公司将竞标所得转让或签署转让协议给其他公司之前出具书面批文，转让目标公司也必须符合所有的资格标准。

履约保证书：经营者必须提交一份履约保证书，最低保证金分别为：木材销售合同 2.5 万美元、小规模森林经营合同 15 万美元、大规模森林经营合同 25 万美元；或者支付第一年一半的政府预期收益（不包括地租），或提供最高 100 万美元的抵押。

劳动力雇用要求：经营者必须优先雇用西非经济共同体(ECOWAS)国家公民，禁止雇用来自共同体国家以外的非技术工人；安防人员的审查必须确保没有暴力犯罪史，未被指控过犯有侵害人权罪、反人类罪或战争罪（森林法第 18.16 节）。

环境影响评估与社会认同：采伐之前，经营者必须按照林业发展局法规第 105-07 号中的采伐前要求操作，包括由利比里亚国家环保局认可的环境影响评估（EIA），由可能受采伐影响的当地社区签署的社会认同书，这是公司与社区协商的结果，明确社区、采伐公司及其员工的权利（包括使用权）和责任；同时还要详细列出社区能够获得的经济收益，这一收益由第三方保管，采伐公司按季支付，每采伐 1 立方米木材至少支付 1 美元。

森林经营规划：采伐前，签订了森林经营合同的经营者必须提交一份林业发展局认可的森林经营方案，包括年度作业计划和每个 5 年在全部合同所指林地面积上采伐活动的粗略计划；年度作业计划包括道路建设和基于不同林分的详细采伐量计划。经营者使用的设备必须在两年内达到招标文件的要求。

对于木材销售合同，就不需要森林经营方案了，但经营者必须填写年度作业计划。经营者必须遵守所有利比里亚劳动法规及其他国际公认的作业安全标准，同样，必须遵守环境和森林法，遵从比如森林经营指南和森林采伐规范中列举的更新造林实践。

审计与监管链：所有经营者必须每年通过审计，它们必须按森林法第 18.13 节的要求提供即时信息，根据森林法第 3.4 节，林业发展局每年公布如下内容：① 每个合同下可以采伐的木材蓄积量；② 采伐和加工，以及出口林产品按树种的蓄积及其价值量；③ 预期和实际交付的税费；④ 偿还给每个社区的自然和货币价值；⑤ 违规与处罚的评估及实际的缴纳情况。根据森林法第 5.8 节，每个公司都必须每年两次地公布其对政府的所有缴纳情况。

数据信息的上报得益于监管链体系的运行，监管链体系须跟踪木材流向（森林法第 13.5 节），要求准确记录采伐林木分布图、运输货运单和出口许可证（林业发展局法规第 108-07 号）。这一体系由一家瑞士认证公司 SGS 集团公司独立操作运行。

公众信息：根据森林法第 18.15 节，如果不涉及诸如狭义的商业机密，不会干扰法律实施或国家安全，公众有权知晓任何信息。信息知情权同样适用于监管与监督、公民诉讼和民事执行（森林法第 20.10 节）。

信息来源与链接

林业发展局拥有专业人员,可以提供更详细的有关竞标和程序的信息。此报告中提及的法规和文件可以从国家授权的合同管理官员 (Mr. Alfred Kotio) 处免费获取, 他的办公室在林业发展局总部, 地址: Kappa House, Lonestar Compound, Monrovia, Liberia, e-mail: al_kotio_fda@yahoo.com.

相关文件可从如下链接获取:

林业发展局 (FDA) 网页 www.fda.gov.lr

国家林业改革法 2006 www.unep.org/dec/docs/Liberian%20forestry%20law.pdf

公共采购与特许权法案 PPCA www.mofliberia.org/procurement.pdf

林业发展局 FDA 条例 www.fda.gov.lr/doc/FDA%20TEN%20CORE%20REGULATIONS_1.pdf

利比里亚森林倡议组织也可提供无私帮助。目前, Decontee King 为代表, 她的办公室同在林业发展局总部, 她的 E-mail 是: deconteeeking@yahoo.com.

美国林务局为利比里亚林业发展局及其他利益相关者提供了技术支持。目前, Robert Simpson and Daniel Whyner 是驻利比里亚的代表, 办公室设在美国驻蒙罗维亚使馆内, e-mail 分别为:

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