

# Making the Forest Sector Transparent

## Annual Transparency Report 2009



### LIBERIA

## ANNUAL FOREST SECTOR TRANSPARENCY REPORT CARD

**Summary:** This report is the first ever forest sector report card for Liberia.\* The Report Card assesses three critical questions related to forest governance: *Do you believe the information [related to the forest sector] exists? Have you requested it? And Did you get it?* The Report Card presents an analysis based on responses from respondents and contrasts those responses with the actual or existing situation.

The new environment in the forest sector in Liberia, supported by the reform legal framework, is a marked break with the past. Liberian stakeholders must take full advantage of the progressive provisions in the new legal framework to push for good governance in the sector. The progressive vision established in the law will only be as well realised as the law and regulations are implemented. Civil society must take full use of these new opportunities to push for greater transparency and access to information on forest governance. However, weaknesses in civil society should not and cannot be used as an excuse for the public service, the Forestry Development Authority (FDA), to fail to establish a functional and efficient system for accessing information. This report concludes that to achieve the objectives of increasing transparency and public participation in all that matters in the forest sector, and greater equity in benefit sharing, the FDA, civil society and the private sector each have diverse but equally vital roles to play.

### Key Recommendations

The FDA has a critical role to play and should demonstrate its commitment to transparency by fully meeting its obligations under the law. The Authority should:

- Establish a system for effectively facilitating free public access to information.
- Put on its website all the information it is obligated to publish.
- Catalogue and keep hard copies of all forest related documents in its central office library.
- Provide a transparent and efficient system in the library for accessing information.

**Liberian civil society** and Community Forestry Development Committees (CFDCs) should:

- Take steps to increase their own level of knowledge about the legal framework.
- Begin to take advantage of their legal standing to request information from the FDA.
- Develop a system for sharing information and networking to build capacity internally.

**The Liberian Legislature**, in line with the requirements for full transparency in processes related to contracting in the extractive and forest sectors should:

- Address concerns about ratifying forestry contracts in a manner that goes against the governance vision laid out in the legal framework governing the forest sector.

See page 6 for the entire recommendations.

\* The Liberia Forest Sector Transparency Report Card is a component of a global forest sector report card that is being developed by [Sustainable Development Institute](#) (Liberia), [Centre for Indigenous Knowledge and Organisational Development](#) (Ghana), Centre pour l'Environnement et le Développement (Cameroon) and [Derecho Ambiente y Recursos Naturales](#) (Perú). [Global Witness](#) (UK) is the coordinating partner for this project, and civil society organisations in other countries are invited to adopt the tool. The full results of the 2009 report card in all four countries can be found at [www.foresttransparency.info](http://www.foresttransparency.info), including the Liberia specific section at [www.foresttransparency.info/liberia/](http://www.foresttransparency.info/liberia/). The report cards will be reviewed and updated annually.

## Liberian Context

Liberia is at a critical juncture in its socio-political, economic and legal development. Expectations of the current administration in terms of reducing poverty and improving infrastructure are high. The country's legal framework for the forest sector is progressive in some aspects but also problematic in others. For example, while it provides for broad public access to information, benefit sharing with communities and increased transparency in forest management, the law focuses disproportionately on commercial logging over other commercial and non-commercial uses.

The forest sector, if managed differently could help the Government meeting these expectations in the medium and long-term. However, there is strong argument and lobbying in favour of immediate, short-term and limited benefits that industrial logging could provide. Suggestions for a national dialogue on different approaches to use Liberia's forests for broad benefits has been ignored by the Government in favour of large-scale logging based on the concession model; a model that has a poor track record in Liberia and across Africa.

More than ten logging contracts have been issued in the last two years. The total area covered by the contacts is just over 1 million hectares or a third of Liberia's forest cover. More than 1 million hectares of forest lands in various conditions have also been allocated for oil palm, rubber and other monoculture plantations. These estimates do not include areas targeted for carbon concessions.



The table below presents the major logging companies and the contract areas each of them were allocated. The table does not include forests allocated to smaller logging operators and areas issued for monoculture plantation.

No.	Company	Contract Area (ha)	Contract valid until
1.	Alpha Logging & Wood Processing	119,240	5-Oct-2033
2.	E J and J Investment Corporation	57,262	5-Oct-2033
3.	Liberia Tree & Trading Company	59,374	5-Oct-2033
4.	Geblo Logging Inc.	131,466	16-Sep-2034
5.	Atlantic Resources Ltd.	119,344	16-Sep-2034
6.	International Consultant Capital	266,910	16-Sep-2034
7.	Euro Liberia Logging	253,670	16-Sep-2034
<b>Total forest area under contract</b>		<b>1,007,266</b>	

In addition to the logging companies listed above other key actors in the industry include:

- FDA, Liberia Extractive Industries Transparency Initiative (LEITI) and other government agencies concerned with forest governance and management.
- World Bank and other members of the Liberia Forest Initiative (LFI).
- NGO Coalition for Liberia and other civil society organizations.
- Community Forestry Development Committees, established to legally represent affected communities in which logging activities occur.
- Private sector groups including the Liberia Timber Association, Liberian Loggers Association, and other investors interested in carbon concessions and plantation development.
- International NGOs working in the areas of conservation and community forestry.

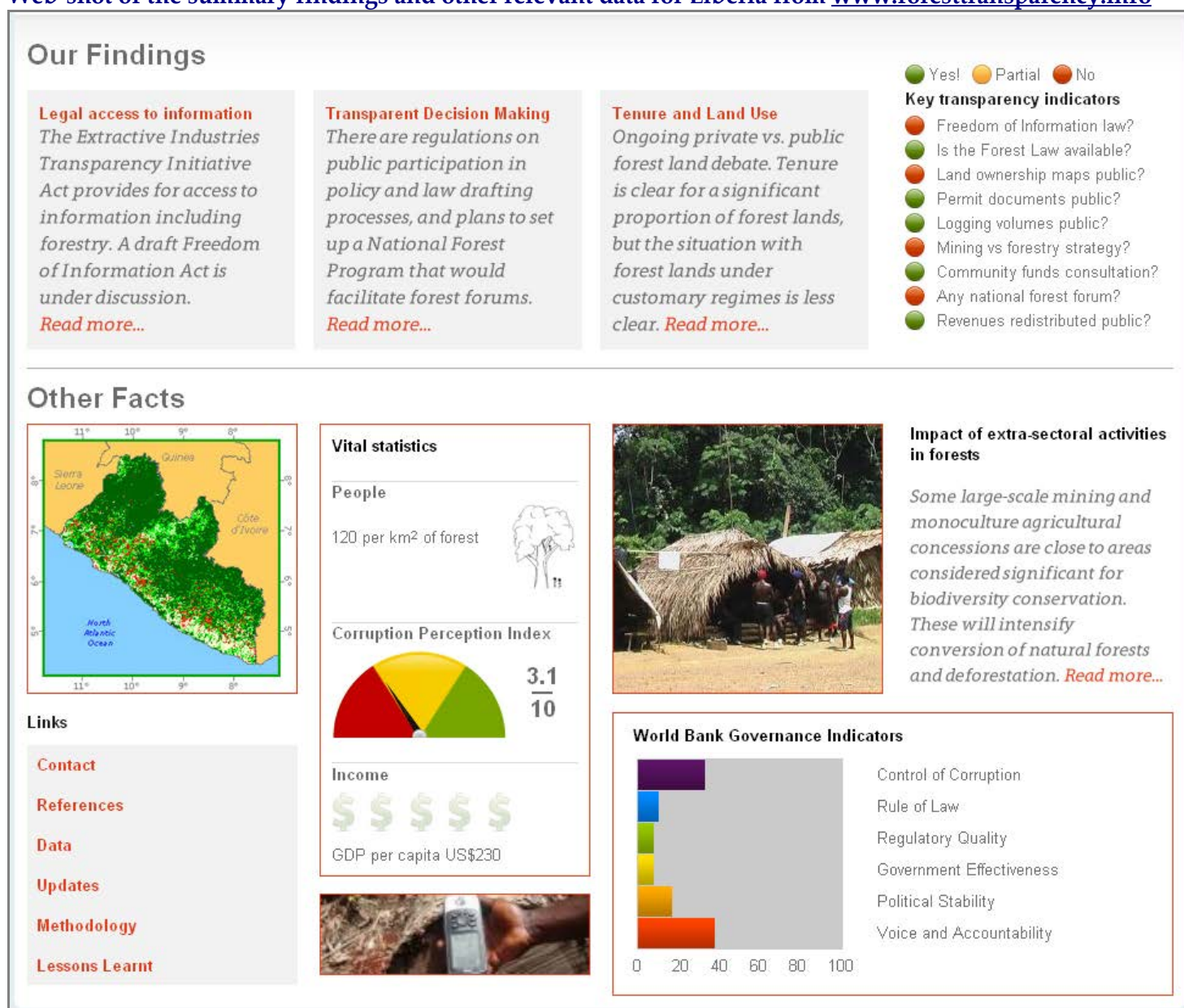
## Report card analysis

This section provides a presentation of the key findings from an analysis of the data gathered through questionnaire interviews in three counties. The full methodology is described on page 7.

**The majority of stakeholders interviewed during the information gathering demonstrated an alarming lack of awareness and knowledge about information relating to the extractive industries in general and the forest sector in particular.** This becomes even more alarming when one takes into account the fact that many of the respondents were from NGOs and community groups that are working on forestry, development, anti-corruption and transparency issues. For example, of 58

respondents asked whether a Freedom of Information Act exists 35 of the respondents either said they did not know or incorrectly responded 'yes'. This response in spite of the fact that the Press Union and other civil society groups have been publicly campaigning for the legislature to act on a Freedom of Information Act draft presented to the national Legislature in September 2008 and yet to be enacted into law.<sup>1</sup> Also 46 of the 58 respondents did not know that other laws provide for transparency and public access to information. The Act establishing the Liberia Extractive Industries Transparency Initiative (LEITI), approved in July 2009, provides for public access to information relating to the extractive industries including forestry.<sup>2</sup>

**Web-shot of the summary findings and other relevant data for Liberia from [www.foresttransparency.info](http://www.foresttransparency.info)**





On many other issues respondents demonstrated similar lack of awareness and information about forest related information and issues; sadly, also many of them profess to be working on the same issues that were being considered in the questionnaires.

**Stakeholders have not taken full advantage of the progressive provisions in the forestry law, LEITI Act and forestry regulations to press for greater transparency and accountability in the forest sector.** The National Forestry Reform Law (2006) gives the public broad rights and access to forest related information.<sup>3</sup> This includes information related to all aspects of forest management and logging operations. The Regulation on Chain of Custody states that *“All information contained in the Chain of Custody data base is a matter of public record and the Authority shall allow members of the public convenient means to search and review the information at Authority offices during normal business hours”*.<sup>4</sup> The majority of respondents have neither made requests for information to the FDA nor have they taken steps to access documents available on the FDA website.

#### **SGS provides Chain of Custody system under contract to FDA**



**In spite of the strong transparency provisions in the forestry law and the LEITI Act, the Forestry Development Authority's (FDA) performance on its reporting and other transparency obligations is poor.** This assessment takes into account three key indicators: a) the agency is proactively reporting, b) the reports are accurate and complete, and c) reports are accessible to stakeholders. The issue of accessibility takes into account whether or not there is a system of public access in place and how efficient the system is working. The data gathered confirmed that, 'yes', FDA is preparing annual reports, but some of the reports are incomplete or inconsistent, and accessibility remains a problem.

For example, on the FDA website, there are two different annual reports for 2008.<sup>5</sup>

The FDA currently lacks an efficient system for public access to information. For example, whilst FDA operates a website several important documents are not hosted on the site; and the manner in which the documents are hosted creates difficulties for those searching the site for information. On a positive note however, all the documents in the forest sector's legal framework including forest policy, forestry law, regulations and management strategy are all hosted on the agency's website.

**Contract and permit allocation processes remain shrouded in secrecy and have been subjected to the most appalling form of anti-transparency norms.** Critical documents relating to the process have not been released by FDA to the public. For example, method and results of due diligence checks conducted on logging companies were neither published nor released to those that requested relevant information, and the four most recent Forest Management Contracts were ratified in Executive Sessions at the Liberian Senate. Minutes and all records of discussions in Executive Sessions in the Senate are classified and releasing them is punishable under law. None of the 13 logging contracts issued by the government are hosted on the FDA website, although all of them are public contracts. Requests for obtaining copies of logging contracts receive a more positive response from other agencies than the FDA.

**The report card data also show that an additional factor negatively impacting on forest sector transparency is the absence of a formal platform or forest forum for stakeholders to openly discuss forest issues at the national and local levels.** FDA has also failed to establish a forest sector stakeholder list, as stipulated by the forestry law. There is no forest forum at the national level nor at the local level. The only medium of information exchange between stakeholders are those arranged informally by individual stakeholders. The absence of the required stakeholder list also means there is no mechanism for the FDA to disseminate information to all stakeholders in real time and in a transparent manner. FDA arbitrarily decides which stakeholders to provide specific information and at what frequency.

## Conclusions

Civil society, including NGOs and CFDCs, has done little to raise their own level of awareness about the legal framework governing the forest sector. The forestry authorities and civil society are also doing little to prepare the public in general and local populations in particular for the full scale resumption of industrial logging. As a result there is somewhat limited public awareness about the forest sector's legal framework especially as it relates to access to information and opportunities for deepening reforms in the sector through active public engagement with government and the private sector.

While responsibility for this lapse may appear to fall at the door of the FDA due to its failure to respond, in a timely and consistent manner, to even the few requests for information, it is fair to also consider weaknesses in NGOs and CFDCs. Both groups have made insufficient efforts to inform themselves about the relevant laws and regulations and therefore have limited capacity to transfer knowledge to other stakeholders. CFDCs in particular have shown most of their interest related to forest revenue (30% of the land rental fees from adjoining concessions must be allotted to them under the forestry law) and little interest in information about other aspects of forest use. Members of the existing CFDCs constantly inquire whether production figures will be available to them and some took steps to include them in some Social Agreements.

However, one can expect that once full scale logging activities resume there will be an increase in the demand for information related to logging operations, especially information about production, revenue and infractions. As interest in these issues increases there will be a compelling urgency to examine the timeliness, accessibility and quality of the information generated and provided. Assessing these will be a key component of the next Report Card.

Given the expectations that currently exist within the country, especially in rural areas, it is important that the FDA – and wider government – take extra steps to be more transparent and accountable to the public. This is key to securing public support for government actions to address violations of the

Forestry law, especially breaches of the logging contracts by companies.

### **The key conclusions from analysis of the data gathered for the 2009 report card**

1. Liberian stakeholders have taken limited advantage of the progressive provisions in the forestry law and regulations, and other laws including the LEITI Act and the Association Laws of Liberia as regards transparency and access to information. There are very few requests for information particularly from civil society organizations, communities and their CFDCs.
2. There is a low level of knowledge about the legal framework of the forest sector. The majority of respondents did not know if the forest policy, strategy, law and regulations are public although all related documents are hosted on the FDA website, some for more than two years. This is of concern because many of the respondents were from organised civil society groups, are based in Monrovia and have access to internet, and a significant number of them work on environmental, governance and development issues.
3. The Association Laws of Liberia gives legal standing to any organised group of citizens who have adopted Articles of Incorporation. All non-profit organisations organised in like manner also have legal standing. NGOs and community groups such as CBOs and CFDCs, once incorporated, therefore have rights to sue and be sued as any '*legal person*'.
4. The forestry law and regulations constantly refer to civil society and communities as key stakeholders. The regulations on Public Participation and Chain of Custody explicitly acknowledge communities and civil society as having rights to participate in forest related decision making and access to forest sector information. These are progressive elements of the legal framework that are not yet being fully utilised to push for transparency and accountability in the forest sector.
5. FDA has taken steps to fulfil its obligations under the law in terms of facilitating free public

access to information. The Authority has a website and hosts a number of critical documents that can be downloaded free of charge.

6. FDA has also responded positively to some requests for information and proactively taken steps to distribute copies of the forest policy, law and regulations to CFDCs and other stakeholders.
7. Notwithstanding these achievements, FDA is failing to fulfil its obligations to provide free public access to forest related information in many critical respects. The Authority's response to requests for information has been selective, and in cases where it has refused to provide information it failed to provide any explanation.
8. There is no system in place to provide for timely and efficient access to information. Currently all requests for information go to the Managing Director who has to personally review and approve or reject a particular request.
9. The top-down approach to information management adopted by the Authority is not only ineffective and impedes public access to information, but it violates the right of the public to information in a *timely* manner. Apart from information hosted on the website, stakeholders cannot access information at the FDA without top level approval; although the majority of the information it holds, for example signed and ratified logging contracts, are supposed to be posted in the public domain.
10. The Senate Rules governing Executive Sessions is a major anti-transparency norm that needs to be addressed. Classifying records of these sessions, especially those in which forestry contracts are ratified, provides opportunities for illegal dealings in the contract allocation process. Thus, with no possibility of public access to minutes from these sessions, it is not possible to independently verify whether or not the ratification was done in respect of the law.



## Key Recommendations

The FDA has a critical role to play and should demonstrate its commitment to transparency by fully meeting its obligations under the law. The Authority should:

- **Establish a system for effectively facilitating free public access to information.** This should include clearly cataloguing all forest related information to distinguish those that are required by law to be put in the public domain and those that are exempted by law. With this distinction the FDA should provide the legal justification for partially or fully withholding some information from the public. The Authority should then provide clear guidance on how information that it has partially withheld can be accessed by stakeholders with interest in them.
- **Host on its website all the information it is obligated to put into the public domain,** including contracts, justification documents, reports/minutes of the prequalification processes, and bid evaluation documents. Those that require editing and therefore a separate system for accessing should also be listed on the website, and stakeholders informed about the process for accessing them at the Authority's offices.
- **Catalogue and keep hard copies of all forest related documents in its possession in its central office library** to facilitate access for members of the public who do not have access to internet. Similar arrangements should be put in place in all its regional offices across the country.
- **Libraries should have a transparent and efficient system in place for accessing information.** The public should be fully aware of the procedures and cost implications for acquiring hard copies of information in the various libraries across the country.

**Liberian civil society** and Community Forestry Development Committees (CFDCs) should:

- **Take steps to increase their own level of knowledge of the legal framework,** especially those progressive provisions on transparency and public participation. Without increasing its own knowledge there is little chance that CSOs



and CFDCs will be able to help the majority of the populations in rural areas in need of awareness on many of these issues.

- **Begin to take advantage of their legal standing to request information from the FDA.** This should include requesting information linked to their line of work and they should strive to help transfer their knowledge to the public.
- **Develop a system for sharing information and networking to build capacity internally** and take full advantage of the opportunities that currently exist to push for greater transparency and accountability in the sector.

**The Liberian Legislature**, in line with the requirements for full transparency in contracting processes in the extractive sector in general and the forest sector in particular should:

- **Address concerns about ratifying forestry contracts in manners contradicting the governance vision laid out in the legal framework of the forest sector.** Formulating forestry related laws and ratifying contracts behind closed doors raises doubts about the legislature's commitment to upholding the fundamental principles of transparency and accountability as regards their legislative functions.

## Methodology

In March and April 2009 initial consultations on the Report Card, the key activity of the *Making the Forest Sector Transparent* Project, were conducted in three counties: Grand Bassa, Rivercess and Montserrado. These consultations led to the development of a template for gathering and disseminating information on forest use and management in Liberia. The Liberian forest sector stakeholders involved in the consultation process included a representative group including participants from:

- Forest Development Authority (FDA)
- Liberian Forest Initiative (LFI)
- NGO Coalition
- Other civil society organisations
- Community Forestry Development Committees (CFDCs), and
- Community based organisations.

The draft template was subsequently validated by the stakeholders at a workshop, in August 2009. Participants were invited from stakeholder groups working on forest governance, transparency and development issues. During the workshop the Report Card template was presented to participants. The presentation emphasised the objectives of the annual assessment of the forest sector using a report card, and the need for broad stakeholder involvement in the process. Based on comments and feedback from this workshop a final questionnaire template was designed. The template contains questions divided into fifteen sub-themes modelled on an international template used across the four countries participating in the Project. The focus of the first report card information gathering exercise was to finding out if stakeholders *'believe information exists'*, whether they *'have requested it'* and whether they actually *'got it'*.

### Information gathering

SDI issued the questionnaires to stakeholders in two separate meetings. The first round of information gathering focused on determining the current situation in

Liberia, in order to provide a baseline against which future changes can be assessed. The first information gathering exercise was conducted during a workshop in August and the second in September. Each attendee received a report card template comprising forest sector information questionnaires with instructions to simply respond "yes" or "no" to the questions in the template. At the end of each process all the data sheets were collected and compiled by the SDI.

The three key questions were:

- a) *Do you believe the information exists?*
- b) *Have you requested it?*
- c) *Did you get it?*

The first question, "*do you believe the information exists?*" sought to explore respondents' familiarity with or awareness of the existence of a specific set of forest sector information listed in the Report Card template. The purpose of this exercise was to identify gaps in public knowledge of forestry-related information, key legal provisions in the forestry law and regulations, and relevant documents.

The second question, "*have you requested it?*" aimed to establish whether stakeholders have taken action to access the information. The third question, "*did you get it?*" tried to establish the FDA's response to various requests that were made by some of the respondents. These three objective questions are the foundation on which the Forest Sector Transparency Report Card is built.

The first section '*do you believe the information exists?*' was administered in a workshop attended by 58 participants. Respondents from civil society including NGOs and CFDCs participated in the exercise, along with representatives from the FDA.

The second section '*have you requested it?*' and the third section '*did you get it?*' were administered at a separate meeting for 18 persons drawn from six CFDCs operating in River Cess, Grand Bassa and Gbarpolu Counties.

Only CFDCs participated in the second set of questionnaires because they are designed to address actual requests to the FDA and latter's response to citizen's questions for information about forest governance, management and use. CFDCs are the legal representatives of affected communities in which logging activities will occur. They represent a group of key stakeholders that will be impacted most by logging operations.

This second section was designed to gather information on actual requests for information and the corresponding responses and whether the request was granted or not. Following presentation of the template each respondent received a set of questionnaires with instructions to simply respond "yes" or "no" to the questions "have you requested it" and "did you get it".

## Key limitation of the questionnaires

Many questions in the common template used by all participating countries were designed for use in situations in which industrial logging activities are occurring. However, activities have not started fully in the logging sector in Liberia, and as a result many of questions are not applicable to the Liberian context. As a result there appeared to be limited stakeholder interest at this point in some of the information that was being gathered.

The other noteworthy issue is the confusion caused by perception of "does it exist" versus "do you believe it exists". To address some of the shortcomings the template will be evaluated and improved upon before the 2010 information gathering exercise.

## Key transparency indicator data from all four report cards, 2009

Key transparency indicators	Cameroon	Ghana	Liberia	Perú
Is there a freedom of information law?				
Is the Forestry Law available?				
Are land ownership maps public?				
Are concession / permit documents public?				
Are logging quotes or production volumes published?				
Is there a transparent strategy for mining versus forestry trade-offs?				
Is there a consultation on how community funds should be used?				
Is there any national forest forum?				
Are revenues redistributed to communities published?				
<b>Key:</b>  yes!  partially  no				
(click on country title to link to relevant webpage)				

## References

- <sup>1</sup> Carter Center delegation seeks passage of Information Act, November 16, 2009; [www.starradio.org.lr/content/view/13848/380/](http://www.starradio.org.lr/content/view/13848/380/)
- <sup>2</sup> Act establishing LEITI, July 2009; [www.leiti.org.lr/doc/act.pdf](http://www.leiti.org.lr/doc/act.pdf)
- <sup>3</sup> National Forestry Reform Law, Section 18.15; [www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf](http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf)
- <sup>4</sup> FDA Regulation 108-07, Section 61; [www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf](http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf)
- <sup>5</sup> One was hosted on February 11, 2009 and the other hosted on March 3, 2009. One bears the title "Draft Annual Report" and both are hosted under a misleading heading; [www.fda.gov.lr/content.php?sub=Publications%20and%20Documents&related=Media%20Center](http://www.fda.gov.lr/content.php?sub=Publications%20and%20Documents&related=Media%20Center)



Sustainable Development Institute  
PO Box 5678, Duarzon Village  
Robertson Highway  
Monrovia, Liberia  
March 2010