

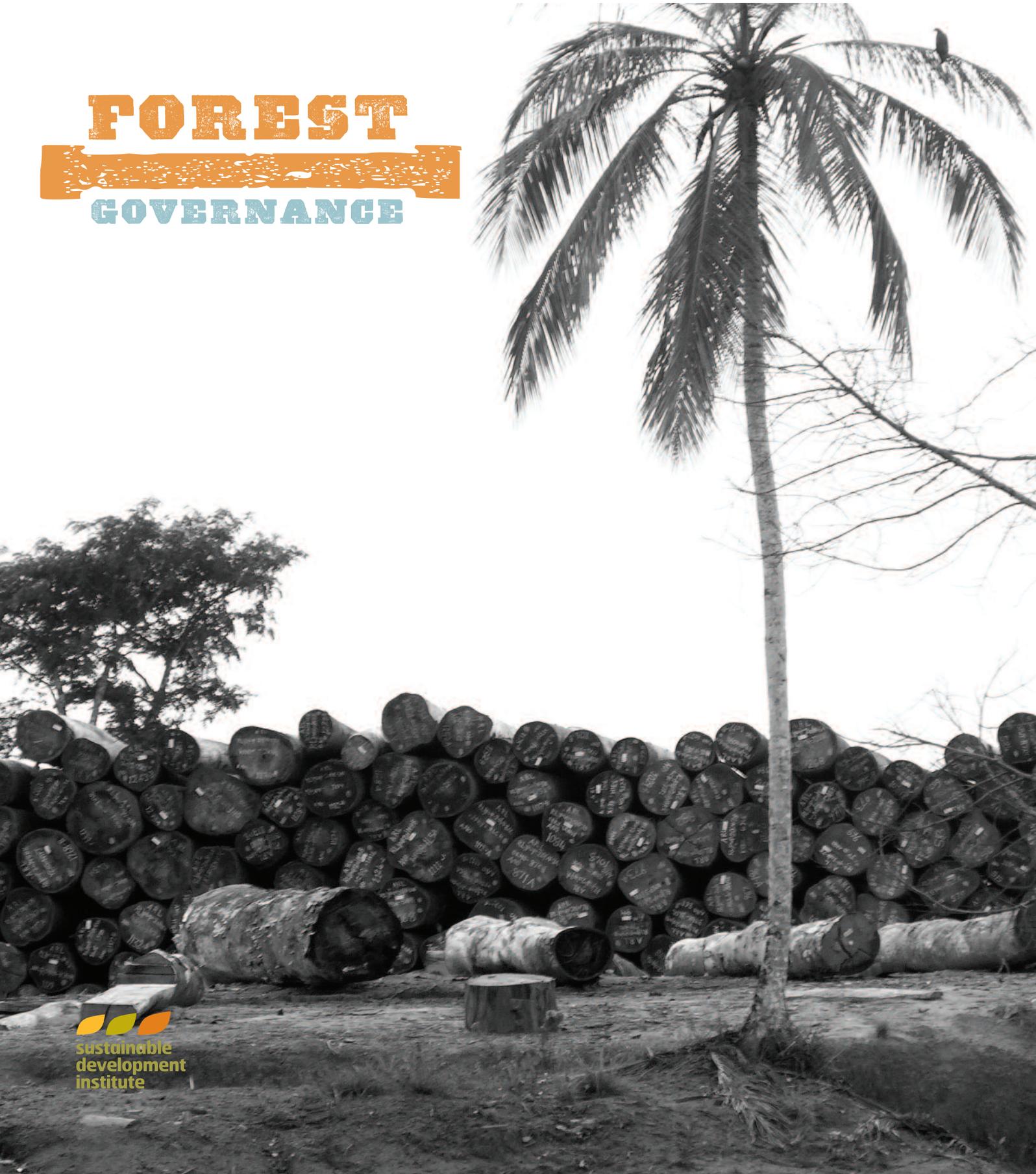
"KEEPING THE PROMISE"

PROTECTING FORESTRY REFORM IN LIBERIA
AND ADDRESSING EMERGING THREATS



REPORT | 2016

FOREST GOVERNANCE



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"KEEPING THE PROMISE"

It is not news to close observers of Liberian history that logging has long played an outsized role in the country's politics and economy. The story of the timber sector's contribution to the Liberian civil war has been extensively documented, as has the role of timber sanctions in bringing that war to a close in the early 2000s.¹ While resources like iron ore and rubber provide larger contributions to the national budget, logging is often a source of scrutiny – and occasionally scandal – due to how easily small-scale operations can 'fly under the radar' and be manipulated by actors primarily concerned with their own enrichment. The forest plays a critical role in the livelihood and survival of communities in rural areas, and thus logging has often involved competing interests and backroom deals.

Today, a large portion of West Africa's remaining rainforest is located in Liberia, but declining global iron ore prices and a devastating Ebola outbreak have combined to put pressure on government to find new ways to increase revenue.² Tension between the desire to manage Liberia's forests in a manner that provides long-term, equitable development for rural communities and the temptation to quickly convert forests into government revenue are likely to continue as the global commodity slump affects the Liberian economy. Donors and the Liberian government have spent millions of dollars reforming the sector since the end of the war, with mixed results, and it is important to have a clear understanding of potential threats to sustainable, well-managed forestry in Liberia.

This report will examine two of the most serious potential threats to good governance and professional management of Liberian forests: the looming wave of Community Forestry Management Agreements (CFMAs), and the potential for large-scale conversion of forests into agriculture plantations – particularly oil palm. By examining these emerging issues critically, the Sustainable Development Institute (SDI) hopes to warn the Liberian government and its partners of the potential for abuse and mismanagement in coming years. The report concludes with an examination of the sector's role in the Liberian economy overall, with an eye on alternatives as well as the need to create an environment of oversight and accountability for civil servants at the Forestry Development Authority (FDA) and elsewhere.

Liberians and their international supporters – whether they be aid agencies, donors, non-governmental organizations, or investors – have a shared interest in ensuring that the forest is responsibly managed for the benefit of current and future generations. Liberian civil society generally enjoys a close working relationship with the FDA – in the spirit of that cooperation, this report seeks to strengthen good governance in Liberian forestry and foster wise decision-making in the coming years.



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footnotes

- 1 Olden, Mark, "Liberia's Timber: From Curse to Blessing?" FERN, *Thompson Reuters Foundation News*, February 11, 2014.
- 2 Jackson, Samuel, "Liberia: Challenges to Economic Growth, Sustainable Development," *FrontPageAfrica*, November 12, 2014.

BACKGROUND

One of the key policy platforms of the administration of President Ellen Johnson-Sirleaf has been to address the historical mismanagement of Liberia's natural resources by implementing a progressive legal regime backed by strong monitoring. From the country's initial post-war Poverty Reduction Strategy to the more recent 'Agenda for Transformation,' ensuring that the benefits of Liberian resources are equitably distributed and do not only accrue to social elites and foreign investors is described as the foundational philosophy of Liberia's vision for post-war natural resource management.³

Supporting this vision, in the years after the war Liberia passed a series of progressive forestry reform laws that laid out a strict regulatory regime for logging and commercial timber export. The National Forestry Reform Law (NFRL) of 2006, the 'Ten Core Regulations' supporting the implementation of the NFRL, and the Community Rights Law (CRL) of 2009 established a rule of law in forestry that allows for commercial exploitation of timber while protecting community decision-making rights and ensuring that the Liberian state receives its fair share of logging revenues.⁴

The combination of the NFRL and the CRL represents one of the most substantive regulatory umbrellas for forestry anywhere in Africa, and has been hailed by many as an impressive achievement.⁵ Competitive bidding processes have been outlined for large forestry concessions – called Forestry Management Contracts (FMCs) – as well as detailed regulations on the social and environmental obligations of investors. In addition, forest communities were granted the right to obtain 'Community Forestry Management Agreements' (CFMAs) with the government – allowing them for the first time to exercise clear decision-making rights over the forest and establishing revenue-sharing mechanisms between the government and those communities for payments from loggers.⁶

Unfortunately, in practice there proved to be a gap between the regulations as they appeared on paper and the behavior of Liberian government agencies and forestry investors. In 2010, the SDI released a report entitled 'The Promise Betrayed,' which laid out a series of procedural violations that should have invalidated the first seven FMCs on the grounds that many of those who were awarded the contracts were not qualified to have submitted bids.⁷ In 2013, an audit report from the London-based accounting firm Moore Stevens that had been commissioned by the Liberia Extractive Industries Transparency Initiative (LEITI) confirmed SDI's findings, describing widespread illegalities in the allocation of the vast majority of natural resource contracts in Liberia, including the FMCs.⁸ Despite its achievements, the ambitious reform process was failing to deliver its promised results.

The forestry sector's slip into renewed lawlessness was most shockingly illustrated in the Private Use Permit (PUP) scandal of 2012. Provisions of the NFRL that had been arranged to allow private deed-holders the right to enter into agreements with commercial harvesters to extract logs of commercial value from their land were exploited on a massive scale. Investigators from SDI and its partner organizations inside Liberia and abroad uncovered evidence that deeds had been forged for the express purpose of allowing logging firms to circumvent regulations that would have covered their operations had they applied for FMCs or Timber Sales Contracts (TSCs).⁹

As the scandal broke, one estimate claimed that nearly 40 percent of Liberia's forests had been signed away via PUPs since the passage of the NFRL, with little to no benefits accruing to either the state or rural communities.¹⁰ This was carried out with the knowledge and facilitation of high-ranking members of the Liberian government – particularly in the FDA and Ministry of Agriculture – and represented a complete breakdown of the rule of law in forestry.

footnotes

- 3 Agenda for Transformation: Steps Towards Liberia Rising 2030," *Republic of Liberia*, 2012, p. 35.
- 4 "Liberia - The Promise Betrayed," *Sustainable Development Institute (SDI)*, January 2010, p. 19.
- 5 Ibid.
- 6 "An Act to Establish the Community Rights Law of 2009 with Respect to Forest Lands," *Republic of Liberia*, October 16, 2009.
- 7 "Liberia – The Promise Betrayed," *SDI*.
- 8 Hirsch, Afua, "Liberia Natural Resources Deals Not Compliant with Law, Find Auditors," *The Guardian*, May 8, 2013.
- 9 "Signing Their Lives Away: Liberia's Private Use Permits and the Destruction of Community Owned Rainforest," *SDI, The Save My Future Foundation, and Global Witness*, September 2012.
- 10 Ibid.

BACKGROUND

CONTINUED

Once the scale of the problem became widely appreciated in the public sphere, President Johnson-Sirleaf took a number of commendable steps to re-establish sound management of the sector. Her administration established a ‘Special Independent Investigative Body’ (SIIB) to review the issuance of the PUPs, which discovered widespread illegalities and recommended that senior members of the FDA be removed and prosecuted.¹¹ President Johnson-Sirleaf adopted the SIIB’s recommendations, placing a moratorium on the issuance of further PUPs and acting to cancel those that had been illegally obtained. Ultimately, the managing director of the FDA was removed and jailed for his role in the scandal.¹²

While the breakdown of management and governance that enabled the PUP scandal and irregularities in the issuance of FMCs made headlines, behind the scenes there have long been actors inside the government who have consistently defended the rule of law in forestry. Today, Liberian civil society groups enjoy a strong working relationship with the FDA. Despite disagreeing with CSOs on some policy issues, in recent years the FDA has generally been responsive and transparent in its dealings with civil society organizations at home and abroad. SDI sees the past few years as an indication that the government of Liberia wishes to manage its forests in a collaborative and responsible manner, and appreciates the efforts that have been made to maintain channels of communication.

Building on that relationship, the SDI wishes to bring to the attention of the FDA, the national government, and its international partners a number of threats to good governance in the forestry sector that must be examined before they lead to serious problems. Simply relying on legal frameworks is not enough – recent history in Liberia proves that laws are only as strong as the political willpower and administrative oversight that surrounds them. Thus, a sustained commitment to vigilance and attention to detail on how policies are being carried out on the ground is needed to avoid scandals such as that of PUP issuances. This report will address these threats and provide recommendations, but first, it examines a recent success: implementation of the Voluntary Partnership Agreement (VPA) with the European Union (EU).



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footnotes

- 11 “Report on the Issuance of Private Use Permits,” *Special Independent Investigating Body (SIIB)*, December 19, 2012.
- 12 “Moses Wogbeh gets 5-Year Jail Sentence – Must Repay US\$6 Million,” *FrontPageAfrica*, August 25, 2015.



ONE

THE VPA: A BOLD STEP ON THE RIGHT TRACK

The “Voluntary Partnership Agreement,” which entered into force between the EU and Liberia in late 2013, is part of an innovative attempt to combat illegal logging in fragile countries. Under the VPA, any timber that is exported from Liberia into the EU will have to be registered and licensed under a strict monitoring scheme that will ensure that purchasers know exactly where the logs were harvested and by whom.¹³ The intent is to ensure that illegal logs – defined as timber extracted outside legal processes or by unscrupulous actors – will never again enter the EU from Liberia, and thus timber purchases won’t carry the risk of contributing to instability. Liberia is one of the first countries to sign such an agreement with the EU, and it has been a learning process since.

Although the VPA is over two years old by now, there is still no formalized procedure for timber to be shipped from Liberia into the EU. Discussions continue over how to establish a “legality assurance system” that is modernized, sustainable, and which ensures that no illegal logs can ever enter the export value chain. To a large extent, the delay in establishing this system can be attributed to the Ebola crisis of 2014 and 2015, which forced nearly all government initiatives onto the back burner and caused Liberian CSOs to temporarily shut down their operations. In the year since the end of the crisis, discussions have resumed and hopes are high that a system that meets VPA qualifications and is able to be managed by the Liberian government is not far in the future.¹⁴

Despite the delays and challenges in establishing the legality assurance system, the VPA has achieved a great deal of good already, and has emerged as one of the most significant developments in Liberian forestry since the legal reforms of the mid-2000s. Much of this progress can be attributed to the establishment of communication channels between Liberian civil society groups and the government that were mandated by the VPA. In the past, Liberian CSOs would frequently have to beg forestry officials for meetings and were frustrated by the inability to transmit or request information in a timely fashion from the government.¹⁵

Under the VPA, a ‘National Multi-Stakeholder Monitoring Committee’ (NMCC) was established, which includes representatives of government, communities, the logging industry, and Liberian CSOs. The NMCC has proved to be an invaluable tool for immediate discussion of emerging issues between the various stakeholders in Liberian forestry. Opening regular channels of communication is an important asset to good governance, and should not be discounted as an extremely progressive development in Liberia. Already, matters such as the PUP scandal and new FDA regulations have been tabled for discussion at the NMCC, fostering greater transparency and promoting consensus-based advocacy. This is no small victory.¹⁶

The NMCC also provides an invaluable forum to raise issues of illegality in a manner that cannot be ignored by the Liberian government. The Joint Implementation Committee (JIC) includes the representatives of the EU, an important development partner who has an interest in promoting good governance in the forestry sector as well as the Government of Liberia. Thus, when a series of CFMAs were distributed without regard to proper procedure, CSOs were able to disseminate materials that proved their illegality through the NMCC and subsequently through the JIC. This was a major contributing factor in pushing the FDA to ensure that no new CFMAs are to be approved without following the letter of the law in their allocation.¹⁷

footnotes

13 “FLEGT Voluntary Partnership Agreement Between Liberia and the European Union: Briefing Note,” *Delegation of the EU to the Republic of Liberia & Forestry Development (FDA)*, May 2011.

14 “Liberia and EU Review Progress in VPA Implementation,” *Delegation of the EU to the Republic of Liberia & FDA*, January 2, 2016.

15 “Benefits of the Voluntary Partnership Agreement: A Liberian Civil Society Perspective,” *SDI*, July 27, 2015.

16 *Ibid.*

17 *Ibid.*

THE VPA: A BOLD STEP ON THE RIGHT TRACK CONTINUED

In that same vein, the NMCC and JIC were an important forum to advocate for the disbursal of funds owed by the Liberian government to Community Forestry Development Committees (CFDCs) under the terms of revenue-sharing agreements. For a number of years, the Liberian government held a large sum of money that legally belonged to communities in rural areas who had agreed to logging operations in exchange for assurances of managed cash payments, which were withheld without cause. By raising this issue at these forums and pointing out the inappropriate logic behind refusing to pay the communities, the government was compelled to make the first payment, a sum of one million US dollars.¹⁸

It still may be some time before timber is exported from Liberia into the EU under the VPA. Challenges remain in harmonizing the details of the agreement with implementation procedures that will have to be worked out. In response to this, some have suggested that the VPA is failing to deliver on the money that has been invested in it by the EU. However, this fails to capture the important benefits that merely establishing the procedures and bodies of the VPA implementation process has had on Liberian forest governance. Thus far, the VPA has been a success, and it should continue to be supported patiently as it heads towards Liberia's first timber exports under the 'legality assurance system.'



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footnote

18 Ibid.



TWO

CFMAS: A NEW WAY FORWARD OR THE SAME OLD STORY?

In 2009, Liberia’s Community Rights Law (CRL) formally provided a legal basis for forest communities to exercise decision-making powers over forest resources, including timber. In what is essentially a de facto form of temporary land ownership, the CRL committed the government to consider communities who followed a rigorous application and management procedure to supervise an approved plot of forest. Thus, communities who were able to obtain a ‘Community Forest Management Agreement’ (CFMA) from the Forestry Development Authority (FDA), would then be able to craft management plans that would – among other options – allow them to enter into commercial logging agreements with third parties.¹⁹

The CRL was pushed heavily by Liberian civil society organizations. For decades, decisions over which forests would be logged and what benefits local communities could expect were made by elites in Monrovia or in regional capitals. At best, communities might hope to be granted some form of social agreement where the logger committed to repairing a road, or financing a school. The imbalance between forest communities’ extremely limited say in the operations of logging companies and the serious impact their activities often had on community life had been a defining feature of the commercial timber sector for most of Liberia’s history.

Under the CRL, for the first time communities could have direct control over their forests, potentially representing a sea change in the way that forests are managed in Liberia. Completing a CFMA application is a laborious process, with a cumbersome 8-step procedure having been laid out in regulations published by the FDA in 2011.²⁰ Most of the first set of CFMAs were created with the assistance of the USAID funded program PROSPER, with follow-up monitoring by Liberian civil society groups.

First, a community wishing to acquire a CFMA must submit an application that describes the location of the forest and provides information about present usage patterns. Then, the FDA is to notify the community and its neighbors that a socio-economic survey will take place, after which a participatory survey is carried out with the assistance of neighboring communities and local government agencies to determine the boundaries of the community forest. There is then another 30-day waiting period where the FDA notifies the community and its neighbors of the results of the survey and boundary mapping exercise.²¹

Next, the FDA or another organization assists the community in creating a set of internal management bodies that will carry out a supervisory role, solicit the input of the wider community in developing the ‘forest management plan,’ and exercise control over incoming funds from logging companies, conservation groups, or other private enterprises. The supervising body is called the ‘Community Assembly’ – intended to be a representative group comprised of “men, women, youths, and all ethnic groups making up the community.” The Assembly elects an Executive Committee and appoints the ‘Community Forestry Management Body’ (CFMB), a term-limited group with the responsibility to represent the community in negotiations with outside parties, prepare the forest management plan, and oversee community finances.²²

Once the various bodies of the Community Assembly have been constituted along with the CFMB, the FDA helps prepare and then signs a CFMA with the community, which covers a period of 15 years. The CFMB must then prepare and submit a ‘five-year Community Forest Management Plan,’ which is subject to approval by the FDA. The management plan details the activities that will be carried out inside the community forest – typically either commercial logging, some form of conservation activity, an ecotourism venture, or the harvesting of Non-Timber Forest Products (NTFPs) for sale.²³

Once this plan has been approved, the community is more or less ‘locked-in’ to the proposed activities. For example, if the management plan stated that conservation activities would be the priority for the community forest, logging would not be permitted until the first five-year term had expired and the community was able to debate and agree on a new management plan. The CFMB then has the responsibility to monitor the progress of the management plan, supervise financial inflows in a transparent and accountable manner, and work with the wider community, the FDA, and other parties to ensure that the plan is followed.

footnotes

¹⁹ “Community Rights Law,” 2009.

²⁰ “Regulations to the Community Rights Law of 2009 with Respect to Forest Lands,” FDA, August 30, 2011.

²¹ *Ibid.*, p. 7.

²² *Ibid.*, p. 9-12.

²³ *Ibid.*, p. 20.

CFMAS: A NEW WAY FORWARD OR THE SAME OLD STORY? CONTINUED

For forest communities that may never have developed formal management structures modeled on principles of good governance to deal with state agencies and legal regimes, the application process for a CFMA is daunting. It's a highly technical process that will almost always necessitate outside assistance. One source said that there are concerns about how long the process takes, describing pressure from the World Bank and other actors to cut it down to a process that will take six months or less.²⁴ This would be a mistake. The complex nature of creating new community structures – often from scratch – requires methodical and slow steps. Building effective local governance institutions in a context that is characterized by opaque leadership and decision-making practices requires close attention and cooperation. Thus, communities have the chance to adjust to their new responsibilities slowly and will have a greater chance of responsibly overseeing their CFMA.

For communities who are able to acquire a CFMA, the benefits are potentially transformative. For example, now that the Liberian Land Rights Act has stalled in the legislature, at present a CFMA is one of the only ways that a forest community can establish collective ownership over a plot of land and make decisions over how to use it, free from manipulation from outside parties – at least on paper. Theoretically, there is a range of options that would be available to a community with a CFMA. They could set up a for-profit ecotourism business, enter into a financial arrangement with a conservation agency to manage the forest as a kind of protected area, or seek financing for a range of forest-based enterprises.

Of course, there is also the option of logging – the CRL explicitly creates space for communities with a CFMA to enter into a direct contract with commercial timber harvesters, and says that the CFMA is to receive at least 55 percent of the proceeds from their operations. For both the government and rural communities, this is a compelling option. The money could be used to finance schools, rehabilitate local infrastructure, and purchase agricultural equipment, among other options, and some portion will directly finance the national budget. But according to the spirit of the law, the decision of whether or not to allow logging inside the community forest would happen relatively late in the application process, once the Community Assembly is convened and appoints the CFMA.

However, by all indications, a far more troubling trend is playing out in CFMA applications across Liberia at present. While there were only a handful of CFMAs in the first few years following the CRL, FDA officials estimate that there are now as many as 120 applications in the system.²⁵ Of this total, SDI has seen a list of 85 CFMAs at different stages of the application process, and 16 of them have estimates of a size that already covers an alarming 493,831 hectares. This is an absolutely massive tract of land and the potential problems that lie ahead could be acute and scandalous.

Those who have been intimately involved with monitoring CFMAs and working with communities to set them up say that a great many of these applications are being explicitly driven by logging companies behind the scenes, who are working with the FDA to lead communities through the process as quickly as possible with the express purpose of entering into a logging agreement once the CFMA is approved.²⁶ In and of itself, logging is not necessarily problematic. If well managed by a representative community body, sustainably carried out, and conducted by reputable operators, the financial inflows could help reduce poverty and help the government finance its array of desperate needs.

But to understand why the present circumstance is of such grave concern, it is important to recognize that CFMAs were not established by the CRL solely to facilitate logging. In fact, while commercial logging inside a CFMA may bring greater benefits to the community than a Forestry Management Contract (FMC) or Timber Sale Contract (TSA), in many ways it is far riskier for the community and state as a whole. For one, the regulations and procedure around allocating an FMC is far more challenging for a commercial logging firm than they would face in signing an agreement with a CFMA.²⁷

footnotes

²⁴ SDI interview with a consultant familiar with CFMA management who wished to remain anonymous, March 2016.

²⁵ SDI interview with officials at the FDA tasked with supervising the CFMA application process, February 2016.

²⁶ SDI interview with a consultant familiar with CFMA management who wished to remain anonymous, March 2016.

²⁷ Ibid.

FMCs are treated by the Liberian government as formal natural resource concessions – meaning that the logging firm seeking a contract is closely scrutinized, the FMC is subject to competitive bidding as per the Public Procurement and Concessions Act, it must be ratified by the legislature, and a series of environmental plans are to be drawn up prior to commencement of operations.

CFMAs, however, have no such provisions. If a CFMA is less than 50,000 hectares in size – an extremely large piece of land – the community is free to enter into an agreement with any third-party they wish, provided that the activities carried out by that party align with the management plan that was approved by the FDA.²⁸ According to some experts, a logging company would hence be able to escape competitive bidding processes and might not be required to carry out an Environmental and Social Impact Assessment (ESIA). For obvious reasons, this arrangement is highly desirable for logging firms – much more so than the stricter procedures for acquiring an FMC or TSC. And if one firm could enter into a series of CFMAs – as many surely will – they will have de facto concessions that could include hundreds of thousands of hectares of land, the same size as a large FMC but without having gone through the rigorous screening that would FMCs require.

The risk of allowing logging companies to surreptitiously promote the establishment of CFMAs and work behind the scenes to push communities towards eventual logging contracts will inevitably have a corrosive effect on a delicate process. As the PUP scandal revealed, many loggers operating in Liberia have no problem violating the law and pushing government employees to do the same. Thus, if the CFMBs are influenced by money or arranged behind-the-scenes by powerful actors in order to control decision-making, the spirit and intention of the CRL will have been subverted.

To understand why this could lead to potential catastrophe, it is instructive to examine recent history. Since the CRL laid the groundwork for community forestry,¹⁰ CFMAs have been approved by the FDA. Some were managed by PROSPER under a USAID grant. These CFMAs were generally developed through the rigorous application process and eight steps laid out in FDA regulations, and have primarily been focused on conservation and other forms of sustainable forest management.

footnotes

²⁸ "Community Rights Law," 2006, Chapter 6.

²⁹ "ECOWOOD Logging Operations in the Bluyeama Community Forest," *Civil Society Independent Forest Monitors*, November 2013; "Major Flaws Uncovered in the Blouquia&Neezonnie CFMA Allocation Process," *Civil Society Independent Forest Monitors*, February 2014.

³⁰ *Ibid.*

In contrast, three CFMAs – two in Grand Gedeh County and one in Lofa County – look to have been arranged at the behest of logging companies, and close investigation of the procedures through which they were signed and implemented has revealed troubling details as well as outright illegalities. Members of the CFMBs have not been community residents, members of the community have been kept in the dark about payments made to the CFMB by logging companies, and one company was shown to have connections to former members of Liberians United for Reconciliation and Development (LURD) – one of the main factions in Liberia's second civil war.²⁹ Individuals and logging companies that actively aided and abetted or participated in human rights abuses during the civil war are barred by law from participating in Liberia's logging industry.

In one case, the time that elapsed between the signing of the community's 'forest management plan' and its agreement with a logging company was only two days – nowhere near enough time for a thorough review and negotiation with an investor. This clearly signified that the CFMA had been set up with the express purpose of enabling easy access for a logging company, which was likely lurking behind the scenes, pushing the CFMA with the assistance of FDA officials. The logging agreement was also likely to have been written and agreed upon with influential community members – who may not even have lived inside the community itself – long before the FDA approved the CFMA. To make matters worse, payments made to the CFMBs were lower than that mandated by the CRL, representing yet another instance of forest communities being exploited – precisely the situation that CFMAs are intended to prevent.³⁰

Of concern is also the rumor that at least some of the logging companies who are driving the new wave of CFMA applications are firms that were implicated in the Private Use Permit (PUP) scandal. It should go without saying that it is not in Liberia's interest to continue to do business with logging operators who were willing to contravene Liberian law and engage in outright criminality in order to defraud the country and maximize their own profits, even if they have changed their name. Moreover, the FDA should under no circumstances facilitate the efforts of these companies or individuals to re-engage with the sector.

CFMAS: A NEW WAY FORWARD OR THE SAME OLD STORY? CONTINUED

To a large extent, the efforts by logging companies to arrange CFMAs rather than Timber Sales Contracts (TSCs) or Forestry Management Contracts (FMCs) is a reflection of the strength of the latter two models. TSCs and FMCs are publicly debated before being awarded, and they require prequalification checks as well as environmental assessments and competitive bidding. While there have been serious concerns about how well they have been monitored and to what extent the law has been followed in their implementation, on paper they are tightly regulated and have progressive frameworks. It is no wonder, then, that investors seeking to maximize their profits and evade unfavorable regulations would seek to circumvent these procedures and instead attempt to push the boundaries of other methods of exporting timber.

During the PUP scandal, one of the managers of Atlantic Resources – a company that was heavily involved in acquiring illegal PUPs and has been linked to the notorious Malaysian logging company Samling Global – spoke to the United Nations Panel of Experts and explained why his company sought to escape the concessions allocation process. According to the panel, he said, “in order to make his company’s logging operations profitable, he required land allotments for logging equal to or exceeding the maximum size allowed under a forest management contract. He complained that the forest management contract concessions process was too time-consuming, cumbersome and opaque to be profitable.”³¹ According to his testimony, the FDA had suggested and facilitated the PUP process as a way to work around the concessions allocation process that so much time and energy had been devoted to designing.

Now, with just 16 of an estimated 120 CFMA applications covering about 493,831 hectares, the CFMAs represent an existential threat to good governance in the logging sector in Liberia, and another potential scandal in the making. To begin, FDA officials admit that their capacity to effectively monitor even half that many CFMAs is inadequate.³² Ensuring that a community has the appropriate management structures and plans in place, that they are accountable to the wider community, and that – for example – members of the CFMB are residents, will require a great deal of time and energy. This is not to deny that logging could bring benefits to these communities and the Liberian government, but that if unwisely managed they are likely to become a source of embarrassment and criminality.

Civil society and aid partners will only be able to monitor CFMAs sporadically, exposing those CFMAs to a dangerous lack of independent oversight. Such oversight is crucial given the recent track record of some logging operators and the government officials who have assisted them in breaking the law. Scrutiny by advocacy groups has already proved crucial in ensuring that CFDCs were granted access to funds owed them by the government, and this new wave of CFMAs is almost certain to necessitate similar third-party observation to ensure they function as they should. The budget squeeze caused by the Ebola crisis, falling iron ore prices, and a global commodity slump could potentially incentivize the government to withhold funds from CFMBs, who may find themselves without assistance if civil society groups who are overwhelmed by the number of CFMAs are not able to fulfill their independent monitoring role.

footnotes

31 “Letter dated 3 December 2012 from the Chair of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council,” *United Nations Panel of Experts – Liberia*, December 4, 2012, p. 38.

32 SDI interview with officials at the FDA tasked with supervising the CFMA application process, February 2016.

Like so often in Liberian history, the letter of the law is not as important as the manner in which it is carried out. The spirit of the CRL was to enable communities to become the custodians of their resources and to make meaningful decisions about how they are managed. Logging is only one option. It may be the right one for a given community, particularly if it is managed sustainably by a representative body and in partnership with a reputable investor, but it should never be the sole driving force behind pushing a community to establish a CFMA. Put simply, if the new wave of CFMAs are mostly driven by logging companies who seek to expedite their control of Liberian timber and export it as quickly as possible, Liberia is almost certain to be confronted with a serious forestry crisis.

It is necessary then to ensure an absolute wall is erected between the FDA and any logging companies who wish to set up a CFMA. No FDA employee should have any contact with logging companies about a potential CFMA before it is established, at pain of severe consequences including loss of employment or prosecution. If FDA officials who are assisting forest communities in establishing a CFMA learn that a logging company has made contact with members of the community before the process is concluded, that company should be subjected to sanctions and barred from signing an agreement with the community under any circumstances. Thus, the risk of fraud and manipulation will be reduced, and Liberia can ensure that CFMAs are able to constitute their governing bodies responsibly and with a healthy understanding of all available options for their forest.

The potential size of the 120 CFMAs is massive – and there are rumors that the number has recently ballooned to nearly 200. Thus, this is not simply a moral or environmental point. If hundreds of thousands of hectares of forest are granted to logging companies outside of the formal concession allocation process, under suspicious circumstances and with poorly arranged CFMBs, Liberia will face another scandal that will at least equal the scope of the PUP crisis. This cannot be allowed to happen. If logging is to take place inside CFMAs, it must be carried out responsibly and only negotiated after the process is concluded. The FDA has developed a reputation in recent years for responsiveness, professionalism, and integrity. A scandal around CFMA allocation would erase that progress, and would represent another dark chapter in the history of natural resource management in Liberia.

Logging in and of itself is not the issue – how it is managed and carried out is. Rather than expedite the application processes for hundreds of new CFMAs and then watching as they are quickly turned into vehicles for the mass export of Liberian timber, by companies who did not carry out a bidding process and who may have been involved in prior illegalities, a wiser course of action may be to begin with a few pilot CFMAs who gradually build their capacity to manage their relationships with loggers. A more cautious approach will be valuable in the long-term, as communities will benefit from lessons learned and the FDA can develop knowledge of how best to support future CFMBs while ensuring that a process set up to boost community participation in logging does not turn into a vehicle for exploitation.

footnotes

- 8 Global Witness & International Transport Workers Federation (2001). "Taylor-Made: The Pivotal Role of Liberia's Forests and Flag of Convenience in Regional Conflicts." Global Witness Limited, United Kingdom.
- 9 Interview Protocol Answers provided on September 8, 2013.

THREE FOREST CONVERSION: A NEW THREAT

In the late 2000s, Liberia signed a series of concession agreements with oil palm producers to cultivate enormous plantations. Heralded as a means to provide jobs and infrastructure to underserved parts of the country while providing a steady source of government revenue, the agreements handed over parcels of land on an extraordinary scale. The two largest concessions were granted to Sime Darby, a Malaysian company operating in the Western part of Liberia, and Golden Veroleum (GVL) in the Southeast. GVL's primary investor is Golden Agri Resources, a major Indonesian oil palm producer and financier. Smaller – yet still substantial – concession agreements were awarded to Equatorial Palm Oil and the Maryland Oil Palm Plantation.³³



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The oil palm industry in Liberia has been troubled since its early days. Civil society organizations and communities complained of inadequate consultation and the inherent violence of stripping hundreds of thousands of people of their claim to land ownership in order to facilitate an international investment. More than once, tensions inside oil palm concessions have boiled over into outright violence, necessitating the deployment of armed riot police and garnering international headlines.³⁴ Companies have been forced to scale back on their expectations of how much land they are likely to obtain and shift their cultivation processes to align with international standards of Free, Prior, and Informed Consent.

Aside from the concerns over disenfranchisement and land ownership, there is an increasing understanding of the dramatic threat that these oil palm concessions pose to forests in Liberia. In the case of Sime Darby and GVL, the areas that were granted to them in their concession agreements cover extremely dense forests, some of which contain valuable tree species and endangered animals. Internationally, it's been recognized that large-scale commercial agriculture is one of the major drivers of deforestation, as well as illegal logging. In Liberia, there are reasons to be concerned that expansion of oil palm plantations will become a driver of deforestation as well as extralegal logging, necessitating a measured analysis of the benefits of plantation agriculture against the permanent environmental damage that it will cause.

The oil palm industry has faced prolonged international scrutiny due to its severe environmental and social impacts. In Malaysia and Indonesia, the oil palm industry caused extensive devastation to rainforests and wildlife.³⁵ While it also produced economic benefits, the outcry against irresponsible cultivation and its concurrent environmental destruction has led some producers to make public pronouncements that future operations will not contribute to the destruction of the world's remaining forests. For its part, GVL has committed itself to refraining from cultivating oil palm in Liberia on areas it deems to be of "High Carbon Stock" (HCS) and under RSPO rules certain types of "High Conservation Value" (HCV) forest.³⁶

footnotes

³³ Smell-no-Taste: The Social Impact of Foreign Direct Investment in Liberia," *Columbia University Center for International Conflict Resolution*, January 2012.

³⁴ "Communities Protest that UK's Equatorial Palm Oil is Poised to Seize Land in Liberia," *Global Witness*, June 24, 2014; Stokes, Eliasha, "Riot on the Plantation," *Al-Jazeera America*, October 4, 2014.

³⁵ Oakford, Samuel, "Indonesia is Killing the Planet for Palm Oil," *VICENews*, July 4, 2014.

³⁶ "Deforestation," *Golden Veroleum Liberia (GVL)*, September 22, 2014.

However, in the course of the expansion of these plantations, forests will be inevitably destroyed, whether they meet the arbitrary benchmarks of what is described as HCS, HCV or not. This has raised difficult questions about the relationship between logging and plantation expansion, as well as led to disagreements over what type of forests should be protected from agricultural expansions. Broadly speaking, this phenomenon is known as “forest conversion,” referring to the conversion of forests into permanent agricultural land mostly for plantations.

It has been argued by some that since forest conversion is likely to happen anyway, despite the commitment some producers have made to ‘no deforestation,’ commercial logging should be permitted in areas where oil palm companies plan to expand. The logic is that this will raise funds for local government operations as well as community needs. Others argue that opening the door to forest conversion would allow the government and the producers to flout their public commitments.

In GVL’s concession area, ambiguities about the permissibility of timber harvesting inside of proposed oil palm blocks have been a major source of contention between civil society organizations, the FDA, and company officials in the past year. After an FDA official illegally granted a logging permit to Forest Ventures in Tarjuwon District, Sinoe County – which will be discussed in the following section – GVL formally requested that the FDA grant permission for commercial logging inside of its concession area in the district. GVL described this as an entirely altruistic move – it holds a Memorandum of Understanding (MOU) with communities in Tarjuwon to develop oil palm in the area, so why not permit the government and those communities to garner some income from marketable tree species prior to its expansion?³⁷

This logic is not only flawed, if taken to its logical conclusion it is almost certain to accelerate deforestation inside agricultural concessions, promote questionable logging practices, and facilitate corruption. It also has the potential to become a means for companies like GVL to skirt their ‘no deforestation’ commitments and plant oil palm in areas that are now covered by primary forests.

To begin, there are no formal instruments available to the Liberian government that would allow a logging company to operate inside an agricultural concession and legally move timber they extract into the chain of custody. Oil palm companies do have the right to extract timber from inside their concession, but only for their own operational use. It is only the “excess” timber left over from that internal use that can then be sold. While there is no working technical definition of what constitutes “excess” timber, a commercial arrangement where the majority of the logs were shipped overseas would certainly not qualify.

Much of the damage that has been done to the rule of law in Liberian forestry has come when arrangements with logging companies were informal and did not adhere to the strict letter of national legal frameworks. Most observers agree that allocating overlapping concessions on the same plot of land is likely illegal. Therefore, despite the argument that allowing logging to take place inside an agricultural concession could be a harmless method of raising funds for cash-strapped local governments and communities, according to the letter of Liberian law it is illegal.

footnote

37 “Stopping Illegal Logging in Sinoe County,” *SDI Investigations*, April 15, 2016.

FOREST CONVERSION: A NEW THREAT CONTINUED

There is also sound reason to worry that allowing logging to take place inside of agricultural concessions could enable concessionaires to skirt their commitments to minimize the impact of their operations on forests. For example, if GVL or Sime Darby were to give the go-ahead for commercial logging in an area where they wish to expand, they could then argue that the land was 'degraded' and hence suitable for oil palm cultivation rather than an off-limits dense forest. This could easily become a de facto method of expanding the scope of which land is and is not acceptable under their internal policies on deforestation, and would almost certainly accelerate the destruction of Liberia's remaining forests.

Presently, there are disagreements between Liberian civil society organizations and oil palm producers about which forests are suitable for clearance and which are not. Much of the confusion centers on technical jargon and definitions about how much carbon stock a particular piece of forest has, or whether it can be said to qualify as HCV. In truth, concession holders have targeted forests for clearance that show clear signs of having old growth tree species as well as valuable and potentially endangered animals. In Sinoe, for example, some of the areas in Tarjuwon that will be cleared by GVL – and which would have been logged had the FDA not rescinded its permit – do not meet the company's internal definition of HCV, despite clear evidence that they are valuable forests with only limited degradation.³⁸

In order to protect Liberia's forests, it is imperative that agricultural concessionaires in the oil palm and rubber sectors limit the expansion of their plantations to areas that have already been degraded for agricultural purposes. GVL has stated that it will clear any forests of less than 10 hectares, and that even dense forests of up to 99 hectares could also be viewed as suitable for destruction and the planting of oil palm.³⁹ Depending on how the forests are analyzed, this means that patches of forest that have been separated through various forms of degradation from larger forests will not have the chance to regenerate and rejoin the larger forest. Even an old-growth forest that has been separated from a larger forest corridor by community agricultural activities could be destroyed.

There are significant differences between the long-term impacts of logging and those related to the cultivation of oil palm. Forests that have been logged at least have the chance to regenerate over time or sustainable logging can enable the forest to replenish itself. On the other hand, oil palm cultivation is permanent. Forests are entirely destroyed to make way for neat rows of palm trees that will be managed by the producer for decades, all the way up to a century once provisions for extension contained within the concession agreement are factored in. Allowing logging to take place anywhere inside a concession for any reason other than internal lumber needs will expand the amount of land available for oil palm cultivation and lead to the permanent destruction of important Liberian forests.

While the oil palm concessionaires will claim neutrality on this issue and frame their logging agenda in terms of facilitating a good relationship with communities and local governments inside their concession, dangling the carrot of logging revenues in areas where they wish to expand is without question in their best interest. Local officials are likely to see a direct financial incentive for themselves personally in logging activities, particularly given the fact that the timber firms in question have already proven that they are willing to behave unscrupulously if it benefits them. In Tarjuwon, for example, the firm that had initially received an illegal go-ahead from the FDA to carry out logging was one that had been implicated in the Private Use Permit (PUP) scandal. A full account of the incident can be found in the following section.

By enabling commercial logging to take place inside agricultural concessions, the government of Liberia will place itself in the precarious position of facilitating poor forest governance. Given that there are no formal mechanisms for allocating a logging contract in such a scenario, and the potential for accelerated deforestation through conversion to take place, it is imperative that the FDA issue a regulation that prohibits commercial logging from taking place inside agricultural concessions. The potential benefits that could accrue to local governments and communities from logging carried out prior to a plantation expansion are far outweighed by the likelihood of abuse and lawlessness.

footnotes

³⁸ Results of SDI field investigation in Sinoe County, January 2016.

³⁹ SDI meeting with members of GVL management, March 2016.

In addition, the allocation of Community Forestry Management Agreements (CFMAs) must also not become a back door for commercial logging to take place inside agricultural concessions. Already, two CFMAs exist inside of GVL’s massive formal concession area. These CFMAs are being supported and monitored by SDI, reducing the likelihood of manipulation, but if any of the other 120 applications for new CFMAs lie within an agricultural concession it poses a severe risk to the management of Liberia’s forests.

To illustrate the danger it is helpful to consider how a CFMA inside an agricultural concession might unfold. CFMAs may include industrial logging activities, but there will often be planning for how to enable the regeneration of forests once the timber is harvested. However, a CFMA inside an agricultural concession could easily create a management plan that focuses on logging – even inside a primary forest – and then after the first five years, another management plan could theoretically be drawn up that allows industrial oil palm cultivation by a concessionaire. Thus, a forest that would initially have been out of bounds for an oil palm producer could later be labeled as ‘degraded’ due to community logging activities, and thus would be suitable for conversion.

According to one official at the FDA, however, a CFMA cannot be established inside an agricultural concession due to the fact that the forest is technically deeded land owned by the concessionaire.⁴⁰ The official stated that from her perspective, a concessionaire would have to go to court and legally relinquish its ownership of the land area where the proposed CFMA would be located before the FDA would grant approval for a community forest. While this is heartening, it remains to be seen whether it will be followed through in practice.

The FDA has a statutory responsibility to exercise control over Liberia’s forests and ensure that they are managed in accordance with the law and best practices. This mandate covers a variety of activities, including logging but also conservation and the supervision of protected areas. In the case of agricultural concessions, the FDA must ensure that it does not enable oil palm and rubber producers to accelerate the destruction of Liberia’s forests by facilitating conversion. This means taking a clear stance against logging for export inside an agricultural concession – whether through a CFMA or not – and helping to monitor the internal commitments of oil palm producers to exercise care over the environment.

For their part, oil palm producers must cease obfuscating about their expansion plans and adopt a willingness to share maps and data with civil society organizations prior to the development of new blocks. Thus far, oil palm producers have been hesitant to share their mapping data or clearly explain where they will expand, claiming that making the data public means that competitors will have access to it as well. This explanation does not make sense – given that the concession areas have already been legally allocated to the companies, they have nothing to lose by publicizing their expansion plans well ahead of time. This will give civil society organizations and communities the opportunity to examine whether the expansion is likely to damage or destroy forests, and to hold producers accountable for deforestation if and when it occurs.



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footnote

⁴⁰ SDI interview with officials at the FDA tasked with supervising the CFMA application process, February 2016.

FOUR ENFORCING THE LAW & KEEPING THE FORESTRY SECTOR CLEAN

One of the most concerning developments in the forestry sector is the re-emergence of logging companies who were involved in the Private Use Permit (PUP) scandal. The PUP saga involved outright fraud committed against the Liberian people, carried out at the behest of these companies. In the report issued by the Special Independent Investigating Body (SIIB) set up by President Ellen Johnson-Sirleaf during the scandal, a number of logging firms were recommended for a permanent ban from forestry activities in Liberia.⁴¹ Far from being banished from the Liberian timber sector, these firms remain active, and sources knowledgeable about the new CFMA applications say that some of them are playing major roles behind the scenes.⁴² This is a clear threat to the rule of law in Liberian forestry, and is akin to inviting a burglar into your home after you caught him stealing the silverware once already.

One of the most disturbing and unacceptable elements of the PUP scandal was the willingness of senior members of the FDA to promote lawlessness and corruption. While the management culture of the FDA has definitively changed since that period, there remains a need for sustained vigilance. A recent incident involving members of the local government in Tarjuowon District, Sinoe County is indicative in illustrating the dangers of allowing discredited logging firms to continue operating in Liberia, as well as the continued potential for lapses in accountability and judgment to take place at the FDA.

For years, the logging sector in Liberia suffered from weak legal enforcement. The Moore Stephens audit that was commissioned by the Liberia Extractive Industries Transparency Initiative (LEITI), released in 2013, highlighted how the allocation process for forestry concessions had failed to live up to existing legal frameworks.⁴⁴ Later, SDI detailed how nearly all of the concessionaires that held Forestry Management Contracts (FMCs) or Timber Sales Contracts (TSCs) owed substantial sums of money to the Liberian state.⁴⁵ Despite owing these sums, the companies were allowed to continue operating with only the mere promise that when possible, the taxes would be paid. This begs the question of whether the FDA and the Liberian government are willing to enforce the law and ensure that logging firms pay what they owe, on time and in full.

Moreover, investigations by Liberian civil society organizations have revealed serious questions about the management and allocation of CFMAs. In one instance, two large CFMAs were granted in Grand Gedeh which included an MOU signed with a logging company that isn't registered as a business in Liberia. The company was further revealed as owned by a former senior member of a rebel faction that fought in one of Liberia's civil wars, and who has been described as having close ties to the current government. The two CFMAs were arranged in contravention of the laws and regulations of Liberia – the logging MOU was signed before a 'forest management plan' had been designed, application documents were signed by individuals who were not selected by the community in a representative fashion, and the CFMA itself was approved by the FDA prior to the issuance of regulations that covered the application process.⁴⁶

Thus, these two CFMAs were allocated illegally, and included multiple violations of the current law around how community forestry is to be managed. In Lofa County, the Community Forestry Management Body (CFMB) that had been set up to oversee logging activities inside its CFMA was comprised of members who did not even live inside the community itself. This is a clear violation of the spirit of community forestry as well as Liberian law – yet no officials were held accountable for the lapses.⁴⁷ It is a troubling sign for what lies ahead with the new CFMAs.

The FDA has demonstrated a desire to work within the bounds of the law, and senior management officials have been responsive to concerns raised by civil society organization. But the agency's role is crucial in ensuring that forestry in Liberia is conducted legally, and it is thus imperative that the FDA rigorously enforces the law by ensuring that all procedures related the allocation of logging concessions are ruthlessly followed. Pointing to a lack of resources or capacity is an adequate explanation to justify illegalities in the management or awarding of logging contracts, whether they be through a CFMA, a FMC, or otherwise. The FDA must redouble its efforts to ensure that its staff behave with spotless integrity and that the rule of law is not flouted by any commercial logging interest, no matter how well-connected or wealthy they may be.

footnotes

41 "SIIB Report," 2012, p. 47.

42 SDI interview with a consultant familiar with CFMA management who wished to remain anonymous, March 2016.

44 "Liberia Resource Deals Not Compliant," *The Guardian*, May 8, 2013.

45 "The Promise Betrayed," *SDI*, 2010.

46 "ECOWOOD Logging Operations in the Bluyeama Community Forest," *Civil Society Independent Forest Monitors*, November 2013; "Major Flaws Uncovered in the Blouquia&Neezonnie CFMA Allocation Process," *Civil Society Independent Forest Monitors*, February 2014.

47 *Ibid.*

CASE STUDY: Logging in Tarjuowon⁴³

In Spring 2015, staff members from the Sustainable Development Institute traveled to southeastern Liberia to carry out routine monitoring and training work related to the operations of Golden Veroleum (GVL). In Tarjuowon District, a forested area where GVL holds Memorandums of Understanding (MOUs) with local communities for its next phase of plantation expansions, staff members heard reports that one of the worst offenders in the PUP scandal, Forest Ventures, was preparing to harvest timber in the area. Given the lack of regulations covering commercial logging inside an agricultural concession and the absence of other logging concessions in the area, this raised concerns.

In Monrovia, SDI wrote to the FDA, requesting information about Forest Ventures' operations. The Managing Director of the FDA responded quickly – denying the agency had issued any permit for logging in the area.

However, through further investigation, SDI was able to obtain a letter sent from then acting Managing Director Kederick Johnson, dated March 13, 2015, to Paul Chea, Tarjuowon's district Superintendent. The letter contradicted the FDA's claim that no such approval had been granted, as it created an extralegal agreement for logging in Tarjuowon which required only that GVL approved of the operation before it commenced. There were no arrangements made for any kind of formal process by which the logging agreement would be allocated, either through competitive bidding or any of the other typical procedures that cover timber concessions. The logic of the letter relied on an erroneous and abusive interpretation of a clause in GVL's concession agreement that allows the company to harvest timber for its own use. GVL later expressed to SDI that it was not aware of the arrangement that had been made by Chea and Johnson.

Confronted with the letter from his deputy approving Forest Ventures' operation, FDA management wrote again to Chea, this time revoking the earlier letter and rescinding the permit.

Still, FDA management refused to fire or otherwise hold Johnson accountable for his unilateral and extralegal decision to grant an informal logging permit to Tarjuowon District. While it might be suggested that logging in the district would have been "no harm, no foul," given that the forest in question

is already slated to be cleared by GVL, this sentiment ignores the inherent impropriety in doling out permission for commercial logging to take place without any legal framework to cover who obtains the contract, how the benefits and revenues are disbursed, and how the contract process as well as its financial arrangement will be publicized.

This failure to adhere to the law exposed a troubling willingness by some elements inside the FDA to cut corners and make unprofessional decisions related to the allocation of forestry contracts. The potential for corruption in this example is clear: while there is no reason to assume that any of Tarjuowon District's administrators would have behaved inappropriately in determining which company would be granted the contract, the allocation of that contract would have occurred outside of forestry laws and the Public Procurement and Concessions Act. Thus, it would have been easy for the contract to be awarded outside of public view, with the direct involvement of government officials, creating the perfect opportunity for the kind of corruption and bribery that has plagued forestry in Liberia for years.

Moreover, the involvement of Forest Ventures raises red flags as well. The SIIB report specifically named Forest Ventures and its parent company, Atlantic Resources, as operators who should be barred from forestry in Liberia. Given their track record of deceit and fraud, even if a legal instrument for logging were to have been developed that might have enabled timber extraction in Tarjuowon, neither Forest Ventures nor Atlantic Resources would have been the right companies for the contract.

After this incident, GVL wrote to the FDA, requesting a permit for communities in Tarjuowon to extract marketable timber from its concession by entering into a contract with a logging company. GVL was understandably – and commendably – concerned that without such permission they would be promoting illegal behavior. In the letter, GVL asserted its right to enter into commercial logging contracts within their concession as per their concession agreement, despite the fact that logging is permitted only when the timber will be used for the company's local operations, not for export and sale overseas.

After months of deliberation, the FDA denied GVL's application on March 5, 2016.

footnotes

⁴³ For a full accounting of this incident with supporting documents and other evidence, see: "Stopping Illegal Logging in Sinoe County," *SDI Investigations*, April 15, 2016 (accessible at investigations.sdiliberia.org).

FIVE BEYOND LOGGING: LOOKING TOWARDS THE FUTURE

When examining the logging sector as a whole, a question arises: have the benefits of timber export from Liberia been worth the headaches? Timber represents a very small fraction of government revenue. Historically, commodities like iron ore have supplied a far larger share of the budget, and in present-day Liberia payments related to oil exploration dwarf those of logging. While oil and iron ore have certainly come with their own troubles, the logging sector has historically been a haven for unscrupulous operators looking to make a fast buck from Liberia's natural resources. Government officials, civil society organizations, and international donors have expended inordinate amounts of time and energy in tightly monitoring the sector and pushing back against efforts to manipulate communities and the law.

Logging companies have been among the worst offenders in failing to pay their taxes on time and follow government procedures in their operations. Many have been perennial lawbreakers, constantly on the prowl for a loophole or a weak link that can be exploited for their own financial benefit. When the actual revenue inflows from timber exports are examined, one may reach the conclusion that the sector has supplied very miniscule benefits to the Liberian government not to mention rural communities. The small-scale nature of firms operating in the sector as well as the remote areas in which logging takes place provides a ripe environment for well-connected elites to use their power to push a very narrow, selfish agenda. During the Private Use Permit (PUP) scandal, this dynamic caused great embarrassment to the Republic of Liberia.

While the expansion of Community Forestry Management Agreements (CFMAs) is based on a model that has shown benefits across the world, the concerns laid out in this paper should give pause to its proponents. The success of the CFMA model will largely lie in its implementation rather than in how it was designed and conceived. At present, there is a high possibility that the system will be 'gamed' for the benefit of logging companies without contributing to community development or the establishment of competent management structures in rural areas. In the absence of tight and constant monitoring, most of the revenues will go directly to the same agents who have always been the largest beneficiaries of logging.

Logging has a role in the Liberian economy. But it may be time to consider alternatives to logging as a source of income not just for rural communities, but for the Liberian state as a whole. The Norwegian government has generously agreed to provisionally

allocate as much as \$150 million US dollars towards conservation objectives in Liberia.⁴⁸ The details of the deal include a moratorium on new logging concessions and greater involvement of communities in forest governance.⁴⁹ Known as the "Norway Agreement," hopes are high in some corners that these funds could promote sustainable forestry and protect Liberia's natural heritage while still contributing to the government budget. However, it is not a cure-all, and close examination of the track record of similar agreements in other countries reveal that they have fallen short of expectations.

For example, one provision of the agreement states that 30 percent of Liberia's remaining forests would be re-classified as 'protected' and made off-limits to loggers.⁵⁰ This could potentially become a major source of conflict. Already, protected areas suffer from minimal management by the state due to resource constraints, and if expansion of these areas infringes on land that communities consider to be theirs, it is likely that there will be disputes over ownership. However, the implementation of the plan could be managed to include communities themselves as the custodians of protected areas through the development of Community Forestry Management Agreements (CFMAs).

CFMAs require that the community develop a management plan that outlines exactly what it plans to do with the forest for a five-year period. One option would be to use some portion of the funds from the Norway Agreement to provide income streams for communities who hold a CFMA by financing their taking charge of conservation in a given area. Such communities would need to be assisted in carrying out their responsibilities and regular payments would need to be made to them. The available pool of funds for such activities is likely to be limited, but could be one way to protect Liberia's forests while still enabling communities to control their land as well as raise their incomes.

On a much broader level, small-to-medium scale agriculture has been distinctly neglected in Liberia for years, much to the country's economic detriment. Discussions over agriculture are frequently politicized, with some adopting the dismissive attitude that advocacy for placing more focus on the sector is based in a humanist philosophy rather in economic best practice. In fact, nothing could be further from the truth. There is an overwhelming body of evidence that suggests that boosting agricultural productivity in rural areas is a key step towards industrialization.⁵¹ Many countries in sub-Saharan Africa have recognized the importance of agriculture. Indeed, Liberia was one of the signatories to the 2003 African Union 'Maputo Declaration,' where it committed to spending at least ten percent of its national budget on agriculture.⁵²

footnotes

⁴⁸ "US\$150 Million Partnership between Norway and Liberia to Stop Logging." Global Witness.

⁴⁹ Ibid.

⁵⁰ Ibid.

Some countries, such as Ghana and Burkina Faso, have met this target and incorporated agriculture into the national budgetary framework as a key priority. This follows an extensive body of evidence that ties agricultural development to national development as a whole. The links here are apparent: communities that have productive agricultural enterprises are able to raise their incomes year-in-and year-out, allowing them to spend money on their children's educations, infrastructure, and other basic needs. In addition, there is a reduced possibility of food crises from international commodity shocks, and money stays in the local economy rather than being siphoned away by foreign agricultural producers. In some parts of Liberia, products as basic as cassava and pepper – major ingredients in the Liberian diet that grow very well in Liberia – are often inexplicably imported from neighboring Guinea or Cote D'Ivoire.

Liberia's attitude towards agriculture thus far has been to prioritize the allocation of large concessions to commodity producers, particularly in the oil palm and rubber sectors. These companies make annual 'rent' payments as well as a percentage of their profits and royalties for a long period of time. For many reasons, it is tempting for the government to abdicate its responsibility to the agriculture sector and hand over the keys to these investors. Constant payments are made, a number of jobs are created, and officials have very little responsibility to manage the projects outside of collecting payments. Advocates point to countries like Malaysia and Indonesia as examples of countries that raised their income through industrial agriculture.

But a close economic analysis of the effects of this model reveal that it is unlikely to have anything close to the type of transformative effect that the Liberian government hopes, and has publicly claimed it will. One study, commissioned by the Rights and Resources Initiative, makes clear that there is little macroeconomic evidence that industrial agriculture leads to national development. In one key section, the report examined evidence from other countries across the world, concluding that, "The historical record shows that economic policies that focus on capital-intensive resource extraction and industrial cash crop production, at the expense of wider agricultural development, did increase capital accumulation but did not generate the desired economic and welfare impacts. These policies always led to higher volatility in the long run. They often led to economic stagnation and did not bring about lasting structural change. The lower strata of both the rural and the urban population were found to be worse off. Inequality had increased."⁵³

In other words, far from being a boon to the national economy, a reliance on foreign-run industrial agriculture and cash crop production often worsens conditions inside producer countries. It is crucial now to shift from an economic strategy that relies on resource extraction and investor-friendly concession allocation to one that thinks further ahead and prioritizes the agricultural sector as a whole. Liberia has thus far done an abysmal job in this regard. The FY2015-2016 budget sets aside less than one percent of national expenditures to agriculture.⁵⁴ This is woefully inadequate, and clearly demonstrates that Liberia has relegated the sector to an afterthought, at best.

In an event hosted by SDI in 2013, agricultural producers came together in Monrovia with government officials and civil society organizations to discuss the challenges facing the sector. The presentations that were made clearly demonstrated that agriculture was not receiving the attention and coordination it needed. Projects between donors and the Ministry of Agriculture were frequently not aligned, and entrepreneurs complained of a dearth of access to financing. Despite the fact that international financial institutions have made funds available to the central bank to finance agriculture, the perception was that they typically only made their way into well-connected hands.⁵⁵

Agriculture cannot be approached in a piecemeal manner. There are many moving parts that need to be thoughtfully aligned in order to unlock the potential of the sector in boosting rural incomes and protecting Liberians from price shocks in international food markets. Infrastructure, storage, inputs, access to credit, and labor arrangements all need to be harmonized under a central national umbrella which can guide and monitor the sector as a whole. Forested communities could benefit immensely from government support for agriculture.

Until the Land Rights Act is passed, the CRL provides the clearest pathway for forest communities to exercise control over a plot of land and resources. Were agriculture to be marked as a national level priority, a CFMA management plan could specify, for example agro-forestry production systems as the community's preferred course of action. A responsible national framework that was aligned with the Maputo Declaration's commitments would be able to extend some form of support for such communities, whether in by providing of tools, credit, or marketing opportunities.

To waste the potential of Liberia's land solely on extractive activities is not only a shame, it is regressive. There will likely always be some role for sustainable logging, but right now it plays an outsized role relative to its actual benefits. It is tempting to ascribe this to the fact that the financial flows from logging can easily be diverted to private individuals, raising the personal stakes for advancing timber extraction as the central priority for communities. By prioritizing agriculture and conservation as viable alternatives to logging, the Liberian state would be promoting equitable and smart national development, reducing the likelihood of corruption, and protecting its natural environment.

footnotes

- 51 Rhein, Matthias, "Industrial Oil Palm Development: Liberia's Path to Sustained Economic Development and Shared Prosperity?" *Rights and Resources Initiative*, February 2015.
 52 "Our Future is Now: A Call for Urgent Action Supporting Liberian Farmers Producing Food for Liberia," *SDI*, September 13, 2013.
 53 "Industrial Oil Palm Development: Liberia's Path to Shared Prosperity?" *RRI*, February 2015.
 54 "Fiscal Year 2015/2016 Draft National Budget," *Republic of Liberia*.
 55 "Agricultural Dialogue Event – Full Report," *SDI*, August 26, 2013.

RECOMMENDATIONS

To the Government of the Republic of Liberia:

Ensure that logging companies have no involvement in the Community Forestry Management Agreement (CFMA) application process and that no FDA official communicates with any company about an ongoing application.

Levy harsh administrative and legal penalties against civil servants who communicate with logging companies during the CFMA application process at any point.

Transparently share information about all CFMA applications with civil society in Liberia and abroad.

Ensure that the procedures for a CFMA application are followed to the letter.

Ensure that any logging arrangements that are made with regard to CFMAs are done only with reputable firms that are able to pass a prequalification check.

Implement the recommendations of the Special Independent Investigating Body, and bar all logging firms and personnel who were involved in the Private Use Permit (PUP) scandal from any further involvement in the Liberian timber sector.

Ensure that the number of CFMAs does not outpace the capacity of the Forestry Development Authority (FDA) to monitor them.

Begin the process of community forestry in Liberia with a set of pilot CFMAs rather than the influx of hundreds of approved agreements at once.

Include civil society organizations in the management of the pilot CFMAs both as monitors and for assistance with establishing and training the CFMBs.

Formulate a legal regime that binds agricultural companies to refrain from destroying Liberian forests.

In a participatory manner, develop a set of regulations for logging inside agricultural concessions that explicitly bars any export-oriented activities from taking place.

Do not approve any CFMAs inside of agricultural concessions unless the company is willing to legally relinquish their ownership of the land.

Ask oil palm concessionaires to renegotiate their concession agreements to reduce the size of their proposed plantations in a manner that ensures forests will be protected.

Hold accountable any civil servant who behaves inappropriately or violates the law. Ensure that strong penalties are levied against offenders at any level.

Step up enforcement activities to ensure that all existing forestry concessionaires pay their taxes and other dues on time. Levy severe penalties against offending firms.

Examine the national budgetary shortfall in agriculture, and increase expenditure.

Ensure that economic best practices are followed and that agriculture is given the national attention and commitment that evidence has shown it requires.

To Agricultural Concessionaires:

Refrain from planting oil palm or rubber on Liberian forestlands.

Ensure that forested areas that are marginally separated from larger forests are given the option to recover their connecting corridor.

Plant oil palm or rubber only on areas that are already degraded.

Refrain from allowing any form of commercial, export-oriented timber harvesting to take place anywhere inside the concession area.

Publish expansion plans – with maps – at least three months ahead of the commencement of negotiation with affected communities or any other operations.

To the Norwegian Government:

Ensure that community forestry is incorporated into the Norway Agreement, with CFMAs as a potential avenue for conservation activities.

To the International Community:

Continue supporting the Liberian government in holding the forestry sector to a high standard of the rule of law, and point out improprieties and illegalities whenever they occur.

“KEEPING THE PROMISE”

PROTECTING FORESTRY REFORM IN LIBERIA AND ADDRESSING EMERGING THREATS



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FOREST GOVERNANCE



The Sustainable Development Institute (SDI) works to transform decision-making processes in relation to natural resources and to promote equity in the sharing of benefits derived from natural resource management in Liberia. The organization's vision is a Liberia in which natural resource management is guided by the principles of sustainability and good governance and benefits all Liberians. Its activities cover a range of crosscutting issues including governance and management, the environment, state and corporate social responsibility, economic and social justice for rural populations, and the democratic participation of ordinary people in government management of natural resources. The organization received the Goldman Environmental Prize (the world's largest prize honouring grassroots environmentalists for outstanding environmental achievements) in 2006.

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