

The Inspection Panel
The World Bank

Communities of Central River Cess Statutory District
River Cess County
Republic of Liberia

Regarding: Request for Inspection Panel investigation into World Bank project in Liberia supporting logging

To the Inspection Panel.

We are members of communities affected by the logging concession Forestry Management Contract Area "B," held by E. J. & J. Investment Corp. (E. J. & J.), in River Cess County. We are concerned that E. J. & J. is not able to keep its promises to us and that the World Bank has helped to create a logging industry in Liberia that will not work and is violating our rights

In 2008 we were told that E. J. & J. would be coming to River Cess County, and over the course of its 25 year contract would provide jobs, money, and other benefits under a Social Agreement we signed. We have set up a committee to represent us before the company and have held many meetings to prepare for logging.

E. J. & J. has failed to fulfill its promises. It has not provided the jobs, money, or benefits that were promised to us. The company and the Government have also not come to meetings we have held so that we can talk about our problems and has not worked with the committee we set up to represent us. We, the communities within FMC B, want to know why the logging company that was given a concession in our forest is not able to do what it said it would do. We have learned that other logging companies in Liberia are also not doing what they are supposed to and the World Bank helped the Government develop the new logging industry. We cannot understand why the Bank is working with the Government when the industry and companies are failing.

We are aware that the country's laws were broken when E. J. & J. was given its concession. The Government knew E. J. & J. did not have enough money or experience to hold a concession when it was awarded its contract. We have been told that laws were also broken when many of the logging concessions in other parts of Liberia were given out. How can logging benefit us when laws are broken so companies that do not deserve to be in our forests are given logging contracts? We are worried that we will suffer if the Government continues to break the laws. We do not understand why the World Bank has not used its influence with the government to resolve this problem.

In addition, we have learned that the World Bank has also worked with the Government to predict how much money the Government can make from logging. We have been told that these numbers may be too high. It appears that we have been promised too much, and that logging may not benefit us. We are also worried that, because the World Bank and Government thought that E. J. & J. and other companies would produce more money, the Government will allow them to log too much of the forest.

We have experienced false promises and destructive logging before in Liberia. In River Cess County, our home, the logging company Oriental Timber Company (OTC) worked closely with former-President Charles Taylor. OTC destroyed large parts of our forests, left us with no benefits and committed human rights abuses against some of the people in the forests.

It is very important that, if logging happens again in Liberia, the companies do not behave the same way. They must create jobs for the people, they must cut down the forests in a way that allows them to grow back, and they must give benefits to the people who live in the forests.

We know that companies have begun breaking the law already: paying their taxes late and not meeting their promises under our Social Agreements. We are also concerned that if the Government has unrealistic expectations about what the forests can produce, it will lower standards even further and the problems will start again.

Why did the World Bank create expectations for logging that are wrong? Why is the World Bank supporting the Government while it lets companies into our forests that are breaking the rules?

Therefore, we are requesting that the Inspection Panel investigate the World Bank project that supported logging in Liberia. Sustainable Development Institute has our blessing to represent us in this complaint.

We are worried about our personal security because of possible danger from people who are connected with logging companies, and ask that the Inspection Panel keep our complaint anonymous. Thank you very much.

Sincerely,

July 31, 2010

Date

**SELECTED COMMUNICATIONS:
SUSTAINABLE DEVELOPMENT INSTITUTE, GLOBAL WITNESS – WORLD BANK**

AUGUST 2006 – SEPTEMBER 2010

Date	Type	Subjects Addressed
6 Sept. 2010	GW Press Release	Logging tax law changes would eliminate large majority of logging revenues.
2 Sept. 2010	GW Email: GW-WB Peter Lowe	Reform process off track, insufficient donor pressure.
24 Aug. 2010	GW Press Release	International record of logging company to which Liberia has awarded contracts – Samling – has caused Norwegian pension fund to withdraw support.
23 Aug. 2010	GW Email: GW- WB Peter Lowe	Failure of logging companies to perform, ability of sector to meet expectations.
17 Aug. 2010	GW Meeting: LFI, Monrovia (GW on conference call)	Failure of logging companies to perform, ability of sector to meet expectations.
21 May 2010	GW Press Release	Logging companies do not have resources to perform, insufficient donor pressure.
May 2010	GW Meeting: GW-WB Oliver Braedt, Monrovia	Lack of public SEA.
12 May 2010	GW Letter: GW-WB Obiageli Katryn Ezekwesili	Flawed contract award process, violations of logging laws, WB support for commercial logging despite legal breaches, insufficient donor pressure.
12 May 2010	GW Memo: Attached to 12 May Letter.	Flawed contract award process, violations of logging laws.
21 Apr. 2010	GW Meeting: GW-WB Project Management Team, Washington DC	Flawed contract award process, violations of logging laws, lack of public SEA.
26 Mar. 2010	GW Meeting: GW-WB Peter Lowe, Monrovia	Failure of logging companies to pay all of their taxes.
4 Mar. 2010	GW Letter: GW-WB Paola Agostini	Lack of publicly available Strategic Environmental Assessment.
27 Jan. 2010	GW Meeting: GW-WB Peter Lowe, Monrovia	Forestry taxation changes, FDA competence, effectiveness of chain of custody.
15 Jan. 2010	GW Press Release	Attempt by logging companies to reduce taxes, risks for communities and environment community rights law.
15 Jan. 2010	GW Brief	Attempt by logging companies to reduce taxes, risks for communities and environment community rights law.
Jan 2010	SDI Report: Promise Betrayed	Flawed contract award process, violations of logging restrictions, WB support for commercial logging despite legal breaches.
29 Oct. 2009	GW Meeting: GW-WB Peter Lowe, Monrovia	Need for independent forestry monitoring, Bank emphasis on commercial logging.
8 Oct . 2009	GW Letter: GW-WB Peter Lowe	Breaches of forestry law, need for independent forest monitoring.
2 Oct. 2009	GW Brief	Logging contract award flaws.
30 Sept. 2009	GW Press Release	Logging contract award flaws, international record of potential winner – Samling.

1 Sept. 2009	SDI Meeting: LFI, Monrovia	Flawed contract award process, violations of logging restrictions, unrealistic revenue estimates.
28 Aug. 2009	GW Press Release	Logging contract award flaws, international record of potential winner – Samling.
11 Aug. 2009	GW Press Release	International record of potential winner – Samling.
15 July 2009	GW Press Release	International record of potential winner – Samling.
15 July 2009	GW Brief	International record and Liberian bidding practices of potential winner – Samling.
15 July 2009	GW Brief	Due diligence failures.
15 July 2009	GW Letter: GW-FDA	International record of potential winner – Samling.
3 Mar. 2009	SDI, Green Advocates Press Release	Illegal logging.
Mar. 2009	SDI Report: Hunter's Whistle	Flawed contract award process, violations of logging restrictions.
4 Feb. 2009	SDI, GW Meeting: LFI, Monrovia	Lowering standards applied to concessionaires.
14-15 Oct. 2008	SDI, GW Meeting: LFI, Monrovia	Emphasis upon, but lack of capacity to manage, commercial forestry.
31 July 2008	NGO Coalition Brief	Flawed contract award process, violations of logging restrictions.
7 July 2008	GW Meeting: LFI (GW on conference call)	Weak companies winning awards, commercial logging proceeding despite lack of community rights law.
17 June 2008	GW Letter: GW-President of Liberia	Illegal auction of abandoned logs.
17 June 2008	GW Letter: GW-FDA John Woods	Illegal auction of abandoned logs.
28 Apr. 2008	GW Email: GW-FDA John Woods	Flawed prequalification process, forestry projections, SEA consultative process.
9 Apr. 2008	GW Meeting: GW-WB Peter Lowe, Monrovia	FDA logging projections are similar to those of the FDA, FDA does not have sufficient capacity to execute logging contracts or address rights of communities, commercial forestry management system is unsustainable.
27 Mar. 2008	GW, Other NGOs Press Release	Flawed process by which companies were prequalified.
20 Mar. 2008	GW Letter: GW-TRC	Flawed process by which companies were prequalified.
18 Feb. 2008	GW Letter: GW-FDA John Woods	High logging revenue projections in government's poverty reduction strategy, over-emphasis on commercial logging.
13 Feb. 2008	SDI Brief	Flawed process by which potential logging concessionaires were pre-qualified.
28 Nov. 2007	NGO Coalition Open Letter	Secret process by which potential logging concessionaires were pre-qualified.
16 July 2007	SDI Brief	National Forestry Management Strategy's emphasis upon commercial logging.
25 Sept. 2006	NGO Coalition Open Letter	Enactment of Liberia's new National Forestry Reform Law - what's left for communities? To the Liberian Government, Liberian Legislature and the Forestry Reform Monitoring Committee
23 Aug. 2006	GW Letter: GW-Liberian House of Representatives	Concerns regarding lack of legal provisions in National Forestry Reform Law regarding consultations with communities during concession awards.

23 Aug. 2006	GW Letter: GW-Liberian Senate	Concerns regarding lack of legal provisions in National Forestry Reform Law regarding consultations with communities during concession awards.
22 Aug. 2006	SDI, GW Letter: GW-United Nations Security Council	Concerns regarding lack of legal provisions in National Forestry Reform Law regarding consultations with communities during concession awards.
21 Aug. 2006	GW Letter: GW-FDA John Woods	Concerns regarding lack of legal provisions in National Forestry Reform Law regarding consultations with communities during concession awards.



global witness

24 September 2010

Submission to the World Bank Inspection Panel:

THE WORLD BANK DEVELOPMENT FORESTRY SECTOR MANAGEMENT PROJECT IN LIBERIA

Prepared for Sustainable Development Institute by Global Witness

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INTRODUCTION

“[I]nsisting on full implementation of the law stalls resumption of logging and by extension undermines the Poverty Reduction Strategy, and national peace and security.”¹ World Bank Forestry Advisor, paraphrased by Sustainable Development Institute, speaking at a September 2009 meeting of the Liberian Forestry Initiative.

In September 2009, representatives of the Liberian government, international donors and local non-governmental organisations (NGO) met in Monrovia to address the progress of Liberia’s forestry reform efforts. As the discussion turned to the topic of recent breaches of the country’s forestry law, the World Bank Forestry Advisor became frustrated. The above observation, paraphrased in a report by the Sustainable Development Institute (SDI), a Liberian NGO, is demonstrative of the World Bank’s attitude towards Liberia’s forests in recent years.

In 2003, the United Nations (UN) recognised that Liberia’s forests were fuelling the region’s long-running conflict and imposed sanctions upon the international trade of the country’s timber.² After the Comprehensive Peace Agreement brought an end to hostilities later that year, international donors sponsored sweeping legal reforms of the country’s forestry sector, joining with the Liberian government and local and international NGOs to form the Liberian Forestry Initiative (LFI) in 2004.³

Despite these efforts, only six years after reforms efforts began, Liberia’s forestry sector is in crisis. The government is labouring under unrealistic expectations regarding the revenue that logging will generate and will not meet the revenue projections established in the country’s Poverty Reduction Strategy. Laws have been broken repeatedly during the allocation of concessions and companies that do not have the requisite financial and technical capacity to perform have received contracts.

One third of Liberia’s remaining forests are now subject to logging concessions, yet companies are not performing, tax revenues are meagre and companies are placing pressure upon the government to lower the standards and tax revenues.⁴ Of considerable concern is that the people living in the forests are increasingly frustrated as the benefits they were promised have failed to arrive. Given the destructive role that the logging industry has previously played, it is vital that the reform process be redirected and legal breaches are addressed.

Both under the grant that is the subject of SDI’s complaint – the Development Forestry Sector Management Project – and under the grant that immediately preceded it – the Reactivation of the Forestry Sector Project – the Bank has played a central role in this reform process and its attendant failures. The Development Forestry Sector Management Project has been executed poorly and has breached the Bank’s Project Supervision Operational Policy. While working closely with the Liberian government’s Forestry Development Authority (FDA), the World Bank’s management team has commissioned forest stock surveys that produced insufficient data while the World Bank’s Forestry Advisor has generated inflated revenue and logging estimates based upon that data. And as the government has repeatedly breached its forestry laws the Bank has continued to support both the FDA and the commercial sector. By failing to address these breaches the Bank has both endorsed a disintegrating commercial logging sector and failed to properly supervise the execution of the project.

In addition to these flaws in the project’s execution, the project has also violated Operational Policies and Bank Procedures in its design. While the Project Appraisal Document (PAD) published for the project states that the project will address community and commercial uses of Liberia’s forests, the project has focused principally on large-scale, concession-based logging. Moreover, the project’s management team did not institute the necessary safeguards for a project with such potentially significant social and environmental impacts, and in doing so has violated its Environmental Assessment, Forests and Natural Habitats Policies.

Many of the concerns outlined in this brief have been raised by Global Witness and SDI over the past several years. Despite these representations, the Bank project management team has continued its support for a flawed and increasingly abusive large-scale, concession-based logging sector. Global Witness has prepared this document in support of the complaint brought by SDI and the communities of Central River Cess Statutory District, River Cess County, Liberia, against the World Bank management team responsible for the design and execution of the Development Forestry Sector Management Project. Global Witness supports the contention made by SDI that, in violating the Bank's Operational Policies and Bank Procedures, the project management team has risked considerable harm to the people living in Liberia's forests. Specifically, this document outlines five policy and procedure violations that have arisen during the execution of the project:

- 1) Inadequate Project Supervision: Operational Policy (OP) 13.05; Bank Procedure (BP) 13.05. The Bank has failed to competently supervise the project, as the revenue projections, logging production figures and concession roll out timeline generating by the Bank's Forestry Advisor were unreasonable. Subsequent unrealistic expectations by the government have placed pressure upon the FDA to break the forestry law when allocating concessions. The Bank has then continued its support to the government despite these legal breaches.
- 2) Misclassification of Project's Environmental Assessment: OP 4.01; BP 4.01; BP 4.36. The Bank misclassified the project's Environmental Assessment, leaving unknown the potentially damaging consequences of a project supporting large-scale, concession-based logging.
- 3) Failure to Publish an Environmental Assessment: OP 4.01. The Bank has failed to publish the Environmental Assessment it has commissioned, denying affected communities the ability to determine the project's social and environmental impact.
- 4) Violation of Bank's Forest Policy: OP 4.36; BP 4.36. The Bank violated its Forest Policy by promoting a commercial logging system that will degrade Liberia's critical forests.
- 5) Violation of Bank's Natural Habitats Policy: OP 4.04. The Bank violated its Natural Habitats Policy by promoting a commercial logging system that will degrade Liberia's critical natural habitat.

This document is structured as follows: Section I provides the context for the Development Forestry Sector Management Project, including the post-conflict reform process in Liberia and previous Bank engagement in the sector. Section II focuses on the period during which the Development Forestry Sector Management Project was being executed, describing the breakdown of reform efforts and the failure of the World Bank to support an effective forest sector reform process. Section III outlines the Operational Policies and Bank Procedures that the project has violated. The final section presents recommendations for programming adjustments the Bank should make in order to correct the problems it has helped to create in Liberia's commercial logging sector.

I. PROJECT CONTEXT AND DESIGN

1. Liberia's civil war and conflict timber.

Liberia's civil war, during which more than 250,000 people were killed and 1.3 million people were displaced, is a stark example of military-political entrepreneurship driven by natural resource exploitation.⁵ In 1989, warlord Charles Taylor launched an insurrection in Liberia from neighbouring Côte d'Ivoire, financing his war machine with revenues generated by the sale of timber and diamonds.⁶ Two years later, Taylor sponsored the invasion of Sierra Leone by the Revolutionary United Front (RUF),⁷ whose brutal military campaign was characterised by mass amputations and systematic rape and funded by the sale of diamonds.⁸ Taylor assumed the Liberian presidency in 1997.

Using Liberian government timber production figures Global Witness estimated that, in 2000, the country's logging industry generated profits of approximately US\$ 114 million in revenues. However, according to those same figures, tax revenues amounted to only US\$ 6.6 million. Considering the close relationships between Taylor and the logging companies, timber sales potentially provided immense sums to support the former President's armed activities.⁹

In 2003, the UN Security Council recognized the relationship between Liberia's conflict and the country's timber industry, placing sanctions upon the international trade of Liberian timber through the passage of Resolution 1478.¹⁰ In August of that year, Taylor went into exile in Nigeria while his government signed the Accra Comprehensive Peace Agreement¹¹ and the stage was set for Liberia's reconstruction.

In January 2006, Ellen Johnson Sirleaf was inaugurated as President of Liberia, becoming Africa's first elected female head of state. Her government was faced with the formidable challenge of addressing the most basic and urgent needs of its population, rebuilding Liberia's decimated infrastructure, reforming its institutions and reconciling the country's people. In an effort to make sure that the country's natural resources would no longer serve as a source of instability, the government decided to undertake reforms of Liberia's diamond and timber industries.

2. The Liberian Forestry Initiative, the World Bank and the new forestry laws.

The main platform for reform of Liberia's forestry sector has been the Liberian Forestry Initiative (LFI). Established in 2004 by the Liberian government and its international partners, the Initiative was given the mandate to "promote and assist reforms in the Liberian forestry sector that will allow for transparent management of forest resources and to ensure that these resources are used for the benefit of the Liberian people."¹²

LFI has been a collaborative effort, yet the Bank has been one of its most active participants and has utilized the Initiative as a principal mechanism through which it has channelled its sector reform projects. LFI planning documents show that, in 2004, Bank management was part of a small LFI assessment team that outlined reform priorities.¹³ That same year, the Initiative produced a work plan stating that the Bank would be heavily involved in LFI's efforts to restart Liberia's commercial logging sector.¹⁴ Minutes from LFI meetings held between 2006 and 2010 also demonstrate the central role the Bank took in the Initiative.¹⁵ At present, the World Bank Forestry Advisor serves as the coordinator of LFI.

As will be outlined below, many of the activities undertaken by the Bank in Liberia's forestry sector can be specifically identified. However, much of the Bank's work has been conducted under the auspices of LFI. As such, a description of the Initiative's activities may serve both as context for Liberia's forestry reform process and as a description of the activities which the Bank has undertaken as a guiding force within LFI. Because of its critical role within LFI, the Bank holds considerable responsibility for the actions taken by LFI.

Central to LFI's efforts was the reform of Liberia's forestry laws. The Liberian legislature passed the National Forestry Reform Law (NFRL) in September 2006.¹⁶ The following year, the FDA Board of Directors approved ten regulations that provided the detail necessary to implement the NFRL.¹⁷ Provisions within the new law include a benefit sharing mechanism whereby some of the taxes paid by logging companies are distributed to communities affected by concessions. The law also requires companies and communities to enter into social contracts providing certain benefits and protections to both parties. However, by and large, the NFRL and its regulations ignored the question of community forest use.¹⁸ Accordingly, in September 2006, a group of 21 international and national NGOs issued a letter stating that the NFRL failed to adequately address issues of community land tenure, access and user rights and meaningful public participation in forest management reform.¹⁹

In October 2009, the legislature enacted the Community Rights Law with Respect to Forest Lands (CRL).²⁰ The law has proven controversial. Traditionally, the issue of land and forest ownership in Liberia has been fraught with tension between indigenous and "Americo" Liberians. In her 2007 survey of Liberian forest ownership, indigenous tenure expert Liz Alden Wily concluded that the risk of renewed conflict over land ownership was real.²¹ However, instead of addressing the question of community forest ownership directly, the final CRL contains provisions shifting power away from the people living in the forests and towards national legislators.²²

Together with the 2005 Public Procurement and Concessions Act,²³ these laws constitute the legal framework for forest management in Liberia. The implementation of these laws is important to both establishing the rule of law in Liberia and creating a permanent break from the forestry sector's damaging past.

3. The previous World Bank forestry project: Reactivation of the Forestry Sector (TF0544233).

Operating both within and outside of the auspices of LFI, the Bank has undertaken two projects relevant to this complaint. In 2004, the Bank approved its first post-conflict forestry grant to the country, a US\$ 570,000 project drawing from the Forestry Low-Income Under Stress Trust Fund. This grant, titled the Reactivation of the Forestry Sector, was approved in October 2004 and had a closing date of June 2007.²⁴

The purpose of the Reactivation of the Forestry Sector grant was to assist the National Transitional Government of Liberia, the FDA and local NGOs in their efforts to reform the sector and achieve the lifting of UN sanctions. The project had five components:

- Creating the foundation for forestry sector governance.
- Strengthening of forestry institutions.
- Validating or withdrawing old concessions and developing a new system for awarding concessions.
- Securing the contribution of the forest to the national and local economies.
- Managing community production forest, agro forestry programs in buffer zones and the protected areas network.²⁵

A copy of the grant's completion report provided to Global Witness by the Bank's management team states the project met the objective of contributing to the creation of the foundation for "good forest governance and sustainable forest sector development."²⁶

4. The current World Bank forestry project: Development Forestry Sector Management Project (P104287).²⁷

In September 2006, the Bank approved the project that is the subject of SDI's complaint: the Development Forestry Sector Management Project. This project, which picked up where the Reactivation of the Forestry Sector grant had left off, has a budget line of US\$ 2 million and has been executed by the United Nations Development Programme.²⁸ The project's objective is the following:

...assist Liberia to harness the potential of forest [sic] to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, protect the vital local and global environmental services and values of forests, based on an integrated package of key reforms in the sector, that will improve the performance of national institutions to make the forest sector vibrant and sustainable. In close coordination with the LFI, the Bank will assist the government to implement the forestry program.²⁹

The project has six components:

- Component 1: Institution-building in the public sector: Consolidation of a number of important institutional reforms in the public sector.
- Component 2: Sustainable management of community forests: Promotion of the conservation and sustainable use of natural forests.
- Component 3: Sustainable agro-forestry systems: Focus on management of natural forests, but also on management of plantations and agro-forestry systems.
- Component 4: Sustainable small and medium private sector development: Creation of a modern and competitive private sector that will contribute to sustainable development of the forest sector in Liberia as one of the driving forces of growth of the economy.
- Component 5: Competitive Forest Development Facility: Financing on a cost-sharing basis of a program of grants to private sector, non-governmental organizations, and communities for the creation of micro-enterprises for reforestation and sustainable forestry management sub-projects.
- Component 6: Public Communication Program for Forest Sector: Development and implementation of a Public Communication Program on the forestry reform, aimed at building public support to transparent and equitable management of forestry resources, fostering broad based debate on forest management, and support community oversight and bottom up pressure for change.³⁰

The Project Appraisal Document published for the project states that the Bank would not finance the conversion or degradation of critical natural habitats and would "not support industrial-scale commercial logging."³¹ Generally, the project was not expected to "generate negative environmental impacts" and was instead expected to be "highly beneficial environmentally," because "by supporting the development of sustainable forestry sector in general, it will lead eventually to more standing forests that can provide an array of environmental services."³² The PAD's authors gave the project an Environmental Assessment classification of Category B and stated that, while an Environmental Management Plan was not necessary, they would commission a Strategic Sectorial Environmental Assessment to "analyze possible negative environmental and social impacts of the entire forestry sector."³³

According to the project's PAD, the project was expected to close in September 2009.³⁴ However, the Bank's website states that the project is currently listed as active, with a closing date of June 2011.³⁵

II. PROJECT IMPLEMENTATION

The project that has been executed by the World Bank management team has not reflected the objective and components outlined in the PAD for the Development Forestry Sector Management Project. Instead, the Bank has focused upon, yet has failed to adequately address, Liberia's disintegrating commercial forestry sector.

1. The World Bank and large-scale, concession-based logging.

According to the project's PAD, the World Bank's involvement in Liberia's forestry sector was supposed to focus on both commercial and community forestry.³⁶ However, during the period covered by the project, the Bank has both focused upon industrial-scale, export-oriented logging and supported the emphasis placed upon logging by LFI and the Liberian government.

The Bank has also provided considerable support to the commercial sector through the following actions:

- Forestry Advisor. An expert on forestry, working in house with the FDA, whose salary was paid by the project. The Advisor has strongly advocated for the resumption of industrial-scale, export-oriented logging. In September 2009, at an LFI meeting in Monrovia, the Advisor responded to criticism of the way in which commercial logging was progressing by stating that the stalling of logging would undermine peace and security in Liberia.³⁷
- Code of Harvesting Practices. According to the project's PAD, the Code – which outlines suitable practices when logging – was developed under the project.³⁸
- Chain of custody system. While the bulk of funding from the Bank to this system has derived from grants separate from the Development Forestry Sector Management Project, the PAD for the project does state that it will support the system.³⁹
- Due diligence on prospective concessionaires. In 2009, the Bank funded the contracting of a due diligence report examining the background of logging companies bidding upon four large-scale logging contracts.⁴⁰ The findings of this report were largely ignored by the Liberian government when the concessions were awarded and companies that could not prove they had the financial or technical capacity to perform were granted concessions.⁴¹
- Private sector training. The PAD also states that the project will fund private sector training. The specific nature of this training is not known.⁴²
- Additional commercial sector funding. According to the project's PAD, the Bank anticipated also funding several other aspects of Liberia's commercial logging sector.⁴³

Additionally, while serving its lead role within LFI, the Bank has supported the Initiative's biased approach to Liberian forestry reform. LFI was designed to focus on three aspects of forest use: commercial forestry, community forestry and forest conservation.⁴⁴ However, as early as 2005, organizations such as Fauna & Flora International (FFI) were raising concerns that the three categories were being addressed independently and that communities were being left behind.⁴⁵ Interviews with individuals attached to LFI have also revealed that the Initiative focused principally upon restarting Liberia's large-scale, concession-based logging sector. The most obvious realization of this bias can be seen in the new forestry laws that represent LFI's crowning achievement. The main forestry law, the NFRL, was passed by the Liberian legislature in 2006, but contained only a perfunctory section on community rights. In 2009, the CRL was

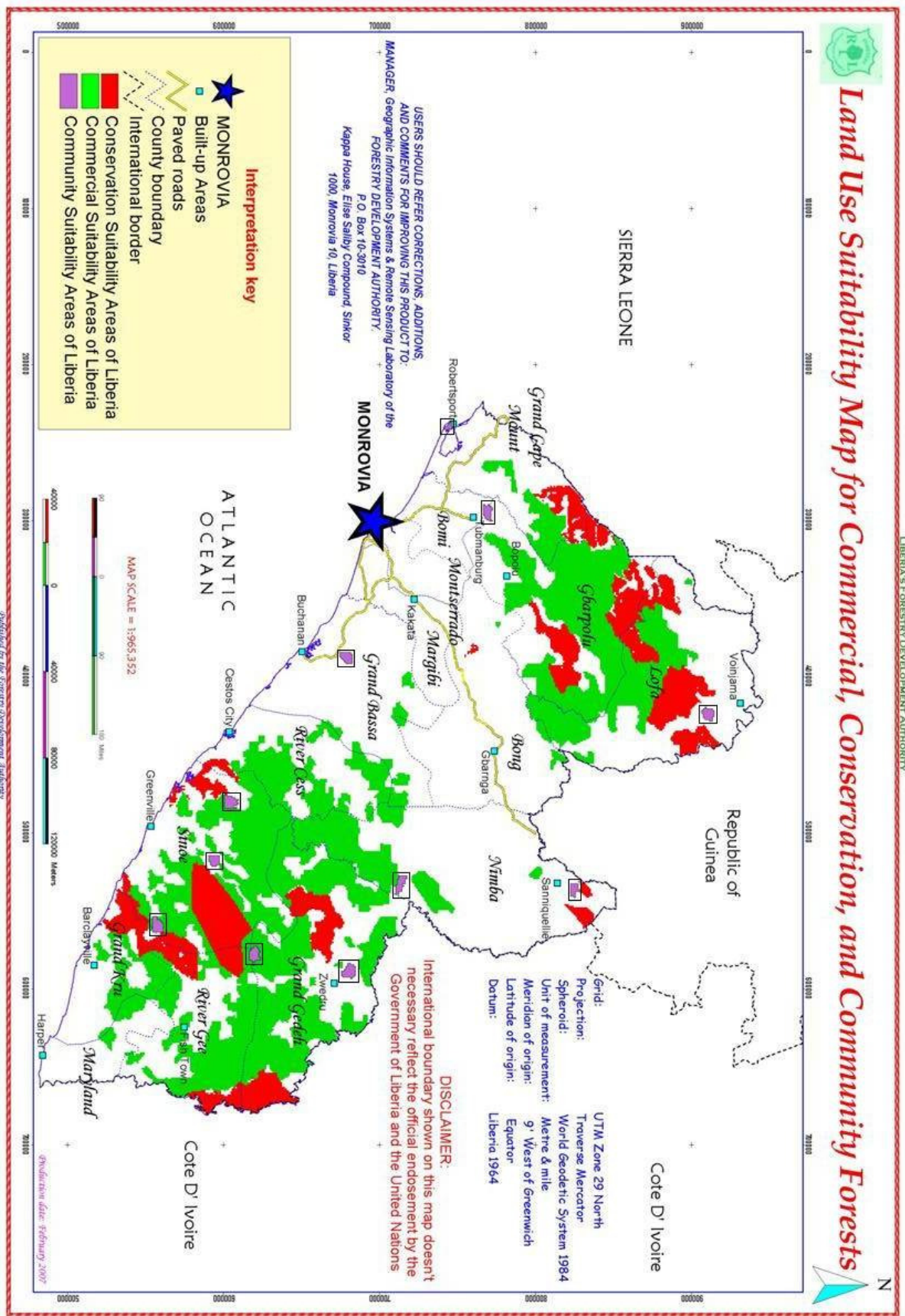
finally passed, but in many ways its terms actually disempowered the people it was supposed to protect.⁴⁶

Some of the blame for this bias should be placed upon the efforts of the United States (US) government, which funded the salary of the LFI coordinator until the Fall of 2009. The US Forest Service – an active participant in LFI – even promoted logging in Liberia by claiming the sector could produce revenues similar to those generated during periods of unsustainable logging while Taylor was in power.⁴⁷ LFI planning documents and meeting minutes demonstrate, however, that the Bank and the US closely collaborated during the LFI reform process,⁴⁸ and at no point is it known that the Bank project management team corrected the Forest Service's erroneous arguments about revenues.

The Liberian government has also focused principally upon restarting logging, and through its close collaboration with the FDA, the Bank is complicit in the government's bias. Of the support given by the Forestry Advisor to the FDA, perhaps the most important has been a series of estimates outlining future logging production figures, revenue estimates and a schedule for awarding logging concessions.⁴⁹

During the time that the Advisor has occupied his post the FDA has allocated 1 million hectares (ha) of forests to logging companies⁵⁰ and is rumoured to be preparing for the allocation of an additional 500,000 to 600,000 ha by the end of 2011.⁵¹ Meanwhile, the government struggles to establish promised protected areas⁵² and has allocated no forests for exclusively community use. A review of a February 2007 forest use map produced by the FDA (Map 1, following page) demonstrates how little concern has been paid to community forest use and the focus placed by the government upon large-scale logging. Proposed community forest areas have been noted in purple by the FDA, and have been highlighted with boxes added by Global Witness.

Map 1. FDA planned division of commercial, conservation and community forests, February 2007
 (Boxes highlighting proposed Commercial Areas have been added by Global Witness)



2. The Strategic Environmental Assessment.

The Bank management team has commissioned the Strategic Environmental Assessment (SEA) promised by the project's PAD. In October 2007, the International Union for Conservation of Nature (IUCN), Sustainable Development Institute (SDI), ProAct Network and members of the Liberian government executed the Bank's study. Thirteen months later, fieldwork was completed.⁵³ However, as of September 2010 the SEA has not been published. According to interviews with the Bank's project management, publication has been delayed because the SEA's content is unsatisfactory.

3. Systemic flaws in Liberia's forestry sector.

Unfortunately, despite the considerable emphasis placed upon Liberia's commercial sector by the World Bank and its international partners, the Liberian government has repeatedly broken those laws developed to help the sector function, safeguard the rights of local communities and ensure that sufficient revenue is produced. A detailed description of those forestry laws that have been broken over the past four years is attached as Annex I. Some of the most damaging violations include the following:

- A failure by the FDA to publish legally-required lists of individuals barred from participating in Liberia's forestry sector due to their role in the country's conflict;
- Violations of laws establishing the criteria by which companies can be qualified to bid on logging concessions. Violations have included permitting companies to receive contracts despite recent changes in the companies' ownership and permitting a company to bid upon a concession even through one of the company's owners owed money to the government;
- Breaches of laws prohibiting collusion between bidders;
- Violations of laws prohibiting the award of logging concessions on private land;
- Negotiations that illegally changed the tax requirements outlined in bid documents after bids had been awarded. Had the contractual changes not been exposed by international advisors, the land rental tax obligations of winning logging companies would have been reduced by 96 percent; and
- Violation of the government's self-imposed timber export moratorium.

Moreover, despite contractual obligations to the contrary, the government has entered negotiations with companies allowing them to postpone the payment of their taxes.⁵⁴

Also of concern is that the government is maintaining extremely unrealistic expectations of the country's logging industry. In 2008, the government published a Poverty Reduction Strategy (PRS) outlining its projections for the country's commercial timber sector over the subsequent three years. The PRS contains high timber production values and revenue estimates. Moreover, the strategy proposes a concession roll out timetable that, given the FDA's capacity constraints, would be very difficult for the government to execute.⁵⁵

The World Bank is not wholly responsible for the flaws that have developed in Liberia's forestry sector and the Bank's management team has privately expressed frustrations regarding several of the above issues. However, the project has supported commercial logging activities and the Bank's Forestry Advisor shares a close and confidential relationship shared with the FDA. The project management team has also consistently failed to publicly denounce or take other substantive action to correct for the ongoing legal violations. As such, the Bank certainly shares responsibility for the disintegration of the forestry sector reform process. In particular, it is important to note that at the same time the Bank's Forestry Advisor was generating his flawed logging production and revenue estimates, the Liberian government

was also producing its own extremely high production and revenue estimates.⁵⁶ As will be further explained in the next section, the figures produced by the government and the World Bank do differ somewhat and it remains unclear whether the government relied upon the figures generated by the Forestry Advisor. However, support provided to the FDA by the Forestry Advisor while estimates were being produced bears further investigation for two reasons. First, the fact that the Bank produced unreasonable estimates while working closely with the FDA brings into question whether the Bank was able to adequately advise the government. Second, it is possible that the government relied upon the projections provided by the Advisor. When making its estimates, the government made at least one assumption that was far too high, and that same assumption is contained in the Bank's estimates.

4. A commercial logging sector in crisis.

With these problems in mind, it is not surprising that the sector is performing poorly. The government has awarded concessions to companies linked to a firm with worrying human rights and environmental track records elsewhere in the world.⁵⁷ None of the companies that have been awarded large-scale concessions were qualified to receive those concessions, as none of them could prove that they had the financial or technical capacity to perform.⁵⁸ These companies are now failing to perform. Since January 2008, seven small-scale (5,000 ha) and seven large-scale concessions (57,262-266,910 ha) have been awarded, covering 11 of Liberia's 15 counties. However, as of September 2010, only four of these concessions are actually operating.⁵⁹ It is useful to note that, while the international financial downturn has hit timber prices, market volatility cannot currently satisfactorily explain the failure of Liberia's loggers to pay their taxes on time or commence logging activities. According to the International Tropical Timber Organization's September 2010 Tropical Timber Market Report, "Central and West African log markets remain steady with balanced supply and demand. Log prices are firm and the recent price increases for some species seem to have been accepted by buyers."⁶⁰

Frustration is growing on all sides. Government revenue expectations have not been met. Policy makers are coming under pressure to lower the financial and performance standards required of logging companies, including a recent push in the legislature to significantly reduce companies' tax obligations.⁶¹ Communities have received none of the legally-prescribed financial benefits as the government stalls on establishing the money transfer mechanism, companies fail to log and the terms of communities' social contracts are disputed. In June 2010, this anger materialized in the form of a violent clash in the forests of River Cess County.⁶² In turn, companies have expressed frustration that timber volumes suggested by concession bid documents were too high and have protested revenue and performance standards that they consider too onerous.⁶³

The government thus stands at a crossroads in the reform of its forestry sector. It needs revenue, the companies want lower standards, and the communities want a system that works. Through its Development Forestry Sector Management Project, the World Bank has either helped to create or failed to prevent these problems and must act now in order to get the sector back on track. The risk of a undermining stability and the rule of law in Liberia is very real.

III. BREACHES OF OPERATIONAL POLICIES AND BANK PROCEDURES

It is the opinion of Global Witness that the World Bank management team has failed to correctly implement the Development Forestry Sector Management Project and that the project's initial design is flawed in ways that violate the Bank's Operational Policies and Bank Procedures. The consequence has been a commercial forestry sector in Liberia founded upon unrealistic expectations that risks undermining the livelihoods of people who are dependent upon the forests.

1. Inadequate Project Supervision. OP 13.05; BP 13.05

For each project it undertakes, the World Bank is required to continuously evaluate whether that project is being executed in accordance with the outlined objectives. If objectives are not being met, the Bank is required to increase the level of supervision it maintains over the project, including working with the borrower and, if necessary, restructuring the project.⁶⁴

The objective of the Development Forestry Sector Management Project is to:

...assist Liberia to harness the potential of forest [sic] to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, protect the vital local and global environmental services and values of forests, based on an integrated package of key reforms in the sector, that will improve the performance of national institutions to make the forest sector vibrant and sustainable. In close coordination with the LFI, the Bank will assist the government to implement the forestry program.⁶⁵

The project has failed to achieve this objective. The Bank's project management team has generated revenue, logging production and a concession roll out projections that are unrealistic and has supported large-scale, concession-based logging despite the disintegration of rule of law in the sector. As a result, the project has helped to create a commercial sector predicated upon illegality and unsustainable logging that risks considerable harm to Liberia's communities.

a) The revenue projections, logging production figures and concession roll out timeline generated by the World Bank's Forestry Advisor were unreasonable.

In his role as a consultant working with the FDA, the World Bank Forestry Advisor generated estimates for the revenues that large-scale, concession-based logging could achieve in Liberia.⁶⁶ The Forestry Advisor forecasted that, by the end of the 2008-2009 fiscal year, Liberia's commercial logging sector would generate revenues of US\$ 15 million in land rental, stumpage, and export fees. By 2011, revenues would reach US\$ 39 million.⁶⁷ It is likely that these figures are considerably overstated. The UN Panel of Experts has estimated that annual logging revenues would be between US\$ 15 and US\$ 20 million.⁶⁸ And while the Panel of Experts' estimates are broadly sketched and cannot serve as the basis for detailed revenue projections, the fact that they are considerably lower than those suggested by the Forestry Advisor should be investigated.

Table 1. Predicted Total Revenue from Logging (US\$)				
Year	UN Panel of Experts ⁶⁹	World Bank ⁷⁰	Government of Liberia ⁷¹	Actual ⁷²
2008-09	15,000,000 – 20,000,000	15,292,021	24,283,000	56,542
2009-10	15,000,000 – 20,000,000	28,338,621	36,686,000	11,694,533
2010-11	15,000,000 – 20,000,000	39,277,101	46,110,000	253,386 (through 13 Sept 2010)
2011-12	15,000,000 – 20,000,000	39,299,825	--	--
2012-13	15,000,000 – 20,000,000	34,293,742	--	--

A number of factors may explain why the Bank's forest projections have proven to be unreasonably high, including deflated timber prices resulting from the global financial crisis. However, an additional likely factor is that the Bank generated production estimates even though the forest stock surveys it had commissioned were insufficiently accurate to support those estimates. In 2004, the Bank commissioned a GIS study by Nicholas Bayol and Jean-François Chevalier.⁷³ While providing an important overview of Liberia's forest cover, this report did not provide a detailed, ground-truthed analysis of the country's forest stock. In 2005 and 2006 the World Bank also commissioned a physical forest stock survey, performed by P. Hess and S. Trainer.⁷⁴ However, according to conversations between Global Witness and a tropical forest expert, because the number of plots actually surveyed by Hess and Trainer was considerably less than the number agreed upon during the survey's design (167 plots, as opposed to 405 plots), the study could be used only as a very rough estimate of national forest stock.⁷⁵

It is not certain that the Forestry Advisor based his production estimates upon these two surveys, although they are the only two Bank-commissioned studies that have been made public. However, it is likely that the Forestry Advisor did base his projections upon at least one assumption that is incorrect. In his forecast the Forestry Advisor states that, for large-scale timber concessions, he anticipates a cut rate of 12 m³ of timber per hectare.⁷⁶ However, an independent survey of Liberia's forests conducted in 2009 by P. L. Shearman demonstrates that these figures are too high. Basing his calculations on the best forest stock data available to him, a 1968 study by M. Sachtler,⁷⁷ Shearman estimates that annual average cut rates for four surveyed concessions would be between roughly 4 and 10 m³ of timber per hectare. Only one concession was capable of reaching 12.6 m³ per hectare, and this was the highest-possible estimate for non-destructive harvesting.⁷⁸ It should be noted that Shearman's conclusions have not been independently verified, and that his study has not been supported by a ground-truthed survey of Liberia's forest stock. Nonetheless, the significant difference between the estimates produced by the Bank's Policy Advisor and those produced by Shearman give serious reason for concern.

The FDA's own figures for historic logging production in Liberia also show an annual cut rate much lower than that generated by the Forestry Advisor. Historically, the FDA has estimated that Liberia's forests have generated between 3 and 5 m³ of timber per hectare, although more destructive concessionaires – such as the notorious Oriental Timber Company – may have logged at a higher rate.⁷⁹ As will be discussed further below, unfortunately the FDA did not rely upon these historical production figures when making its own future production estimates.

Table 2. Predicted FMC Timber Extraction Rate (m ³ /ha)		
Shearman ⁸⁰	World Bank ⁸¹	Government of Liberia ⁸²
~ 4-10	12	12

In addition to producing unrealistic revenue and production figures, the Bank also encouraged an unrealistic timeline for rolling-out concessions. In his forecast, the Forestry Advisor outlined a timetable whereby logging would have commenced on 1.1 million ha of forest by 2010. By 2013, logging should

have commenced on 2.3 million ha of forest.⁸³ On schedule, the FDA has already allocated 1 million ha of concessions⁸⁴ and may be preparing to allocate additional forests. However, as of the date of SDI's complaint, the felling of timber has commenced on only two large-scale concessions and two small-scale concessions, with a combined area of 126,636 ha.⁸⁵ Again, the reason for this discrepancy between projected results and actual results may be attributed, in part, to capacity constraints within the FDA. However, these constraints are well known to the Bank,⁸⁶ and were surely known at the time that the projections were made.

Year	World Bank ⁸⁷	Actual
2009	350,867	5,000
2010	1,124,569	126,636
2011	1,867,998	--
2012	2,385,097	--
2013	2,320,097	--

By generating unrealistic production, revenue and concession roll out estimates, the Bank's project management team violated the Bank's Project Supervision Policy. The project cannot "improve the performance of national institutions to make the forest sector vibrant and sustainable" if it generates faulty and unsustainable performance data based upon incorrect analysis.

Of greater concern is that the Liberian government may have based its own estimates upon those generated by the Bank. Again, at the time that the Bank and the government were generating their estimates, the Forestry Advisor was working closely with the FDA. As can be seen in Table 2, the FDA adopted the same timber extraction rate as the World Bank, a figure that underpins overall logging production and revenue estimates. This said, the revenue projections published by the Government in its Final Poverty Reduction Strategy are somewhat higher than those produced by the Forestry Advisor (Table 1). The precise relationship between the estimates generated by the Forestry Advisor and the Liberian government requires further investigation.

b) The Bank has continued to support the large-scale, concession-based logging sector despite the sector's systemic flaws and legal violations.

The Bank has continued to support Liberia's commercial logging sector despite witnessing multiple breaches of Liberia's new forestry laws. As outlined in Section II, above, the project has directly funded a number of activities that have continued support for large-scale logging in Liberia:

- Salary for a Forestry Advisor who continues to advocate for logging.
- Code of Harvesting Practices.
- Chain of custody system.
- Due diligence on prospective concessionaires.
- Private sector training.

Also as previously discussed, under the project the Bank has continued to indirectly support large-scale logging through its central role with LFI. According to the minutes for a 2008 LFI meeting held to relaunch the Initiative, "it was agreed that the LFI has historically been more commercial-focused."⁸⁸ The minutes further state that those participating in the meeting agreed LFI should focus more on community forestry

in the future. However, little evidence of this refocus can be found in the minutes for subsequent meetings.⁸⁹ The World Bank Forestry Advisor has served as coordinator of LFI since 2009. It is clear, also, that he has focused on commercial logging while under the auspices of LFI, including taking responsibility for discussing the sector's status during a 2008 LFI meeting.⁹⁰

c) Implications of the Bank's support for an unsustainable commercial logging sector.

The consequences of the Bank's failure to correctly supervise the Development Forestry Sector Management Project are three-fold:

- If the inflated production and revenue figures provided by the Bank's Forestry Advisor were relied upon by the Liberian government, then the Bank has encouraged an unsustainable sector fated to under perform. For the 2009-2010 fiscal year, the government projected that the entire Liberian economy would produce US\$ 347 million in revenues.⁹¹ As outlined in Table 1, for this period the Forestry Advisor stated that the government would receive US\$ 28 million from logging, while the government estimated that the industry would produce revenues of US\$ 36 million.⁹² To date, the government has received US\$ 12 million in revenue from logging operations.⁹³ For a government operating with very limited resources such miscalculations produce considerable distortions in the national budget.
- Were the Bank's estimates relied upon then the project has helped to create pressure upon the government to ensure that unreasonable revenue expectations are met. As discussed in Section II, pressure to meet the unrealistic revenue targets has already encouraged the FDA to look past breaches of Liberia's new forestry laws in order to pull logging companies into the forests. The government has awarded contracts to companies it knew did not have the financial and technical capacity to perform⁹⁴ and has granted one quarter of its conceded forest to firms linked to the notoriously destructive Samling logging company.⁹⁵ Even more remarkably, rather than cancelling the contracts of companies that are not performing, the government has instead negotiated tax deadline extensions.⁹⁶

Pressure to lower standards could have a dramatic and irreversible impact upon Liberia's forests. According to Shearman, the only way that companies holding four of Liberia's current seven large concessions can obtain the FDA-promised production figures is for them to log illegally and unsustainably.⁹⁷ Such logging would require "more intensive and damaging harvesting practices, resulting in greater collateral damage, soil disturbance, canopy damage and destruction of residual trees."⁹⁸ The author further notes that, in other parts of the world where log volumes have been inflated, "the outcome has often been the lowering of forestry standards and rotation periods... as governments, who in their need to raise revenues, are willing to make compromises."⁹⁹ The impact that such compromises can have upon local communities has been documented by the Inspection Panel.¹⁰⁰ The Liberian government's logging production estimates for 2010-2011 are even higher than the official production figures for 2002,¹⁰¹ when Liberia's conflict was at its height. Even conservative estimates of commercial production during the Taylor years clearly show massively unsustainable logging.¹⁰²

However, the most significant potential impact of a breakdown in Liberia's forestry laws will be the damage done to the communities who live in the country's logging concessions. The economies of communities in Liberia are highly dependent upon the forests, which produce building materials, food and marketable non-timber forest products. Destructive logging would endanger these economies.

At the same time, many people living in Liberia's forests consider limited logging as a possible development path. Some of these people are relying upon promises that companies are being given concessions as their path out of poverty. Yet as people realize that the promises – made both by the government and the companies – will not be met, frustration will grow. Lower revenues will leave communities with insufficient opportunity to use the one development

mechanism they have been promised. And, contrary to the Forestry Advisor's claim that adhering to the rule of law would result in instability, if companies fail to be held to their social agreement obligations, unrest similar to that recently seen in River Cess County will escalate. Liberia's forested communities have historically borne the brunt of the country's terrible logging history. Communities in the forests have suffered human rights violations at the hands of company-sponsored militias, disease from poor living conditions and deplorable wages and working conditions.¹⁰³ To subject the people in the forests to a second broken system is unacceptable.

- By placing such an overwhelming emphasis on large-scale, concession-based logging, the Bank has encouraged the Liberian government to ignore possible alternative uses of the forest. In its 2006 Investigation Report on the Bank's Forest Concession Management and Control Pilot Project in Cambodia, the Inspection Panel noted that the Bank has a responsibility to include the interests of community members when helping to develop a forestry management system, and that a focus on concessions may not benefit those living in the forests.¹⁰⁴ Indeed, World Bank management has elsewhere acknowledged that industrial timber production is not an effective mechanism for benefitting people who live in the forests.¹⁰⁵ Yet despite this admission, and an emphasis upon community forestry in the project's PAD, the Bank has executed the Development Forestry Sector Management Project without first conducting a thorough study of possible alternate uses of Liberia's forests. And as a lead within LFI, the Bank shares responsibility for the Initiative's overwhelming bias towards logging. It is of little surprise that the Liberian government has prioritized logging when the forest use plans with which it is presented suggest only one viable source of revenue.

The Bank's management team has violated its Project Supervision Policy because it has failed to meet the objective of the Development Forestry Sector Management Project. By producing unrealistic production, revenue and concession roll out estimates, the Bank has failed to promote sector sustainability. If the Bank has influenced government estimates with its inflated figures, the Bank has gone a step further: hampering the ability of the government to make reasonable budgetary predictions, encouraging a disintegration of the rule of law, promoting unsustainable logging and putting Liberia's forested communities at risk. By continuing to support commercial forestry despite the sector's flawed foundations and legal breaches, the Bank has failed to enhance institutional performance. And because the Bank's project management team has focused on commercial logging at the expense of possible alternative forest uses, it has failed to adequately address its core mission: "to reduce poverty in a sustainable manner." In doing so, the management team jeopardized both the development efforts of the Liberian government and, crucially, the livelihoods of the people living in the country's forests.

2. Misclassification of Project's Environmental Assessment. OP 4.01; BP 4.01; BP 4.36

In addition to Policy violations during the execution of the Development Forestry Sector Management Project, as outlined in the following four sub-sections, Bank management also violated Operational Policies and Bank Procedures during the project's design phase.

The Bank is required to assign a project an Environmental Assessment category based upon the perceived severity of its social and environmental impact. This categorization determines the environmental safeguards to which a project will be subjected. The two categories relevant to this project are as follows:

- Category A: "Significant adverse environmental impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works."¹⁰⁶ Also suitable for such a classification is a project "with the potential for conversion or degradation of natural forests or other natural habitat that is likely to have significantly adverse environmental impacts that are sensitive, diverse, or unprecedented..."¹⁰⁷

- Category B: “Potential adverse environmental impacts on human populations or environmentally important areas—including wetlands, forests, grasslands, and other natural habitat—are less adverse than those of Category A projects. These impacts are site-specific; few if any of them are irreversible; and in most cases mitigatory measures can be designed more readily than for Category A projects.”¹⁰⁸

A key distinction between the two project classifications is that Category A projects must contain an Environmental Management Plan (EMP) that covers “mitigation measures, monitoring, and institutional strengthening.”¹⁰⁹

The Bank is permitted some leeway with respect to its environmental obligations when a project is approved under emergency funding. However, for such leeway to be applicable, it must be shown in the project’s documents:

- That compliance with the otherwise applicable environmental standards would have prevented “the effective and timely achievement of the objectives;”
- The extent to which the emergency was precipitated or exacerbated by inappropriate environmental practices be determined as part of the preparation of such projects;
- Any necessary corrective measures be built into either the emergency operation or a future lending operation; and
- Approval from the regional vice president.¹¹⁰

The Development Forestry Sector Management Project was misclassified, receiving a classification of Category B rather than the Category A required of a project that supports large-scale, concession-based logging. Without addressing the appropriateness of approving the project under emergency funding, the Bank has not provided any justification for why it should be given any leeway on the environmental safeguards required of this project.

In justifying why the project should be classified as Category B, the PAD states that “[t]he Forestry Reform activity does not expect to generate negative environmental impacts.”¹¹¹ It is evident, however, that in promoting large, industrial-scale concessions covering two-thirds of Liberia’s forest, the project has generated significant adverse environmental impacts. The Bank’s Forestry Advisor promoted a system that would bring logging to 2.3 million ha¹¹² of the country’s 3.4 million ha¹¹³ of open and closed dense forest.

Even when conducted to the highest standard, large-scale, concession-based logging creates significant and systemic environmental impacts. Degradation that has been caused by industrial logging in primary and modified natural tropical forests leaves them more vulnerable to natural disturbances and climate related stresses such as drought, storms, disease and fire.¹¹⁴ The FAO has found that, largely as a result of the access that the roads provide, the deforestation rate resulting from agricultural conversion is eight times higher in logged forests than in undisturbed forests.¹¹⁵ Unregulated small-scale logging is already recognized as an issue in Liberia,¹¹⁶ and the construction of new logging roads that accompanies large-scale, concession-based logging will exacerbate current problems. It is unclear how a project promoting an industry that causes such impacts could not be classified Category A. It is possible that the project’s management team believed that the project’s emergency funding status allowed it a lower environmental categorization, yet no explanation has been provided in the project documents regarding why such leeway should be given.

The complete impact of the misclassification, while potentially severe, is unfortunately unknown. Because the Environmental Assessment performed for a Category B project need not be as comprehensive as that performed for a Category A project, the mis-categorization of the Development Forest Sector

Management Project may actually serve to hide some of the above-listed impacts. (Raising further questions is the fact that the assessment that has been done has not been published, an issue addressed below.) Additionally, while it is understood from conversations with project management that the Bank has commissioned a Strategic Environmental Assessment, project management did not anticipate designing an EMP.¹¹⁷ Again, because no document exists, it is unclear what impact an EMP might have had. However, because the project in question supported large-scale, concession-based logging, and because the EMP is designed to mitigate the harms attached to a project, it is difficult to see how the misclassification of the project has not had or does not threaten an adverse impact upon Liberia's environment and communities.

3. Failure to Publish Environmental Assessment. OP 4.01

The Bank is required to publish a project's Environmental Assessment.¹¹⁸ The Inspection Panel has found that publication need not occur prior to the initiation of a project, but that a delay exceeding 24 months following the project's effectiveness date violates the Bank's publication requirement.¹¹⁹

Despite numerous requests from members of civil society, project management has not yet made public the project's Strategic Environmental Assessment.¹²⁰ The project's effectiveness date was 30 September, 2006 – 46 months ago.

This lack of transparency on the part of the management team has made it impossible for people living in potential or actual logging concessions to determine what impact planned commercial activities will have upon them. The commercial sector has progressed to an advanced stage – with detailed regulations, concession planning, concession awards, and (in limited cases) actual logging operations – all without the publication of the document which is supposed to explain what impact these activities will have upon the people affected. It is difficult to understand the purpose of an Environmental Assessment that is published after the project has been substantively completed and its effects have had such a dramatic impact.

4. Violation of Bank's Forest Policy. OP 4.36; BP 4.36

The commercial logging sector supported by the project has violated the World Bank's Forest Policy in three ways:

a) By supporting unsustainable commercial logging the project will result in degradation of critical forests.

The Bank is prohibited from funding projects that would result in the "significant... degradation of critical forest areas."¹²¹ Critical forests include "sites identified on supplementary lists prepared by the Bank or an authoritative source" as defined by the Bank and "sites that are critical for rare, vulnerable, migratory, or endangered species," as defined by IUCN or "other credible international or national lists" chosen by the Bank.¹²²

Liberia's forests should be classified as critical. The country contains the largest section – approximately 40 percent – of the remaining Upper Guinean Forest.¹²³ According to FFI, the Upper Guinean Forest is a "major global conservation priority" because of "the extreme and immediate threat to its survival"¹²⁴ The World Wide Fund for Nature (WWF) has designated what it terms the Guinean Moist Forests as "critical/endangered."¹²⁵ The IUCN Redlist displays 20 terrestrial and freshwater species that live in Liberia's forests and are critically endangered, endangered, vulnerable, conservation dependent, or near threatened.¹²⁶

The project's management team has itself recognized the value of Liberia's forest diversity. In the project's PAD, the project's management team describes the need for capacity building in Liberia so that "this globally important resource" is not degraded. The PAD further notes that Liberia's forests are home

to 240 timber species, 2,000 flowering plants, 125 mammal species, 590 bird species, 74 reptile and amphibian species and over 1,000 insect species.¹²⁷

As described in Section III(2), there is substantial evidence that commercial logging, even conducted to high standards, seriously degrades forests. This raises questions as to whether a project promoting commercial logging in critical forest areas like those in Liberia could ever be carried out in compliance with OP 4.36. This in turn suggests that the overall design of the Bank's project is fundamentally flawed.

What is beyond doubt is that, by promoting unrealistic expectations and supporting the Liberian government while the country's forestry law was being violated, the Bank's project management team has made the inherent risk of significant degradation to Liberia's critical forests even greater.

b) The project has supported a large-scale, concession-based logging sector that is not seeking international certification standards.

The Bank is permitted to provide funding promoting commercial logging only if supported activities are subject to an independent forest certification system following internationally-recognized standards of sustainable forest management. The Bank may also support projects in which commercial activities are not yet subject to such certification, but are making time-bound progress towards the adoption of such certification.¹²⁸

The project violates OP 4.36 in that the logging it supports neither falls under a certification scheme nor is moving towards such certification. Liberia is in the process of negotiating a Voluntary Partnership Agreement (VPA) with the European Union. However, VPAs are designed principally to improve legality, not sustainability, within a country's forestry sector. As such, it is unlikely that the terms of a final agreement would meet the standards required of the Bank's Forest Policy. The project PAD briefly mentions the "functioning of a voluntary Forestry Certification Program Office" as an indicator of the project's success.¹²⁹ However, the PAD did not link this indicator to a specific project component¹³⁰ and, at present, no such office exists. Moreover, Global Witness is not aware of any plans within the FDA to adopt a recognized scheme, such as the Forestry Stewardship Council, that would qualify under OP 4.36.

c) The project failed to conduct sufficient assessments prior to supporting commercial logging.

In order to undertake a project that triggers the Bank's Forest Policy, the management team must ensure that "an assessment of the adequacy of land use allocations for the management, conservation and sustainable development of forests," is conducted.¹³¹ This assessment must include an "inventory of critical forest areas,"¹³² and must be "undertaken at a spatial scale that is ecologically, socially and culturally appropriate for the forest area in which the project is located."¹³³

As discussed above, the forest stock surveys sponsored by the Bank were insufficiently detailed to support adequate forest management planning. In breaching the Bank's Forest Policy, the management team has risked harming the environment the policy was designed to protect. However, because Liberia's forests serve also as crucial support for the livelihoods of communities, the violation has considerable impact also upon those raising the complaint.

5. Violation of Bank's Natural Habitats Policy. OP 4.04

The Bank is also prohibited from funding projects that would result in the "significant... degradation of critical Natural Habitat."¹³⁴ Critical natural habitats include "sites identified on supplementary lists prepared by the Bank or an authoritative source" as defined by the Bank. Critical natural habitats also include "sites that are critical for rare, vulnerable, migratory, or endangered species," as defined by IUCN or "other credible international or national lists" chosen by the Bank.¹³⁵

In a manner similar to the way in which it violated the Bank's Forest Policy, the project also violates the Natural Habitat Policy. As outlined in Section III(4)(a), above, FFI and WWF have produced evidence that Liberia's natural habitats are at considerable risk, and that they should thus be classified as critical. The considerable number of species listed by IUCN as at risk itself demonstrates how critical Liberia's forests are to the country's plant and animal species. By promoting commercial logging, the Bank project is very likely to degrade these critical natural habitats. The fact that the Bank has mismanagement the project in a way that makes this logging to be all the more unsustainable substantially increases this risk of degradation.

CONCLUSION AND RECOMMENDATIONS

Conclusion.

The reform of Liberia's forestry sector has attracted significant attention from the government of Liberia, the United Nations, international and local NGOs and international donors. After the destructive role timber played in the country's war, the international community rallied to try and ensure that Liberia's forests would now serve to benefit the country and its people. Central to these efforts was the World Bank. The support and advice provided by the team managing the Development Forest Sector Management Project has been instrumental in guiding the future of Liberia's forest policy.

But six years after reforms were initiated, and four years after this World Bank project was approved, Liberia's forestry sector is failing. The overwhelming emphasis on commercial logging has not paid dividends. Companies that could not prove they had sufficient financial or technical capacity were awarded concessions and have repeatedly stalled the payment of their taxes. Frustrations are rising both within the government as revenues remain at a trickle and within communities as the promised jobs and benefits fail to materialize.

The roots of this failure can be traced to a number of sources, some of which are out of the World Bank's control. However, the reform of Liberia's forestry sector has been damaged by several significant mistakes in which the Bank has been involved. The Bank has executed the Development Forestry Sector Management Project in a manner that promotes unsustainable logging. As a key driver of LFI, the Bank has pushed for the resumption of commercial logging without a thorough examination of what forest use would be best for the people living in Liberia's forests. In producing inflated logging production and revenue figures, the Bank's Forestry Advisor helped raise government and community expectations, leaving both vulnerable to pressure for lower standards so that revenue projections might be met. And in the face of repeated legal breaches by the government, the Bank has failed to use its influence to get the sector back on track, and has instead strongly defended logging in Liberia.

During the design of the project, the management team has also violated Bank Policies and put Liberia's forests at risk. By classifying the project as "Category B," the management team both failed to acknowledge the project's impact and ignored its responsibility to produce an Environmental Management Plan that might have mitigated some of these impacts. By persistently delaying publication of the project's Strategic Environmental Assessment, the Bank has left in the dark those most affected by the project's commercial activities. And by designing and mismanaging a project that supported large-scale, concession-based logging, the management team has violated both the Bank's Forests and Natural Resources Policies.

Having supported a commercial forestry sector that risks all of this, it is essential that the Bank acknowledge its role. The World Bank must quickly act to undo the problems it has helped create and undertake a thorough evaluation to determine how Liberia's forests can best be used to benefit the country and its people.

Recommendations to the World Bank.

In Liberia:

- Publicly acknowledge the breaches in Liberian law that have given rise to the current non-performing concessionaries and require that future support for Liberia's forestry sector will be conditional upon the maintenance of the rule of law.
- Provide material support for mechanisms designed to oversee the concession granting process, including increased capacity within the Anti-Corruption Commission and a permanent, institutionalized contract review office within the Liberian Extractive Industries Transparency Initiative Secretariat.
- Call for a moratorium on new industrial-scale logging concessions until recommendations from the LEITI contract review process have been adopted by the Liberian government. Make funding for Liberia's forestry sector conditional upon both the announcement of the moratorium and the adoption of recommendations produced by the contract review process.
- Commission a thorough, balanced survey of the local and global environmental, social and economic values of Liberia's forests. This survey should re-examine large-scale, concession-based logging based on more comprehensive information about current timber stocks, and look at alternative, community-based uses, including logging, taking into consideration net contributions to local livelihoods and job creation. The survey should also take into account potential opportunities for generating revenues from climate funding. This survey should include an accurate survey of timber, biodiversity and carbon stock.
- Ensure that documentation and other information regarding World Bank and Liberian government forestry activities are made publically available in time that such information can actually be useful to people affected by those activities. Such publications should include Environmental Assessment documents produced by the World Bank and should be made available in a public information office established within the FDA.
- Support the creation of an officially-mandated, independent forest monitoring mechanism to monitor activities in the forestry sector, including concession allocation and management, community uses, conservation projects and forest conversion projects. Requirements for this mechanism should include unhindered access for monitors to all information relating to the chain of custody, the ability of monitors to work with civil society actors, independence when publishing reports and that the government officially recognize and implement monitors' recommendations.¹³⁶

Globally:

- Ensure that all future World Bank projects are designed and executed without bias towards large-scale, concession-based logging and sincerely take into account alternate uses of forests.
- Ensure that all future World Bank projects that address forest use are undertaken only after conducting a thorough survey of the type described above.
- Ensure that all future World Bank projects that address forest use are undertaken only after an accurate Environmental Assessment classification, with an assumption that projects that could affect a country's logging industry have a classification of Category A.
- Ensure that the Environmental Assessments and Environmental Management Plans for all future World Bank projects that address forest use are published in sufficient time so as to allow all stakeholders an opportunity to assess the project's impacts prior to approval and implementation. These studies should take into account a country's institutional capacity and governance situation and include an analysis of the risks and potential impacts of governance failures.

- ¹ Sustainable Development Institute, "Liberia – The Promise Betrayed," January 2010, p. 42. Paraphrasing remarks made by the World Bank Forest Advisor to a representative of Sustainable Development Institute at a meeting of the Liberian Forestry Initiative, Monrovia, 1 September 2009.
- ² United Nations Security Council, "Resolution 1478 (2003)," S/RES/1478, 6 May 2003.
- ³ Agreement on Ceasefire and Cessation of Hostilities between the Government of the Republic of Liberia and Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia," 17 June 2003, *available at* http://www.usip.org/files/file/resources/collections/peace_agreements/liberia_ceasefire_06172003.pdf. Liberian Forestry Initiative, "About the Liberian Forestry Initiative," *available at* <http://www.fao.org/forestry/lfi/29021/en/>, (*last visited*, 9 August 2010).
- ⁴ Global Witness, "Proposed changes to Liberian forestry laws threaten government revenue and risk logging company interference in Forest Policy," January 2010. Global Witness, "Proposed law would cost cash-strapped Liberian Government millions," September 2010.
- ⁵ United Nations Commission on Human Rights, "Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights – Situation of Human Rights and Fundamental Freedoms in Liberia," E/CN.4/2004/5, 12 August 2003, p. 2. Global Witness, "Taylor-made: The Pivotal Role of Liberia's Forests and Flag of Convenience in Regional Conflict," September 2001.
- ⁶ Human Rights Watch, "How to Fight, How to Kill: Child Soldiers in Liberia," February 2004, p. 7. Global Witness, "Taylor-made: The Pivotal Role of Liberia's Forests and Flag of Convenience in Regional Conflict," September 2001. Global Witness "The Usual Suspects: Liberia's Weapons and Mercenaries in Côte d'Ivoire and Sierra Leone," March 2003
- ⁷ United Nations Peacebuilding Commission, "Conference Room Paper for the Country Specific Meeting on Sierra Leone," PBC/2/SIL/CRP.1, 10 October 2006, para. 4.
- ⁸ Integrated Regional Affairs Network, "Our Bodies – Their Battleground: Gender-based Violence in Conflict Zones," September 2004, *available at* <http://www.irinnews.org/InDepthMain.aspx?InDepthId=20&ReportId=62814>, (*last visited* 16 August 2010). Physicians for Human Rights, "War-Related Sexual Violence in Sierra Leone A Population-Based Assessment," 2002, p. 2. United Nations Panel of Experts, "Report of the Panel of Experts Appointed Pursuant to Security Council Resolution 1306 (2000)," S/2000/1195, 20 December 2000, paras. 67-89
- ⁹ Global Witness, "Taylor-made: The Pivotal Role of Liberia's Forests and Flag of Convenience in Regional Conflict," September 2001, p.15.
- ¹⁰ United Nations Security Council, "Resolution 1478 (2003)," S/RES/1478, 6 May 2003.
- ¹¹ Agreement on Ceasefire and Cessation of Hostilities between the Government of the Republic of Liberia and Liberians United for Reconciliation and Democracy and the Movement for Democracy in Liberia," 17 June 2003, *available at* http://www.usip.org/files/file/resources/collections/peace_agreements/liberia_ceasefire_06172003.pdf.
- ¹² Liberian Forestry Initiative, "About the Liberian Forestry Initiative," *available at* <http://www.fao.org/forestry/lfi/29021/en/>, (*last visited*, 9 August 2010). LFI partners included representatives of the Liberian government, Liberian civil society organizations, United States (US) government agencies [US Forest Service, US Agency for International Development and US Treasury Department], the Center for International Forestry Research, Conservation International, the Environmental Law Institute, the European Commission, Fauna & Flora International, the Food and Agriculture Organization (FAO), the International Monetary Fund, the International Union for Conservation of Nature, the World Agroforestry Centre and the World Bank.
- ¹³ Liberian Forestry Initiative, "Aide Memoire: Multidonors Liberia Forest Initiative Joint USG/World Bank/FAO/EC/IUCN/CI Mission October 18-27, 2004," 2004.
- ¹⁴ Liberian Forestry Initiative, "LFI Critical Path Outline – draft document," 22 October 2004.
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- ²⁰ Government of Liberia, "Community Rights Law of 2009 with Respect to Forest Lands," 16 October 2009.
- ²¹ Wily, Liz Alden, "So who owns the forest? An investigation into forest ownership and customary land rights in Liberia," Sustainable Development Institute; FERN, November 2007, p. 58.
- ²² Global Witness, "Proposed changes to Liberian forestry laws threaten government revenue and risk logging company interference in Forest Policy," January 2010.
- ²³ Government of Liberia, "An Act Creating the Public Procurement and Concessions Commission," September 2005.
- ²⁴ World Bank, "Grant Completion Report: Low-Income Countries under Stress (LICUS) Trust Fund Grant for the Reactivation of the Forestry Sector, TF0544233," 9 March 2007.
- ²⁵ World Bank, "Revised LICUS Trust Fund Proposal: LICUS Implementation Trust Fund Application Form, Activity Proposal Form," Date Unknown.
- ²⁶ World Bank, "Grant Completion Report: Low-Income Countries under Stress (LICUS) Trust Fund Grant for the Reactivation of the Forestry Sector, TF0544233," 9 March 2007, p. 5.

²⁷ The Development Forest Sector Management Project appears, over the course of its design and implementation, to have been assigned two different Project ID numbers. According to the Project Appraisal Document for a US\$ 2 million Development Forest Sector Management Project, the Project ID number P091984 has been assigned. However, according to the World Bank website for a US\$ 2 million Development Forest Sector Management Project, the Project ID number P104287 has been assigned. At a meeting with project management in April 2010, representatives of Global Witness were informed that the Bank was executing only one US\$ 2 million Development Forest Sector Management Project, and that the Project ID number found on the Bank's website was correct. For the purposes of this brief, it will be assumed that P104287, the Project ID number currently used by the Bank to classify the Development Forest Sector Management Project on its public website, is correct.

²⁸ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, Project Document Coversheet.

²⁹ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, Project Document Coversheet; para.19.

³⁰ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, Project Document Coversheet; paras. 23-28.

³¹ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para. 39.

³² World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para. 38.

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³⁶ The Bank has executed additional grants focusing on conservation forestry in Liberia. These grants, which include the Establishment of Protected Areas Network grant (P105830) and the Sapo National Park grant (P076740), are not the subject of this complaint.

³⁷ Sustainable Development Institute, "Liberia – The Promise Betrayed," January 2010, p. 42.

³⁸ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para. 23(h).

³⁹ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para 23(f).

⁴⁰ United Nations Panel of Experts on Liberia, "Midterm Report of the Panel of Experts submitted pursuant to paragraph 4 of Security Council Resolution 1854 (2008)," S/2009/290, 5 June 2009, para. 53.

⁴¹ International Procurement Agency, "Final due diligence report FDA," 30 June 2009. *See also* Annex I.

⁴² World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para. 26(b).

⁴³ The project PAD lists numerous aspects of the commercial sector that it anticipates funding, including:

- "Commercial procedures reform package finalized;" (PAD, p 13)
- "Concession management legislation reviewed and improved;" (PAD, p. 13)
- Workshops to "determine road-map for concession reform process;" (PAD, p. 32)
- "Evaluate legislation and legal criteria for management of forest concessions and make recommendations;"(PAD, p. 32) and
- "Provide technical assistance in the fields of law, chain of custody, taxation, concession allocation, land planning, contracting [sic] to ensure the completion of a consistent manual of procedures for the FDA commercial division." (PAD, p. 33.)

⁴⁴ Liberian Forestry Initiative, "About the Liberian Forestry Initiative," *available at* <http://www.fao.org/forestry/lfi/29021/en/>, (*last visited*, 9 August 2010).

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⁴⁶ Global Witness, "Proposed changes to Liberian forestry laws threaten government revenue and risk logging company interference in Forest Policy," January 2010.

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⁴⁸ Liberian Forestry Initiative, "LFI Critical Path Outline – draft document," 22 October 2004. Liberian Forestry Initiative, "Minutes from Liberia Steering Group Meeting," 13 September 2006. Liberian Forestry Initiative, "Minutes from Liberia Steering Group Meeting," 14 November 2006. Liberian Forestry Initiative, "Minutes from Liberia Steering Group Meeting," 1 February 2007. Liberian Forestry Initiative, "Minutes from Liberia Steering Group Meeting," 26 April 2007. Liberian Forestry Initiative 2, "LFI 2 Retreat, 14-15 October 2008, Report on Proceedings," 2008. . Liberian Forestry Initiative, "Steering Committee Regular

Teleconference Meeting Minutes,” 4 February 2009. Liberian Forestry Initiative, “Summary of the Liberia Forest Initiative Retreat,” 1 September 2009.

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⁵⁰ SGS/Liberfor, “Chain of Custody Financial Update,” 11 May 2010. Government of Liberia, “Government Awards four Additional Timber Sale Contracts,” 22 July 2010, *available at* http://www.fda.gov.lr/press.php?news_id=258 (*last visited* 21 September 2010).

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⁵⁴ Government of Liberia, Letters from Moses D Wogbeh, Sr., Managing Director, FDA to Cesare Colombo, Euro Liberia Logging; Alexander Wento, Geeblo Logging Company; Emmanuel Vincent, Burglar & Vincent Timber Company; Mulbah Willie, International Consultant Capital, 17 May 2010.

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⁶⁰ International Tropical Timber Organization, “Tropical Timber Market Report,” Volume 15, Number 17, 1-15 September 2010, p. 2.

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⁶⁵ World Bank, “Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project,” 6 September 2006, Project Document Coversheet; para. 19.

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- ¹²³ Republic of Liberia, "Readiness Program Idea Note (R-PIN)," 30 May 2008, p. 16.
- ¹²⁴ Fauna and Flora International website, "Liberia: conservation in a new era," *available at* <http://www.fauna-flora.org/liberia.php>, (*last visited*, 20 July 2010).
- ¹²⁵ World Wide Fund for Nature website, "Guinean Moist Forests - A Global Ecoregion," *available at* http://wwf.panda.org/about_our_earth/ecoregions/guinean_moist_forests.cfm, (*last visited*, 20 July 2010).
- ¹²⁶ IUCN Redlist website, *available at* <http://www.iucnredlist.org>, (*last visited*, 9 July, 2010).
- ¹²⁷ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, para. 15.
- ¹²⁸ World Bank, "The World Bank Operations Manual," August 2004, OP 4.36, paras. 9, 11.
- ¹²⁹ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, paras. 10, 33.
- ¹³⁰ World Bank, "Project Appraisal Document on a Proposed Grant from the Trust Fund for Liberia in the Amount of U.S.2.0 Million to the Government of Liberia for a Development forestry Sector Management Project," 6 September 2006, Annex I.
- ¹³¹ World Bank, "The World Bank Operations Manual," August 2004, BP 4.36, para. 4.
- ¹³² World Bank, "The World Bank Operations Manual," August 2004, BP 4.36, para. 4.
- ¹³³ World Bank, "The World Bank Operations Manual," August 2004, BP 4.36, para. 4.
- ¹³⁴ World Bank, "The World Bank Operations Manual," August 2004, OP 4.04, para. 4.
- ¹³⁵ World Bank, "The World Bank Operations Manual," August 2004, OP 4.04, Annex A.
- ¹³⁶ Global Witness has previously entered into agreements with governments to execute independent forest monitoring projects. For the avoidance of doubt, the organization has not entered such an agreement with the Liberian government and has no intention to do so in the future.



May 2010

**FAILING TO DELIVER:
A MEMORANDUM ON SYSTEMATIC BREACHES OF LIBERIA'S FORESTRY LAWS**

The Liberian Government and its international partners established the Liberian Forestry Initiative (LFI) to reform the country's forest management system and spent five years and tens of millions of dollars in what is arguably the most comprehensive programme of its kind in the tropics. The United States Government and World Bank have contributed an estimated US\$10 million each. A primary objective of LFI was to restart commercial logging to create jobs and revenue to kick-start the Liberian economy after years of civil war. The programme also aimed to address the weaknesses within the system which led to the timber trade fuelling Liberia's conflict and United Nations (UN) Security Council sanctions being imposed on Liberian timber in 2003. This memorandum details numerous concerns that these objectives are not being met and that the processes and procedures to ensure the correct allocation of concessions have been systematically undermined.

As part of the reform process, the Liberian Legislature enacted the National Forestry Reform Law (NFRL) in September 2006, and the Board of the Forestry Development Authority (FDA)^A signed ten core regulations into effect in September 2007. In September 2009, the National Legislature enacted a controversial Community Rights Law with respect to Forest Lands. These laws and regulations constitute the legal framework for forest management in Liberia. The FDA is also required to follow the 2005 Public Procurement and Concessions Act. While there are some problems with these laws,^B their implementation is fundamental to establishing the rule of law in Liberia which is vital if Liberia is to permanently break with its past.

In 2007, the FDA started the forest concessions allocation process. Over the course of 2008 and 2009 seven forest management contracts (FMCs) were awarded. The rule of law and the forestry reform process have been undermined by the systematic failure of the Government of Liberia to apply the law when allocating these forestry concessions and by the unwillingness of donors to push the Government to follow the law. The Liberian Government has also shown an unwillingness to hold accountable those responsible for breaches to the law.

Experience in virtually every tropical forested country shows that when the rule of law and good governance are sacrificed for political and financial expediency, corruption thrives and the forest sector fails to deliver the benefits expected of it. In Liberia's case, the inexplicable failures of the FDA to implement the law has meant that logging has been slow to restart and has produced neither the jobs nor the revenue expected. In its Poverty Reduction Strategy the Government of Liberia expected that the forestry sector would generate US\$24 million in revenue in 2008-2009.¹ The sector has not produced this amount, and is unlikely to generate the US\$36 million expected in 2009-2010.

With a new Managing Director at the FDA, there is an opportunity for the Government of Liberia to make a break with the past and address the irregularities that have been highlighted by national and international civil society and the UN expert panels. Below, we outline a series of cases that exemplify this underlying failure to enforce the law. At the end of this memorandum are a series of recommendations addressing what the Government of Liberia and international donors can do to get the sector back on track. If the situation is not remedied, then the money, time and energy spent on

^A The FDA is the Government agency responsible for forestry.

^B For example, the NFRL has been criticised for its focus on commercial forestry and the Community Rights Law with respect to Forest Lands has been widely criticised.

reforming the logging industry will have been wasted, with significant negative implications for the forests, those who depend upon them and ultimately Liberia's chances of long term peace and security.

A. PROBLEMS WITH THE DUE DILIGENCE AND PRE-QUALIFICATION PROCESS

1. Failure to follow FDA regulations on bidder qualification

The first stage of concession allocation is for companies to be pre-qualified to obtain permission to bid on concessions and operate in Liberia. The evaluation is carried out by the pre-qualification evaluation panel. The core regulation on pre-qualification (103-07) mandates that companies meet certain requirements to pre-qualify including that the company has no tax arrears and has the required technical and financial means to be able to bid for logging concessions and that the significant individuals in the company have not been found guilty of any criminal activity.² In January 2008, the report of the pre-qualification evaluation panel was published. There were many problems and irregularities with the pre-qualification process. These include:

- To be pre-qualified, the FDA required companies to either submit a sworn affidavit to the Liberian Truth and Reconciliation Commission (TRC)^c stating that they were not involved in the Liberian forestry sector prior to 1 January 2006, or if they were, a sworn statement describing their involvement in the sector and in any illegal logging. Some TRC clearances were granted and presented to the pre-qualification evaluation panel even though the TRC had not started hearings on natural resource issues. In June 2008, the UN expert panel reported that the TRC had issued letters of clearance to the companies at the request of the FDA, but that those had later been retracted.³
- Regulation 103-07 requires that anyone owing forestry-related taxes should not be pre-qualified.⁴ However, contrary to the regulation, the Ministry of Finance issued several tax clearances to companies that owed forestry-related taxes. This included a tax clearance for Liberia Tree and Trading Company (LTTC) which was then prequalified.
- In its December 2008 report, the UN expert panel noted that the pre-qualification evaluation panel:
 - failed to set pre-qualification standards;
 - failed to screen out unqualified companies; and
 - had not identified and vetted all significant individuals.⁵
- The bid evaluation panel used a method to score the logging companies that had no basis in the law. FDA Regulation 104-07 Section 51 lays out the sole criteria to be used in evaluating bids, but the evaluation panel examining bids for FMC A included numerous extraneous and arbitrary factors. In its December 2009 report, the panel again noted that the bid evaluation panel appeared to have disregarded the technical and financial criteria for evaluating the companies' bids that were specified in the bid documents.⁶

The failure of the FDA to follow the law and regulations on the allocation of concessions sends a worrying signal that the FDA is not fully committed to either establishing the rule of law in Liberia or to ensuring that only companies with the requisite financial and technical capacity are allowed to operate.

2. Violations of FDA regulations for bidder qualification on declaring company's shareholders and ensuring payment of tax arrears

Schedule I of FDA regulation 103-07 requires that all taxes must be paid before companies are prequalified to bid,⁷ and section 77 of FDA regulation 104-07 states that the company must continue to meet the pre-qualification requirements throughout the duration of the FMCs or timber sale contract (TSC).⁸ These regulations are not being properly enforced. For example, Ricks Toweh, who is a "significant individual" (shareholder)⁹ of LTTC owed the Government of Liberia more than US\$100,000 in taxes but was allowed to participate in the bidding for logging contracts. LTTC eventually won FMC C.

^c The TRC was created in May 2005 to investigate and report on gross human rights violations that occurred in Liberia between January 1979 and 14 October 2003.

FDA regulation 103-07 section 46(b)(4) requires that the facts that a bidder has stated in its pre-qualification application cannot have significantly changed. Contrary to this regulation Alpha Logging Wood Processing Company (Alpha Logging) sold 60% of its shares to a Malaysian company called Woodman Sdn Bdn between the time it pre-qualified and the submission of its bid for a concession. This nullified Alpha Logging pre-qualification certificate so it should have been ineligible to bid and should have gone through the pre-qualification process again. Alpha Logging was later allocated FMC A. The same regulation was breached in the second round of bidding, when International Consultants Capital (ICC) transferred ownership of 92.5% of its shares the day before bid opening, which should have resulted in its bid being thrown out.

3. Failure to follow findings of due diligence report on forestry companies

Once companies are pre-qualified they are eligible to bid on forestry concessions. In August 2008, as part of the evaluation of the companies' bids for Liberia's first three FMCs, due diligence was carried out on the companies by the FDA staff and the Governance and Economic Management Assistance Program (GEMAP)^D financial controller at the FDA. The due diligence report showed that none of the companies had all the technical and financial capabilities required by the law. These legal requirements are important to ensure that companies have sufficient capital and expertise to operate, meet their legal obligations to ensure responsible forest management and are able to pay the required taxes. In June 2009, the UN expert panel report stated that "many of the delays (to the commencement of operations) have been due to the fact that the companies have not been able to fulfill the required financial obligation of US\$250,000 to proceed with the signing of their contracts."¹⁰ Once companies start operating there is a significant risk that they could breach their forest management plans due to a lack of revenue or technical ability. This could be damaging for both the cash strapped Liberian Government and forest dependent communities.

In the second round of FMC allocation, the Liberian Government outsourced due diligence reporting to the International Procurement Agency (IPA), a consulting company.^E The due diligence report that IPA subsequently produced aimed to provide legal and financial background checks on the bids received for the FMCs. While the due diligence report contains very serious gaps in the scope and quality of its analysis, it does nonetheless highlight a number of serious deficiencies in the financial arrangements of the bidders. Three of the companies that subsequently won the bidding process (Geblo Logging Corporation, ICC and Atlantic Resources) did not have the capital necessary to carry out the intended logging operations and had not presented legally binding agreements guaranteeing that funds actually existed. The failure of the FDA to adequately consider the findings of the due diligence report put into question whether it is fully committed to implementing the new system of forest management that has been established under the LFI.

B. PROBLEMS WITH BIDDING AND ALLOCATION OF FMCs AND TSCs

4. Breaches of the Public Procurement and Concessions Act provision on collusion

The National Forestry Reform Law specifies that the FDA must adhere to the provisions of the Public Procurement Concessions Act (PPCA) when allocating commercial timber concessions which prohibits the collusion of companies.^F In the second round of allocation of FMCs, there were strong indications that Atlantic Resources (Atlantic) collaborated with another bidder, Southeast Resources (Southeast). Global Witness and others witnessed Atlantic's technical proposal being delivered in the envelope presented by Southeast at the bid opening ceremony. Despite the contravention of the PPCA the companies' bids were not thrown out, and Atlantic was later awarded an FMC.

^D GEMAP is a partnership between the Government of Liberia and the international community that seeks to build a system of economic governance to promote accountability, responsibility and transparency in fiscal management so that Liberia's resources will be used in the interests of its citizens.

^E The report consisted of a legal due diligence report by AB & David Law Ghana, a financial due diligence report by Ernst & Young Ghana, and a response by the due diligence team to comments on the draft reports by the GEMAP financial controller at the FDA.

^F Sections 44(1) and (2)(b) of the PPCA call for companies found to be colluding with each other to be banned from participating in public procurement for up to six years.

5. Breach of a Public Procurement and Concession Commission decision

Following the due diligence process, the Government set up a bid evaluation panel to assess the companies' bids on the FMCs and recommend the provisional winners^G to the Inter-Ministerial Concessions Committee (IMCC). The IMCC makes the final decision as to which companies will be awarded concessions. The law requires that contracts should be awarded to the companies that had performed the best.^H

In the second round of bid allocation the IMCC awarded FMC K to International Consultants Capital (ICC). A second company that bid on FMC K, Southeast, protested. It filed a complaint with the Independent Complaints, Appeals and Review Panel, an oversight body contained within the Public Procurement Concession Commission with legal jurisdiction to review concession awards.^I On 19 September 2009, the Review Panel sided with Southeast, declaring that Southeast, and not ICC should be awarded FMC K.^J However, in contravention of the law the Review Panel's decision was ignored. On 23 September 2009, the Legislature ratified ICC's FMC K contract, and the President signed and approved the contracts one week later. On 15 October 2009 the extra-legal actions of the Legislature and Executive were given an *ex post* legitimacy as the Liberian Supreme Court denied petitions for writs of prohibition that Southeast and two additional companies had brought regarding the incorrect awards.

It should be noted that neither ICC nor Southeast should have been able to win FMC K. As discussed in section 2, ICC transferred 92.5% of shares the day before they submitted their bid but failed to go through pre-qualification again. Southeast should also have been banned from participating in public procurement due to its collusion with Atlantic, discussed in section 4. The failure either to implement the Review Panel decision or to ensure that only companies who have not breached the forest law and regulations are allowed to win concessions sends a worrying signal that the Government of Liberia is not fully committed to establishing the rule of law in Liberia.

6. Violations of National Forestry Reform Law provisions on private land

The Liberian Government has allocated two TSCs and one FMC on land owned by local communities in Gbarpolu Country^K in direct violation of the National Forestry Reform Law^L and with potentially negative consequences for local communities. Following complaints from local communities, direct negotiations with the President were held and the FDA publically acknowledged that the land is deeded to the communities.^M The Government assured the community that it would respect the land deeds and in return the communities withdrew their complaint and permitted logging.

C. PROBLEMS OUTSIDE THE ALLOCATION PROCESS

7. Violation of the National Forestry Reform Law and Public Procurement and Concessions Act potentially result in losses to the state of US\$50 million

Once logging companies have been awarded a concession, the NFRL and regulation 107-07 requires that companies must pay a series of taxes for use of the contract. These include a land rental fee, which consists of area fees and bid premium fees (paid by all concessionaires, based upon what they bid for the concession), and a stumpage fee.¹¹ The NFRL and Regulation 107-07 do not specify that the land rental payments are due each and every year, but the bid documents specify that the land rental would be paid each and every year for the 25-year life of the contract.

^G The list of provisional winners was based on a quantification of the evaluation criteria contained in the bid document.

^H Section 65(1) of the PPCA requires that the contract is awarded to the highest bidder meeting all the pre-qualification requirements.

^I According to section 127(b) of the PPCA, "The panel can revise or amend an unlawful decision of any procurement or concession entity."

^J According to section 128(3) of the PPCA, "the decision of the review panel shall be final and may be appealed only in a court of competent jurisdiction."

^K Bokomu and Gou Nwolaila Districts in Gbarpolu County in North West Liberia were once a single chiefdom (Bokomu Chiefdom) which bought back its land from the Government of Liberia on 20 June 1956 through a Public Land Sale Deed.

^L Sections 5.3(b)(ii) and 5.4(b)(ii) of the NFRL prohibit the granting of FMCs and TSCs on private land and section 5.6 states that if the interest is on private land, written consent from the land owner must be received.

^M Public Land Sale Deeds are documents which establish the purchase of public land.

The FDA changed the land rental payment terms of the first three FMCs after the companies had signed the contracts but before their submission to the President for signature and ratification by the National Legislature.¹² There does not appear to be a rational explanation as to why the FDA chose to do this as the companies had agreed to pay the required fees when they bid on the FMCs, and were now contractually bound to pay. Payments were changed from an annual payment made each year for 25 years, to a one-off payment in the first year that was intended to be one twenty-fifth of the amount due over the 25 years.¹³ This would have cost the Government US\$50 million, the communities US\$14 million and the counties US\$14 million, over the 25-year period. The UN expert panel report states that this appeared to be a serious violation of the NFRL and the PPCA.¹⁴ The FDA reversed this decision after it was made public.

In the four recent FMCs the FDA again gave companies the option to pay either an annual fee or a one-time payment (based on the total amount due over 25 years with a discount factor of 20%).¹⁵ No companies chose to pay the one-off fee option, but there remain persistent rumours that companies will seek to renegotiate the land rental payment terms in their favour.¹⁶ Given the expected revenue generated from logging in the Government of Liberia's Poverty Reduction Strategy¹⁷ and revenue generation being given as a primary rationale for logging, it is inexplicable that the FDA proactively tried to reduce statutory fees and taxes.

8. Failure to establish and make public a list of individuals to be debarred or suspended from entering the forestry sector

Following the 2005 review of existing forestry concessions, in February 2006 the President issued Executive Order No.1 which instructed the FDA to establish a list of individuals who should be debarred from the forest sector for aiding and abetting civil disturbances, and a suspension list of those who defaulted on their financial obligations to the Government of Liberia. The first and second pre-qualification evaluation panels also recommended the establishment of a debarment list, and regulation 103-07 requires that decisions to debar individuals be published in the newspaper. The Managing Director of the FDA sent a letter dated 21 October 2008 to the UN expert panel¹⁸ indicating that the FDA had circulated a debarment list to the Ministry of Finance and Liberian TRC. However, to date the FDA, the Ministry of Finance and the TRC have not been able to confirm in public the existence of such a list or its publication, and debarment decisions have not been published in a newspaper as required by FDA regulations. Given the role that some logging companies played in Liberia's conflict and legal obligation established under the Executive Order No. 1 and regulation 103-07 it is vital that the FDA establish and publish a debarment list and a suspension list.

9. Violation of the Government of Liberia's moratorium on timber exports

The United Nations Security Council (UNSC) confirmed the lifting of sanctions on Liberian timber in October 2006, although the Government of Liberia imposed its own moratorium on all timber exports. On 30 March 2007, the first shipment of timber after sanctions left for Morocco containing illegally-sourced hardwood timber from pit-sawing activities, violating the Government's own moratorium. Elaborate steps were taken to conceal the true contents of the shipment.

Two months prior to the export of the illegal timber, a local trader, Aditco, requested that the FDA allow a shipment of wood samples to Morocco.¹⁹ The FDA refused to allow the shipment as they could not establish that it was legal. However, customs gave permission for the export nonetheless. The company made a pre-shipment inspection request and payment to the Bureau of Veritas (Bivac), which was contracted to inspect the cargo.^N The description of the contents of the shipment was changed by the exporter, Cisse Abdoulaye, to scrap metal, although at that time there was also a prohibition of the export of scrap metal. A forged letter from the Deputy Minister of Justice was produced that supposedly exempted the shipment from the prohibition. The shipment went ahead containing illegal hardwood timber from pit-sawing. Bivac reported that the timber shipment left without inspection.

^N Bivac is an institution contracted by the Ministry of Finance for the inspection of cargoes coming in and going out of the country. They authenticate the actual duty payment as well as the quantity and quality of the cargoes while entering and leaving the country. For further information, see:
http://www.nationalportauthorityliberia.org/npa_clearing_and_forwarding_procedure.htm.

In the June 2009 UN expert panel report,²⁰ the panel noted that an employee of the Ministry of Justice had been dismissed as a result of this violation. The FDA was aware that the shipment was illegal yet failed to stop it and has not demonstrated that it has taken any steps to investigate the violation. No prosecutions have ensued. The company that shipped the timber, Edgail Incorporated, has since been pre-qualified to bid on forestry concessions. The failure of the FDA to stop the illegal export of pit-sawn timber sends a worrying signal that the FDA is not fully committed to establishing the rule of law in Liberia.

10. Failure to follow due process on abandoned logs

Following the imposition of sanctions on timber during the civil conflict and an increase in the intensity of the conflict, some logs were abandoned by companies. The Government of Liberia has sought to generate revenue through the auction of these logs.

Two auctions of abandoned logs were held in Buchanan and Sanniquellie in December 2007. Unitimber^o won both auctions.²¹ There was very little public notice for both auctions. The Buchanan auction of 3,897 m³ of ekki wood was advertised on 27 December 2007 and took place on 31 December 2007.²²

Global Witness investigations in Liberia in April 2008 found that errors in the calculation of required fees for the sale of the abandoned logs almost resulted in the loss of up to US\$575,538 of revenue for the state (see below). Global Witness wrote to the President and the FDA on the 17 June 2008 highlighting concerns with the process and calling on the Government to halt the imminent shipment of logs by Unitimber.²³ The FDA wrote to Global Witness on 23 July 2008 and said that it shared Global Witness' concerns on the potential loss of revenue to the state and therefore stated that it had stopped the shipment of logs.²⁴

Companies were not initially required to pay stumpage fees on these abandoned logs.²⁵ The error was brought to the attention of the Managing Director of the FDA and they began to retroactively assess stumpage fees on abandoned logs.²⁶ However, the FDA then classified all abandoned logs as class C,²⁷ which commands the lowest price and stumpage fee,²⁸ despite the fact that the logs in Buchanan were ekki, which according to schedule I of FDA regulation 107-07, is class A timber.²⁹ Had the timber been correctly designated as class A, the FDA would have received US\$262 per m³^P free on board (FOB), instead of US\$137 per m³ demanded by the FDA.³⁰

This misclassification of timber as class C affected the stumpage fee charged. FDA regulation 107-07 provides that there is a stumpage fee payment of 10% of the market value for class A (ekki), while the stumpage fee for class C is 2.5%.³¹ This misclassification reduced the stumpage fee from 10% to 2.5% of the FOB value.

The panel reported that for the ekki wood auctioned in Buchanan at the FDA's price of US\$137 per m³ the state would have received US\$533,930 for the total value and US\$13,348 in revenue for 2.5% stumpage (based on the FDA's classification of the timber as class C timber). This is considerably less than US\$1,020,742 the state would have received for the total value based on the ITTO market value for class A timber and US\$102,074.29 in revenue it would have received based on 10% stumpage.^{Q, 32}

Unitimber was also allowed to buy 6,088.56 m³ of additional ekki abandoned logs in May 2008,³³ without having to bid at auction as required under regulation 108-07.³⁴ The sale of the additional logs was at the original low auction price of US\$15.81 per m³ generating US\$96,260.14 for the state.³⁵ The logs were potentially worth between US\$834,132 (at the FDA price of US\$137 per m³) and US\$1.595 million (at the ITTO grade A price of US\$261.91 per m³) on the world market.³⁶ The sale without an auction was not corrected and therefore does not appear to conform to the requirement of regulation 108-07.³⁷

^o Unitimber is partly owned by Wael Charafeddine, whom the President asked the FDA to put on a list of people debarred from entering the timber industry.

^P The Panel stated that the ITTO spot price for grade A timber was US\$262 per m³. The Panel reported that, instead of applying the ITTO prices, the FDA set the free on board (FOB) value at US\$137 per m³.

^Q Had the lower grade of BC/C based on ITTO market value been applied, the state would receive US\$741,267 in total and US\$74,126.72 for a 10% stumpage fee. United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 48.

The Government of Liberia has said that the country desperately needs the revenue and jobs provided through the restarting of the logging sector. However, the failure of the FDA to correctly classify the abandoned logs or originally impose a stumpage fee lost the Government much needed revenue.

11. Illegal deal on payment of tax arrears

Both sets of due diligence reports demonstrated that many of the logging companies did not have the financial capacity that was required by law. This legal requirement is to ensure that companies have sufficient revenue to operate in accordance with the law and pay the required taxes. Contrary to the Government's rationale for the pursuit of industrial scale logging of job and revenue creation, companies that did not have the financial capacity to operate were awarded concessions. Unsurprisingly, as of the publication of this memo three logging companies have still not paid in full.

Rather than cancelling the contracts of the companies who could not pay, the Government of Liberia has instead offered those companies in arrears a payment deal. Companies would pay 50% of their remaining taxes by 31 January 2010 and be given a forest harvesting certificate to operate, but would be unable to export until the remaining 50% was paid by 31 March 2010. Companies' contracts would be cancelled if they failed to pay the outstanding balance. This offer of a payment plan had no legal basis under the NFRL.

Despite the deal offered in early February 2010, the bar was once again moved at the end of the month. In a press release dated 26 February 2010,³⁸ the FDA stated that it had "relaxed the law" due to the lack of payment of the bid rent premium and had given all companies in arrears up to the 8 May 2010 to pay the outstanding balance otherwise their contracts would be terminated. Again, this payment plan had no legal basis under the NFRL. Given the dependence of the Government of Liberia on revenue from timber it its current budget,^R it is questionable why the Government would allow the relaxation of the law for companies that are not fulfilling their financial obligations. Global Witness spoke to the Managing Director of the FDA on the 10 May 2010 who said that two companies had asked for an extension until the 31 May 2010, but that the FDA Board had yet to make a decision.³⁹ The FDA Board is due to meet on 13 May 2010. Global Witness was told that three companies are still in arrears as of 10 May 2010.⁴⁰

It should be noted that the fees due on 8 May 2010 are for land rental for 2009. In July 2010, the companies will owe their land rent for 2010. If companies struggled to pay the taxes due for 2009, it is questionable whether they will be able to pay those owed in 2010 as only one logging company has started felling and three companies are carrying out pre-felling preparation.

12. The Community Rights Law weakened controls on the allocation and management of logging concessions in spite of its original intent to empower community oversight

The 2009 Community Rights Law (CRL) weakened controls on the allocation and management of logging concessions and undermined environmental safeguards that were required under the National Forestry Reform Law. The CRL created 'Medium-Scale' concessions between 5,000 and 49,999 ha, and changed the terms of the TSCs. Under the CRL, TSCs and Medium-Scale concessions can be awarded without a competitive bidding process and can be negotiated directly with a committee from communities in the concession area which could potentially be controlled by members of the legislature. There is a risk that people who live in the forests will be disenfranchised by Monrovia-based leaders, sitting on the committees, who could control the contract negotiations with logging companies.

Medium-Scale concessions are up to 49,999 ha, have limited environmental controls and can be clear cut. In contrast, under the NFRL only four percent of a 50,000 ha FMC may be logged each year. Companies could try to obtain several "separate" Medium-Scale concessions next to one another, which has been done with TSCs,^S giving a single concessionaire a concession the size of an FMC; this would

^R The Government of Liberia expects 10 % of the total revenue projected for the FY2009 2010 to be generated by the FDA. Republic of Liberia, Draft National Budget, July 1 2009 to June 30 2010, page 478.

^S The concessions TSC A-9 and TSC A-10 border one another. B&V Timber Company has been awarded TSC A-9 (see <http://www.leiti.org.lr/doc/contracttimber4.pdf>) and has negotiated for the award of TSC A-10. TSC A-2 and TSC A-3 also share a border. Tarpheh Timber Corporation (TTC) has been awarded TSC A-2 (see <http://www.leiti.org.lr/doc/contracttimber3.pdf>) and while TSC A-3 remains dormant, the FDA has previously discussed awarding the concession to (TTC). For additional information on the TSC's relative locations, see <http://www.fda.gov.lr/content.php?sub=Publications%20and%20Documents&related=Media%20Center>.

avoid an FMC's environmental safeguards and allow the clear cutting of the forest. Such concessions would devastate forests and the people who depend upon them.

13. Huge, single-sourced concessions

The Government is in the process of negotiating two massive single-sourced concessions. According to the PPCA, a concession may be sole sourced if the concession requires specialized expertise or research that is only available to one specific bidder or only one person is prepared to undertake, if one bidder holds a patent which is required for the concession, or it is in the national interest, defence or security not to have more than one bidder.⁴¹ It is Global Witness' opinion that neither of the concessions that the Government of Liberia is moving forward with fulfil the requirements under the PPCA.

One 400,000 ha carbon concession is currently being negotiated with a UK-based company. The company has no experience of carbon trading and has forwarded a proposal that in its current form would very likely increase carbon emissions, would not sufficiently protect community rights and would not ensure sufficient revenue for the Government of Liberia. The contract is being negotiated without reference to Liberia's engagement with various agencies related to REDD (Reduced Emissions from Deforestation and Degradation). Liberia is also in the process of negotiating a single-source 240,000 ha palm oil concession with Indonesian global palm oil giant Golden Agri-Veroleum in South East Liberia. There is no guarantee that the concession is on degraded land and there is a risk that it overlaps with existing and proposed FMCs. This means that there is a risk that forested areas could be included in the concession, which would lead to their deforestation. It is good practice for all concessions, particularly ones as big as these, to be competitively bid to ensure that the company with the best financial and technical proposal and a good track record receives the contract. Instead, by moving forward with these concessions, the Government of Liberia risks jeopardising its international reputation, its forests and the livelihood of those that depend on them.

D. LOOKING FORWARD

The urge to fast-track the restarting of logging has led both the Liberian Government and donor community to overlook legal breaches, irregularities, evidence of corruption and poor governance in the forestry sector. Local and international civil society and the UN expert panel have highlighted numerous irregularities in the process of allocating forestry concessions and broader problems in the forestry sector. However, the Government has not addressed most of these irregularities or held those responsible to account for the most serious breaches such as the illegal timber export or the change in the land rental fees which almost resulted in a loss of US\$50 million in revenue for the state. Whilst we all hope that the timber sector in Liberia today is different from Taylor's time, the failure to uphold the rule of law in the sector and lack of accountability is worryingly similar.

The failure to apply the rule of law has meant that the sector is restarting with concessions that were illegally awarded, with companies that do not have the requisite technical and financial capacity, and the worrying trend that the Liberian Government is willing to break the law when it feels that it is necessary, for example for political and financial expediency. Experience tells us that such poor governance with regard to natural resource exploitation opens up the sector to corruption and resultant revenue loss to the state, not to mention loss of the resources themselves. It vital that these issues are addressed before widespread logging commences in Liberia and the Government allocates another 600,000 ha in concessions over the coming year. If the Government fails to address the significant problems within the sector it will not generate the revenue the country so desperately needs and is predicted in its Poverty Reduction Strategy.⁴² For the donor community, it is vital that their investment is protected and that the revenue already spent is not been wasted at best, or used to support a sector which has the potential to once again undermine economic progress, human rights and national stability.

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- ¹ Government of Liberia, "Liberia Poverty Reduction Strategy", April 2008, page 64.
 - ² Forest Development Authority Regulation No. 103-07, Section 41(b) and Schedule I: Yes-or-No Prequalification Criteria.
 - ³ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 43.
 - ⁴ Forest Development Authority Regulation No. 103-07, Schedule I: Yes-or-No Prequalification Criteria, question 5.
 - ⁵ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/785, 12 December 2008, page 20.
 - ⁶ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2009/640, 11 December 2009, page 25.
 - ⁷ Forest Development Authority Regulation No. 103-07, Schedule I: Yes-or-No Prequalification Criteria, question 5.
 - ⁸ Forest Development Authority Regulation No. 104-07, Section 77(a).
 - ⁹ Forest Development Authority Regulation No. 103-07, Section 1(j).
 - ¹⁰ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2009/290, 12 June 2009, page 18.
 - ¹¹ Forest Development Authority Regulation No. 107-03, Sections 31-33.
 - ¹² United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/785, 12 December 2008, page 23.
 - ¹³ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/785, 12 December 2008, page 23. United Nations Security Council, "Midterm report of the Panel of Experts on Liberia," S/2009/290, 5 June 2009, page 15.
 - ¹⁴ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/785, 12 December 2008, page 23
 - ¹⁵ Global Witness interview with confidential source, 9 March 2009.
 - ¹⁶ "Recommended amendments for 2006 NFRL and LTA's Justifications." Liberian Timber Association document presented to the FDA.
 - ¹⁷ Government of Liberia, "Liberia Poverty Reduction Strategy", April 2008.
 - ¹⁸ United Nations Security Council, "Midterm report of the Panel of Experts on Liberia," S/2009/290, 5 June 2009, page 14.
 - ¹⁹ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2007/340, 7 June 2007, page 11.
 - ²⁰ United Nations Security Council, "Midterm report of the Panel of Experts on Liberia," S/2009/290, 5 June 2009, page 20.
 - ²¹ Letter from the Presiding Judge in Grand Bassa to the Forestry Development Authority, 21 January 2008, Letter from the Forestry Development Authority to the Presiding Judge in Grand Bassa, 12 February 2008.
 - ²² Letter from Global Witness to the Managing Director of the Forestry Development Authority of Liberia, 17 June 2008, United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 47.
 - ²³ Letter from Global Witness to the Managing Director of the Forestry Development Authority of Liberia, 17 June 2008.
 - ²⁴ Letter from the Forestry Development Authority to Global Witness on the shipment of abandoned Ekki logs, 23 July 2008.
 - ²⁵ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 47.
 - ²⁶ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 48.
 - ²⁷ Letter from the Forestry Development Authority to the Presiding Judge in Grand Bassa, 12 February 2008.
 - ²⁸ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 48.
 - ²⁹ Forest Development Authority Regulation No. 107-07, Schedule I: Classification of Tree Species.
 - ³⁰ Letter from Global Witness to the Managing Director of the Forestry Development Authority of Liberia, 17 June 2008.
 - ³¹ Forest Development Authority Regulation No. 107-07, Section 22(a) and Schedule I.
 - ³² United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 48.
 - ³³ Letter from the Forestry Development Authority to Unitimber 16 May 2008.
 - ³⁴ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 49; Forest Development Authority Regulation No. 108-07, section 51(e).
 - ³⁵ Forestry Development Authority Invoice to Unitimber, 7 May 2008.
 - United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 49.
 - ³⁶ United Nations Security Council, "Report of the Panel of Experts on Liberia," S/2008/371, 12 June 2008, page 49.
 - ³⁷ Forest Development Authority Regulation No. 108-07, section 51(e)
 - ³⁸ Forestry Development Authority, "President Johnson Sirleaf Did Not Order Euro-ICC Contracts Aborted," Friday, 26 February 2010.
 - ³⁹ Global Witness phone conversation with Moses Wogbeh Managing Director of the FDA, 10 May 2010.
 - ⁴⁰ Global Witness phone conversation with representative from LiberFor, 10 May 2010.
 - ⁴¹ Government of Liberia, "The Public Procurement Concessions Commission Act", 21 September 2005, article 55.
 - ⁴² Government of Liberia, "Liberia Poverty Reduction Strategy", April 2008.