
Liberia: Country Heading for Disaster -timber industry set to reopen despite widespread concerns and evidence pointing high potential for illegal logging

Liberia's forests hold great promise for its people, but that promise is quickly evaporating as the Liberian government mismanages this valuable resource. The government is awarding flawed logging contracts, community rights are being trampled underfoot, and civil society organizations are under threat of censorship (1) for speaking out.

Fumbling towards Disaster

In an effort to break with the country's bloody history linked to natural resources exploitation, the Liberian government passed a new forestry law in 2006. The law promised a new, participatory process for identifying potential areas for new concessions, and transparent processes for pre-qualifying logging companies, and tendering new concessions. Unfortunately, in the words of the UN Panel of Experts, the Liberian Forestry Development Authority (FDA) "is often either not aware of the legal requirements or is unable to follow them." (2)

A series of logging contracts have been awarded in violation of the laws (3); to logging companies with unproven technical and financial capacities and financial backers about whom far too little is known. When qualifying companies to bid, the government failed to establish proper standards and thus failed to weed out companies with tax arrears and others that could not fulfill their obligations were they awarded contracts.

The three companies that have been awarded the three largest contracts should not have been awarded contracts had the forestry authorities applied the law. For example, Liberia Tree and Trading Company (LTTC) had tax arrears at the time they were pre-qualified. The company still had arrears when they bided for contracts (4); again in violation of the law. During the bid evaluation the company contacted the bid evaluation panel "*requesting the Panel to hold on to its final report on evaluation for one week to allow them settle their tax arrears with the Ministry of Finance*" (5); the Chairman of the Bid Evaluation Panel informed the panel that this was a violation of the law (6). Ownership of the second company, Alpha Logging and Wood processing, significantly changed between the time it pre-qualified to bid and when it bided on one of the three contracts (7). This significant change in ownership automatically nullified their pre-qualification certificate (9). Like LTTC the forestry authorities awarded them a contract even though they were not qualified to bid. The third company, E J and J, failed to demonstrate sufficient technical and financial capacity during the due diligence process; a major precondition for the award of contracts.

The due diligence demonstrated how little is known about these companies: how leadership has changed hands, how funders remain in the shadows, or how required start-up capital fails to materialize. Certainly more worrying, the contracts that were awarded to them enjoyed a quiet, late

change to their payment obligations, reducing by 96 percent the amount they would pay in land rent to the government. While this change was corrected after questions were raised, it is demonstrative of the uncertain and potentially dangerous future promised by Liberia's confused FDA.

Trampling over Communities Rights

The government appears intent to ignore also those aspects of the law that protect the limited rights of forests communities. The government cannot unilaterally take forestland from communities without due process, consultation, agreement, and contractual obligations to provide benefits. Yet it has – sometimes through incompetence, sometimes willfully – violated these requirements.

While Liberian law unfortunately does not recognize the property rights of traditional communities to their trees the FDA is required to request permission from communities to be affected by logging, when zoning areas as suitable for logging. This process is designed to coordinate or prevent wholesale taking of forestland by a runaway agency. The FDA did not fulfill these requirements.

Additionally, the people who are to be affected by logging are being pushed around. The government is required to help communities form local representative bodies and ask those bodies for permission to log the land. Of the ten current or potential logging concessions, the author has spoken with individuals who live in eight and has found no evidence that permission to log was granted by those who live on the land. And while representative bodies are being formed, this is being done only after the government has already decided what forests will be logged.

This violation notwithstanding, the FDA rolls on. Before being allowed to start logging, a company is required to sign a contract, a Social Agreement, with those affected by the operation. This Agreement is supposed to contain the benefits the community will receive in exchange for logging. Six Agreements have been signed and there are widespread reports of the abuses that characterized the process.

For example, in one region the FDA arrived and called a meeting. At the meeting they announced the need for representatives or a Community Forestry Development Committee (CFDC) to be elected. On the day of the meeting the community's representatives meet those from the FDA and the logging company. A FDA-drafted Agreement is read, but that Agreement provides only a minimum of benefits required under law, is plagued by typos, and contains numerous legally disingenuous promises. FDA, the logging companies and local government officials collude to threaten and lie to the community representatives. The Agreement is signed without revision within 24 hours. Reports suggest that the process by which other Social Agreements have been signed were similarly characterized by coercion and a massive deficit of informed consent.

The FDA is required to void such Agreements and has an opportunity to ensure that future Agreements are signed voluntarily and knowingly. If it does not do so then little opportunity exists for the people whose everyday lives will be severely affected by logging to gain from the cutting of their trees.

Deaf to the World

Rather than addressing these difficulties the FDA has opted to bury its head in the sand. The Authority is mandated to follow certain transparency requirements, including a requirement that it produce documents on its treatment of community rights. However, repeated requests from NGOs and community groups go ignored leaving great uncertainty as to whether those violations already witnessed represent the extent of the damage done.

As an alternative, the FDA has misguidedly produced Guidelines from how it considers civil society actors should behave. The Guidelines state that all NGO actions pertaining to the forests must be first vetted by the Authority. If an NGO acts without FDA approval then the FDA would recommend the NGO be stripped of its accreditation. The Constitution of Liberia and the forestry law make such Guidelines illegal and unenforceable, but calls for their revocation have remained unanswered. The FDA remains an agency unprepared to focus on righting Liberia's forestry process, choosing instead to shut its ears to concerned calls.

It is not too late. While the FDA has signed contracts for six logging contracts to date, the three largest are not yet operational as they await legislative ratification. There is time for the qualification, bidding, and Social Agreement processes to be corrected. There is time for communities to be consulted and for logging to benefit the people of Liberia. Perhaps more importantly, there is time for alternatives to logging to be discussed; alternatives that may provide the capital the government needs, the rights the communities deserve, and the environmental protection the country requires. There is still time for Liberia to enjoy the promise held by its forests.

(1) Draft FDA Policy Guidelines of January 2009

(2) UN Panel of Experts Report(S/2008/785), 12 December 2008, p19

(3) These contracts have been signed by the executive and forwarded to the Legislature for ratification.

(4) Report of Due Diligence on Liberia Tree and Trading Company dated July 10, 2008

(5) Minutes of Bid Evaluation Panel Meeting Held on July 2, 2008. The panel in its report to the FDA confirmed that the delay in completing its evaluation was due in part to this situation.

(6) *ibid.*

(7) Report of due diligence on Alpha Logging and Wood Processing dated July 10, 2008

(8) FDA Regulation No. 103-07 Regulation on Bidder's Qualification

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