

Truth and Reconciliation Commission of Liberia  
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# Forest Governance and the Voluntary Partnership Agreement



Deepening forest sector reform in Liberia

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## Acronyms

CFDC	Community Forestry Development Committees, elected by communities within or near logging concessions to represent their interests with the companies and the government
CPA	Comprehensive Peace Accord agreed by Liberian factions and political leaders in Accra in 2003
CRL	Community Rights Law
CSO	civil society organisation
DFID	Department for International Development
EC	European Commission
EU	European Union
FDA	Forestry Development Authority, the government agency responsible for forests in Liberia
FLEGT	Forest Law Enforcement, Governance and Trade
FMC	Forest Management Contract
FUP	Forest Use Permit
GoL	Government of Liberia
JIC	Joint Implementation Committee of the VPA
LAS	Legality Assurance System
LD	Legality Definition, i.e. the key legal provisions agreed by all stakeholders as the minimum requirements for logging in Liberia
LEITI	Liberia Extractive Industries Transparency Initiative
LFI	Liberia Forest Initiative: a framework for coordinating donor and NGO support for forest sector reform in Liberia
NFRL	National Forestry Reform Law (2006)
NGO	non-governmental organisation
NTGL	National Transitional Government of Liberia
PRS	Poverty Reduction Strategy
SGS	Société Générale de Surveillance
TRC	Truth and Reconciliation Commission
TSC	Timber Sale Contract
UN	United Nations
UNMIL	United Nations Mission in Liberia
VPA	Voluntary Partnership Agreement

## Executive summary

On 9 May 2011 the government of Liberia and the European Union (EU) signed a Voluntary Partnership Agreement (VPA) in the Liberian capital, Monrovia. The aim of the agreement is to improve forest governance by tackling the problem of illegal logging, improving transparency and public participation, enhancing community rights and strengthening the role of civil society in overseeing the forest sector. The VPA was negotiated against the backdrop of faltering forest sector reform.

Reform of the forest sector began in 2004 with a review of logging concessions, and it gathered momentum with the enactment of new legislation for the forestry sector and the development of a new forest management strategy in 2006 and 2007. However, there was widespread violation of the laws and regulations, and this was aggravated by a sharp decline in political will to support the reforms, as the government's priority changed from reforming the sector to revitalising the timber industry. The VPA signed between the EU and Liberia is seen as a tool to ensure proper implementation of the existing legal framework and further improve the forestry sector to ensure it provides benefits to all Liberians.

Civil society organizations in Liberia and in the EU have therefore welcomed the signing of the VPA. It presents an opportunity to deepen and consolidate the limited improvements that have been achieved in forest governance. But success will depend on a number of factors: renewing the political will to implement the agreement, learning from earlier efforts to reform the sector, giving priority to capacity-building, and addressing the issues that remain unresolved.

Political will is crucial, as ordinary citizens have little recourse for holding leaders to account. And the stakes are high: in 2008 and 2009, more than 1 million hectares of forest were allocated to concessionaires under questionable circumstances. Various UN reports noted that fundamental legal requirements had been ignored.

If the VPA is implemented properly, there will be a positive effect not just on law enforcement and the ability to track timber from the forest to export: there will also be an impact more broadly on forest governance and on other sectors directly linked to forests. For example, the VPA will cover rubber wood and its by-products such as rubber-wood chips. This opens the door for reform not just in the rubber sector but in the agriculture sector as a whole, as it would make no sense to initiate reforms in the rubber sector while ignoring the vexed issue of palm oil concessions.

Rubber plantations, especially the larger ones, have a long and chequered history in Liberia. In 2006 the United Nations Mission in Liberia (UNMIL) published an extensive report on the rubber sector in Liberia. The report, 'Human rights in Liberia's rubber plantations: tapping into

the future’ painted a grim picture of the situation in the major plantations across the country. While some of the issues it raised were linked to the fragile security situation prevailing at the time, it also revealed deep resentment within local communities with regard to how the holders of rubber concessions had behaved over the years: and many of the issues remain unresolved. For wood from those plantations to be licensed as legal timber, these issues will have to be discussed and dealt with in ways that are acceptable not only on human rights grounds, but on social and environmental grounds as well.

Signing the agreement was just the beginning. Now all parties –government and stakeholders– must work to ensure effective implementation, and above all the government must honour the commitments that it has made. To support this process, this report presents an analysis of lessons learned from the forest sector reform process and includes recommendations for all key players to ensure the implementation of the VPA will contribute to improving good governance in Liberia.

▼ **VPA community consultation in Rivercess, Cestos in December 2010**



# Recommendations for the implementation of the VPA

The following recommendations relate to the current political situation, and are based on lessons learnt from the forest reform process to date, and on what stakeholders said they wanted during the negotiation process. Although the various different recommendations are targeted at specific stakeholders, they should be seen as comprising a single package. This is because it is not enough for each stakeholder group just to address the recommendations relating to them: they must also support others in areas where they may be encountering difficulties. As is often said, a chain is no stronger than its weakest link.

## Recommendations for the Liberian government

1. *Ensure that there is understanding and appreciation of the agreement across the executive, the legislature and the judiciary.* The ministries of Finance, Justice and Agriculture have a very important role to play in the implementation of the agreement. The key ministries and agencies should take steps to fully understand the details of the agreement and the implementation framework.
2. *Implement a comprehensive campaign to create public awareness of the agreement.* The campaign should emphasise the short- and long-term benefits for Liberia, and also the challenges that implementation will bring, so that expectations remain realistic. This is especially important for stakeholders who were not directly involved in negotiations but who occupy positions of influence within the government, civil society, communities and the private sector.
3. *Take ownership of the agreement and provide the necessary political support for its full and effective implementation.* The VPA is not an agreement with the Forestry Development Authority (FDA): it is an agreement with the government and people of Liberia. The FDA has neither the legal authority nor the capacity to implement the agreement on its own. The other branches of government including ministries and agencies should ensure that the individual and collective responsibilities established in the VPA are implemented fully, effectively and consistently.
4. *Demonstrate a firm commitment to implementation by developing a concise and time-bound action plan for implementation.* This action plan should evolve from a multi-stakeholder process that is participatory and transparent. This will ensure that stakeholders have a

clear understanding of each other's roles and responsibilities, and a timeline for them to deliver on their commitments.

5. *Uphold the principles of participation and transparency that characterised the VPA discussions.* This should be reflected in the elaboration of a national framework for participatory, transparent and consistent evaluation of the implementation of the agreement. This may involve the steering committee of the VPA or the National Forest Forum convening twice a year to evaluate progress, identify challenges and opportunities, and debate proposals for a way forward. This will further reinforce the transparency measures agreed in the VPA, and others prescribed in Liberian laws and regulations.
6. *Establish a functioning information centre or library within the FDA to ensure speedy and efficient access to information.* This will ensure that the right of the public to access forest related information is respected and that the authority is proactive in putting relevant information in the public domain.
7. *The expectations of stakeholders that have been expressed, validated and incorporated into the agreement should not be compromised or neglected.* These expectations are largely what motivated them to engage with and participate in the process. The unresolved issues, for example areas still needing reform, should be handled carefully so as not to jeopardise the implementation of the agreement, and the government should consult the stakeholders on how these outstanding issues should be addressed.
8. *Ensure that all stakeholders understand that the VPA is not the end of the journey.* The VPA is only the vehicle that will take them to their desired goal, i.e. good governance, participatory management and sustainable use of forests resources for the benefit of all Liberians. The government must emphasise that much needs to be done for the VPA to deliver on the expectations of the various stakeholders.
9. *Invest in the future of its people and forest by setting aside funds to support the implementation of the agreement.* This will enable the government to demonstrate to their counterparts in Europe that they are determined to move forward. To keep costs to a minimum, existing structures and institutional mandates should be adapted where possible.
10. *Use measures for the reform of the forest sector, especially the VPA, as a model for reforming other sectors that impact on forests.* This is needed particularly in the rubber sector, to ensure that rubber wood is produced in compliance with the same standards and principles on environmental, community and human rights that underpin the Legality Definition.

## Recommendations for the European Union

1. *Ensure reciprocity and uphold the terms of the agreement.* How the EU authorities implement the terms of the agreement in Europe will directly affect how well it is



implemented in Liberia. While there may not be a balance of power between the parties, there are high expectations on Liberia's part that the EU will lead by example.

2. *Communicate legal requirements to European Customs agents to ensure that unlicensed timber from Liberia does not enter the EU.* The EU must reinforce the rule of law in Liberia by limiting trade to legal, VPA/FLEGT-licensed shipments.
3. *Educate European consumers so that they have confidence in the Liberian VPA.* This will help Liberian industry operators who comply with the Legality Assurance System to achieve access to the European market.
4. *Ensure that the specific goals of the VPA are aligned with the broader strategy for accessing raw materials from Liberia.* Although the VPA specifically targets timber and timber products, it is important that EU companies accessing other raw materials from Liberia, including palm oil and other agricultural products, do not damage efforts to improve forest governance by using lower standards of transparency and accountability in their dealings with the Liberian government.
5. *Support broader stakeholder involvement in the assessment and evaluation of the VPA.* The VPA's Joint Implementation Committee (JIC) should ask stakeholders to provide feedback on the implementation of the VPA in Europe and Liberia, and to take it into account during the implementation process.
6. *Support Liberian stakeholders to ensure the effective implementation of the agreement.* The EU should provide sustained support to civil society, communities and the private sector as part of its bilateral commitment to forestry reform under the VPA. This may include capacity-building through technical assistance, financing VPA-specific structures that are still under development, and supporting non-state actors involved in implementation and creating awareness among communities.
7. *Ensure that the supportive and participatory approach visible in the VPA is adopted for all future natural resource-related transactions with Liberia.* This should include bilateral and multilateral trade negotiations and agreements related to natural resources or raw materials from Liberia. The EU should also support the implementation of higher and stricter standards for EU-based companies accessing raw materials from Liberia. The VPA will not be of much use if it merely displaces illegality and bad governance from the timber industry to a sector such as agriculture.

## **Recommendations for civil society and communities**

1. *Take steps to create public awareness of the agreement, especially at the community level.* This is important for ensuring that knowledge about the opportunities presented by the VPA is not limited to a select few. Without a proper understanding of the agreement, it will be impossible for stakeholders to contribute in any meaningful way to its implementation.

2. *Improve the current mechanism for sharing information about the VPA within civil society and at the community level.* This could include convening more public meetings, inviting the participation of non-traditional forest-related NGOs, and using the media to disseminate information. This will help to widen the support base for the agreement.
3. *Be proactive and remain engaged with the parties and the process.* Civil society and communities should use the framework of the VPA to demand effective and full implementation, and take action against violations. This should include building relationships with the institutions and entities responsible for implementation, as well as other stakeholders both in Liberia and in Europe.
4. *Encourage follow-up activities in the programmes of individual organisations.* This will ensure that actions by civil society and communities do not rely exclusively on external funding. For example, organisations in Monrovia could include the costs of participating in meetings and communication with other stakeholders into their overhead costs instead of depending on VPA-specific sources of funding.
5. *Build and strengthen existing relationships, and collaborate with civil society actors in the EU to monitor the implementation of the agreement on both sides.* This will enhance the sharing of information, knowledge and expertise, and strengthen civil society efforts to promote good governance and the sustainable management of forests in Liberia.
6. *Demand a participatory process for the development of other policies that impact on forests and peoples in Liberia.* The agriculture sector is a priority here, because rubber wood is included in the VPA. Other commercial activities that involve forests, now or in the future, should follow the same high standards as those outlined in the Legality Definition of the VPA.

### **Recommendations for the private sector**

1. *Take steps to increase understanding of the VPA among its members, as a first step to supporting and complying with the agreement.* This should target those that were not directly involved in the VPA discussions and others that may not have followed the process to its conclusion.
2. *Support implementation by complying with its terms rather than engaging in acts that may undermine it.* The Liberia Loggers Association and the Liberia Timber Association should establish an internal mechanism for peer review and information sharing on the requirements elaborated in the Legality Definition specifically and the Legality Assurance System more broadly.

# Introduction

This report outlines lessons learnt from forest sector reform in Liberia, and discusses how they can be applied in implementing the Voluntary Partnership Agreement (VPA) signed between the Government of Liberia (GoL) and the European Union (EU). If implemented successfully the VPA will contribute to improving forest governance in Liberia.

The report reflects on forest sector reform to date. It focuses on its achievements, and highlights how these can be consolidated and built upon. By adopting a positive approach, the report aims to send the message that although challenges remain, there are achievements that should be celebrated. It also outlines the opportunities presented by the VPA to help Liberians refocus the reform on improving forest governance and management for the benefit of all. This should motivate stakeholders to use the VPA as a vehicle to deepen ongoing reforms. More importantly, it should serve as a catalyst to motivate stakeholders to embark on similar reforms in the broader natural resources sector, especially in the areas of rubber and oil palm plantations.

After the exile of President Charles Taylor in 2003, discussions about reform in Liberia focused rightly on the forest sector: but this does not mean all is well in the other sectors. Forestry became a symbol of what was wrong with natural resources governance and management in Liberia. The forest sector had also become a major factor in the conflict, and tackling the issue was a way of sending a signal to those who had doubts about the desire of Liberians to break with the past.

The reform process started with a review of all timber concessions. This review revealed that an area more than twice the size of the entire forest area of the country was claimed by approximately 70 logging concessions that were allowed to operate, although none of these concessionaires fulfilled the minimum legal requirements to operate as legal logging entities in Liberia at the time.<sup>1</sup> The resulting report recommended declaring all the agreements null and void, imposing a moratorium on any new allocations, and initiating a comprehensive reform process.<sup>2</sup> Following the forest concession review process and the development of a reform package for the sector, the current government initiated a review of agreements negotiated by the National Transitional Government of Liberia (NTGL) in 2004 and 2005. They examined a

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1 Third Phase Concession Review Committee, Final Report, May 2005. <http://www.fao.org/forestry/lfi/29664/en/>

2 Ibid.

total of 92 contracts, including agreements in the agriculture, mining and telecommunications sectors.<sup>3</sup>

As a result of these reviews, several concession agreements were revisited with a view to improving on their provisions.<sup>4</sup> While this was considered to be a critical step towards improving natural resources governance more broadly, it quickly lost momentum. In addition the concession reviews did not uphold the standards for transparency and participation that were introduced during the forest sector concession review process. Other priorities for the new government soon took over, and there has been no talk of any further measures since the end of 2006.

In spite of the many challenges that remain in the forest sector, in terms of governance it remains well ahead of other natural resources sectors. These improvements represent good examples that should be applied to these other sectors as well. In light of the fact that rubber wood will be covered by the VPA, and will be subject to FLEGT licences, this sector would be the logical starting-point. However, because rubber wood is only a small element of the agricultural sector, and is still evolving, it makes sense to tackle the agricultural sector more broadly rather than adopting a piecemeal approach and focusing on rubber wood alone.

▼ **Nimba County, Liberia**



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3 Public Procurement and Concession Commission, Update on the Contracts and Concessions Review Process, 19 August 2006. [http://www.ppcc.gov.lr/doc/Update%20on%20CCRC%20Process%20Aug.%2019,%202006\\_1.pdf](http://www.ppcc.gov.lr/doc/Update%20on%20CCRC%20Process%20Aug.%2019,%202006_1.pdf)

4 Government of Liberia, Poverty Reduction Strategy, 2008. <http://www.emansion.gov.lr/content.php?related=PRS&sub=Final%20PRS>

## The VPA in context

The VPA was signed by the Liberian government and the EU in the Liberian capital, Monrovia, on 9 May 2011. The agreement aims to improve forest governance by tackling the problem of illegal logging, improving transparency and public participation, enhancing community rights and strengthening the ability of civil society to monitor the sector. The agreement is the outcome of two years of negotiation between Liberia and the EU. Representatives of Liberian civil society, including forest communities, and the timber industry took active part in the negotiation process and were present as observers during the formal negotiations between the Government of Liberia and the EU.

The VPA was negotiated against the backdrop of failing forest sector reform in Liberia. The reform was initiated in 2004 in response to widespread concerns about illegal logging and trade in conflict timber. The reform process began with a review of all existing logging concession claims, and involved a review of laws and regulations relating to forestry, as well as the forest policy and management strategies. It gathered momentum with the enactment of new forestry legislation, the redrafting and adoption of regulations for implementation, the development of a new forest policy and the formulation of a new forest management strategy. The Swiss firm Société Générale de Surveillance (SGS) was contracted to manage the timber chain-of-custody system in Liberia. All these changes took place between 2006 and 2008. By 2008 the government had begun the process of allocating new logging concessions and reviving the timber industry.

As the process of implementing the new laws and regulations got under way, however, concerns about poor implementation of the reform measures started to be raised, particularly by civil society and the UN Panel of Experts on Liberia. The UN Panel was mandated by the UN Security Council to assess the implementation of forest sector reform, and to report to the Liberia Sanctions Committee.

Actors within civil society consistently raised concerns about violations of the new laws and regulations, and the neglect of different procedures and rules by the Forestry Development Authority (FDA).<sup>5</sup> The UN Panel of Experts on Liberia also raised concerns about irregularities in the award of the first series of concessions in 2008.<sup>6</sup> Therefore it appeared to be a good sign

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5 NGO Coalition for Liberia, 'Reform in jeopardy: reflections on the forest sector reform process in Liberia', 31 July 2008 <http://www.illegal-logging.info/uploads/NGOs080731BriefingReformsInJeopardy.pdf>.

6 Report of the Panel of Experts, 12 December 2008, S/2008/785. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2008/785](http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/785)

when in March 2009 the Liberian government and the European Commission started formal negotiations for an agreement to improve forest governance and address illegal logging.<sup>7</sup>

A national steering committee was established to coordinate stakeholder consultations on the VPA in Liberia. The committee included representatives from different government agencies, civil society, the private sector and local communities. This provided an opportunity to restart the dialogue between the different stakeholders and to rebuild trust. It also brought communities directly to the table to speak on their own behalf instead of relying on civil society to speak for them. Partly as a result of this, all the stakeholders have expressed support for the agreement and are now set to engage with the implementation process.

### Some key elements of the agreement<sup>8</sup>

The VPA is a legally binding agreement between the EU and Liberia. Its stated objective is to provide a legal framework to ensure that all imports of timber and timber products from Liberia to the EU are of legal origin, i.e. legally acquired from, marketed or produced in Liberia in compliance with relevant statutory and regulatory provisions. In the VPA, the relevant statutory and regulatory provisions are outlined in the Legality Definition, which sets out Liberian legislations and accompanying regulations that must be fulfilled. To ensure transparency in the application of the Legality Definition, the agreement also outlines *legality indicators* and *legality verifiers* that will be used to evaluate compliance with the Legality Definition. A detailed verification procedure for determining compliance with Liberian law will operate alongside the Legality Definition. Together, these form the Legality Assurance System.

Only after being found to be in full compliance with the Legality Definition will a shipment of timber be issued a licence allowing it to leave Liberia and enter the EU. The Liberian government also decided to expand the scope of the VPA to include all timber and timber products leaving Liberia, regardless of the intended destination, and to apply the Legality Definition to rubber wood, rubber-wood chips and rubber-wood products being exported and/or imported to the EU, as well as all timber destined for the domestic market.<sup>9</sup> This has reassured stakeholders that the government is committed to addressing illegal logging by eliminating loopholes and potential weaknesses that could be exploited by operators in the industry: and civil society and communities have welcomed the signing of the VPA.

A major strength of the VPA is that, unlike with the forest sector reform process, implementation does not rest entirely with the Liberian government; it also involves the EU. Both parties will have to act in concert and both will have to share responsibilities for any failures. The agreement also mandates two distinct bodies that will oversee implementation: the Joint Implementation Committee (JIC), which will include representatives from the different parties involved, and the National Implementation Committee in Liberia. Finally, an independent

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7 Aide Mémoire on the occasion of the launch of negotiations for a FLEGT VPA between Liberia and the European Commission, <http://www.euflegt.efi.int/files/attachments/euflegt/eciberiaflegtaidememoire27032009final.pdf>

8 Voluntary Partnership Agreement between the Government of Liberia and the European Union, 9 May 2011.

9 All future references to timber and timber products also include rubber wood, rubber-wood chips and rubber-wood products.

auditor will conduct regular audits to ensure that the implementation system is functioning properly. Some of the key provisions of the agreement are summarised below.

- *Only timber that has been acquired through legal means will be allowed to leave Liberia.* Liberia made a decision that instead of limiting the scope of the VPA or more specifically the application of the Legality Definition to timber and timber products destined for the EU, the Legality Definition would apply to all exports and the domestic market. Therefore no timber or timber product would leave Liberia, or sold domestically, if it is not in compliance with the requirements established in the agreement.
- *Only timber or timber products that have been acquired, produced, and marketed legally in Liberia will be allowed to enter the EU markets.* Authorities at various ports of entry in the EU will only allow timber and timber products that have been acquired through legal means to enter the EU.
- *Timber and timber products leaving Liberia to the EU shall be accompanied by a Forest Law Enforcement, Governance and Trade (FLEGT) licence.* FLEGT licences will be issued only for timber and timber products that were acquired, produced or marketed in compliance with Liberia's legal framework and the procedures established in the agreement. The FLEGT licence will serve as proof that the timber or timber products have been verified as being in compliance with the terms of the agreement and therefore qualify to enter the EU. This shall include round logs, sawn timber, railway and tramway sleepers, and rubber-wood chips.
- *The FLEGT Legality Assurance System (LAS), including the licensing scheme, shall be subject to an independent audit by a third party.* At agreed intervals, an independent auditor will check the performance and efficiency of the FLEGT LAS established by the agreement. The auditor shall submit its observations to the parties in accordance with agreed procedures, and those reports shall be published.
- *The parties are committed to the involvement of stakeholders in the implementation of the agreement.* The Liberian government shall ensure that stakeholders, from industry, civil society, local communities and other people dependent on forests, are involved in implementing and monitoring the VPA. The EU shall consult with stakeholders regularly, taking into account its obligations under the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters within Europe as well.<sup>10</sup>
- *The parties agree to the public disclosure of information to facilitate the implementation and monitoring of systems, to increase transparency, and thus improve stakeholder and consumer confidence and ensuring greater accountability of the parties.* They shall endeavour to provide stakeholders in the forestry sector with reliable and up-to-date information. The only exception shall be where publication of information is prohibited by law in either the EU or Liberia.

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<sup>10</sup> Aarhus Convention <http://www.unece.org/env/pp/treatytext.htm>

- *The agreement shall be ratified by the parliaments of Liberia and the EU. It shall enter into force one month following the date on which the parties notify each other in writing of the completion of their respective processes. Once it has entered into force, the agreement becomes legally binding and enforceable by both parties. It is expected that these measures will be completed in time for the agreement to come into force by 2013.*

The VPA will ultimately impact on forest governance and forest-dependent communities in Liberia, but whether the impact is positive or negative will depend largely on how it will be implemented. In principle the agreement is a positive development for Liberia, and particularly for its forest-dependent communities. However, recent experience with poor implementation of reform in the forest sector shows that policies, laws and institutions designed to bring about reform do not automatically translate into positive changes on the ground.<sup>11</sup> Experience also shows that *political will* to implement reform is as important as, if not more important than the quality of the legal and institutional changes. In the case of Liberia, the main value of the legal and institutional reforms so far is that it has provided a benchmark against which stakeholders can measure the government's performance and therefore demand increased accountability and compliance with the rule of law.

It is therefore worth reflecting on the process of forest sector reform in Liberia, to identify some lessons that are relevant for the implementation of the VPA. The next section summarises some of the factors that have influenced the forest sector reform process to date.

#### ▼ Community consultation in Rivercess



11 Sustainable Development Institute (2010) 'Liberia: the promise betrayed'. <http://www.fern.org/sites/fern.org/files/Promise%20report.pdf>



# Lessons from the forestry reform process

The VPA presents an opportunity to consolidate and build on the recent improvements in forest governance in Liberia. It also presents a challenge to the government and the timber industry, in that whatever they do in the coming years will be under close scrutiny. Below we describe the lessons learnt from the forestry reform process.

## Setting the reform agenda

Many lessons may be gleaned from the forest sector reform process in Liberia. Those described in this section are specifically related to setting the reform agenda, beginning with the forestry concession review process and the review and reform of the laws and regulations. Here we outline six factors that played a key part in the success of the concession review process, and the review and reform of the laws and regulations.

1. *Stakeholders had a shared vision and common understanding of the core problems.* From the outset Liberians acknowledged that there were failures in governance, weak law enforcement and a range of associated problems in the forest sector. They acknowledged that these had to be addressed if sanctions were to be lifted and logging was to benefit the population.
2. *There was political ownership and will, as well as political support for the process.* Political support at the highest level of the Liberian government and the UN Security Council was crucial when disagreements amongst stakeholders from the government, the private sector and civil society threatened to derail the process.
3. *Stakeholders had individual incentives but shared goals.* In order for the UN to lift its timber sanctions, the Liberian government needed to satisfy a number of conditions. Civil society saw that the government was being placed under pressure by the sanctions, and saw this as a way of driving the reform process. Industry, on the other hand, wanted to restart logging as soon as possible; and meanwhile the international community was interested in restoring security and normality after the chaos left by Charles Taylor. So although the stakeholders were not strictly in agreement on the scope of the reform process, each of them had an incentive to engage with the process and to make it work.

4. *There was shared understanding of the task and shared commitment to implementation.* Before embarking on the forest concession review, the multi-stakeholder committee leading the process took time to explain its mandate from the government. It also developed a comprehensive plan for conducting the review. The mandate was clear, the plan for fulfilling the mandate was elaborated, and the objectives and criteria for cancellation or annulment were agreed before the actual review process got under way. This turned out to be a good strategy, because it was easy to return to the elaborated mandate and agreed framework whenever a misunderstanding arose.
5. *The participatory and transparent multi-stakeholder process brought credibility and legitimacy.* It provided opportunities for the voices of all stakeholders to be heard and taken into account. The concession review committee comprised eighteen institutions including government agencies, NGOs and the international community. The forest concession review itself was participatory and transparent.
6. *Financial and technical support provided by the international community was invaluable.* Donors including the US government and the EU provided crucial financial support to the process. And by setting up a coordination mechanism, the Liberia Forest Initiative (LFI), international actors created a platform for discussion and joint action in support of the reform process.

As discussed above, initiating the process of reform, beginning with conducting the concession review and outlining the broad reform agenda, was relatively easy. The relationship amongst stakeholders remained strong, moving into the review and reform of the legal framework. An overview of the forestry reform process, with emphasis on the reform measures proposed by the concession review committee, is presented in the next section.

## Overview of the reform process

In July 2003 the NGO Coalition for Liberia, in a proposal circulated at the Liberian peace talks in Accra, advocated a moratorium on all commercial activities in the extractive industries in Liberia, to deprive warring factions of funds from the pillaging of natural resources. It also called for reform of Liberia's forest sector as a precondition for the lifting of sanctions on Liberia.<sup>12</sup> The UN Panel of Experts, in its August 2003 report to the Security Council, also urged reform of the Liberia forest sector and indicated that reform could not be undertaken by outside institutions.<sup>13</sup> The UN Security Council took note of these recommendations and requested the National Transitional Government of Liberia (NTGL) to reform the forestry sector so that timber revenues could no longer fuel conflict but be used for the benefit of the Liberian people.<sup>14</sup>

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12 NGO Coalition for Liberia, Proposal for an immediate moratorium on commercial activities in the extractive industries in Liberia, July 2003. See Annex 1 of the UN Panel of Experts, August 2003, S/2003/779.

13 UN Panel of Experts on Liberia, Report of the Panel of Experts, August 2003, S/2003/779. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2003/779](http://www.un.org/ga/search/view_doc.asp?symbol=S/2003/779)

14 UN Security Council Resolution 1521 (2003) adopted on 22 December 2003. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1521\(2003\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1521(2003))

The reform process began with the review of all logging concession claims. The report of the review committee, issued in May 2005, laid out a broad reform agenda in a series of recommendations. The NTGL shelved these recommendations until elections could take place.

Following the induction of President Ellen Johnson Sirleaf in 2006, the government endorsed the concession review report and recommendations, paving the way for the reform process to begin in earnest. The reform agenda included declaring null and void all purported logging concession agreements, and establishing a committee with the responsibility for overseeing and verifying the formulation, development and implementation of reform as a precondition for the resumption of concession grants and allocations.<sup>15</sup>

### Implementation of the agreed reform measures

The reform process gathered momentum with the adoption of the National Forestry Reform Law (NFRL, 2006),<sup>16</sup> the National Forest Policy (2006)<sup>17</sup> and the Ten Core Regulations (2007).<sup>18</sup> These paved the way for stakeholders to move from policy and law reform to implementation: from words to action, or policy to practice. As efforts moved towards implementation of the agreed measures, however, a range of challenges emerged. These included the changing priorities of the government, an associated waning of political will to fully implement the changes required, and a lack of capacity amongst stakeholders, and especially within the FDA. The relationships between the different actors also shifted dramatically as the priorities changed.

Key civil society actors who had enthusiastically engaged with the discussions on governance, and had advocated changes paving the way for greater participation and transparency, adopted an aggressive approach towards highlighting the failures and poor implementation of those provisions. Meanwhile the primary concern of the FDA and industry was to start logging again. This led to growing reluctance within the FDA to continue involving civil society to the extent envisaged in the policy and legal framework. This put a strain on the healthy stakeholder relationships that had existed at the outset of the process. Below is a summary of four major factors that negatively affected or undermined implementation of the reform measures.

### Changing priorities of the government

In June 2006, the UN Security Council lifted its timber sanctions.<sup>19</sup> The Council seemed to have been satisfied by the government moratorium on the allocation of new concessions, established in the Executive Order No. 1, since no operator had permission to log in Liberia.

After the adoption of the NFRL on 26 October 2006, followed by various implementation

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15 President of Liberia, Executive Order No. 1, 2 February 2006. <http://www.fao.org/forestry/lfi/31586/en/>

16 Government of Liberia, National Forestry Reform Law, 2006. <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>

17 Forestry Development Authority, National Forest Policy, 2006. <http://www.fda.gov.lr/doc/LiberiaForestryPolicy.pdf>

18 Forestry Development Authority, Ten Core Regulation, 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

19 UN Security Council Resolution 1689 (2006), on 20 June 2006. <http://www.un.org/News/Press/docs/2006/sc8756.doc.htm>

regulations over the course of 2007, expectations within government for restarting the formal logging industry began to build up. This situation intensified in 2008 when the government unveiled its Poverty Reduction Strategy (PRS), which identified logging as a key element for revitalising the economy. The PRS projected that in 2008-11 the government would allocate 2.9 million hectares of forest to a range of commercial and community forestry activities, creating 5000 jobs in the rural economy, and generating approximately US \$107 million from logging by the end of 2011.<sup>20</sup> In pursuit of these expectations, the government's priorities for forestry began to shift from reform to meeting these economic targets.

### Clash of expectations and priorities

Between 2004 and 2007 civil society felt relatively satisfied that reforms were on track and that some of the key governance issues were being addressed. Concerns including marginalisation, limited access to information and lack of transparency, as well as benefit-sharing and the rights of forest communities, were now firmly on the agenda; the term 'community rights' began to be used for the first time, and the situation seemed positive. But as the FDA set about implementing the reforms laid down in the new laws and regulations, abuses began to emerge.

During the pre-qualification process in 2007 logging companies that wanted to log in Liberia had to be screened to ensure that they had not 'aided and abetted conflict' in Liberia, did not owe the government taxes or fees, and were generally qualified to do business in Liberia, as laid down in the Regulation on Pre-qualification. To circumvent this Regulation, Togba Timber Corporation (TTCO) and the Liberian Logging and Wood Processing Corporation (LLWPC) asked for clearance to bid from the Truth and Reconciliation Commission (TRC). Clearances was provided by (a member of) the TRC in the case of LLWPC. See scanned document on page 21. This unjustified 'clearance' was, however, later declared null and void by the chairman of the TRC. See scanned document on page 22. Both TTCO and LLWPC were in the end not allowed to bid for concessions because of their involvement in the war, although the decision was rather arbitrary. This situation could have been avoided, if the FDA had established the debarment list mandated by Executive Order No. 1 in 2006 and as provided for in Regulation 103 in 2007.

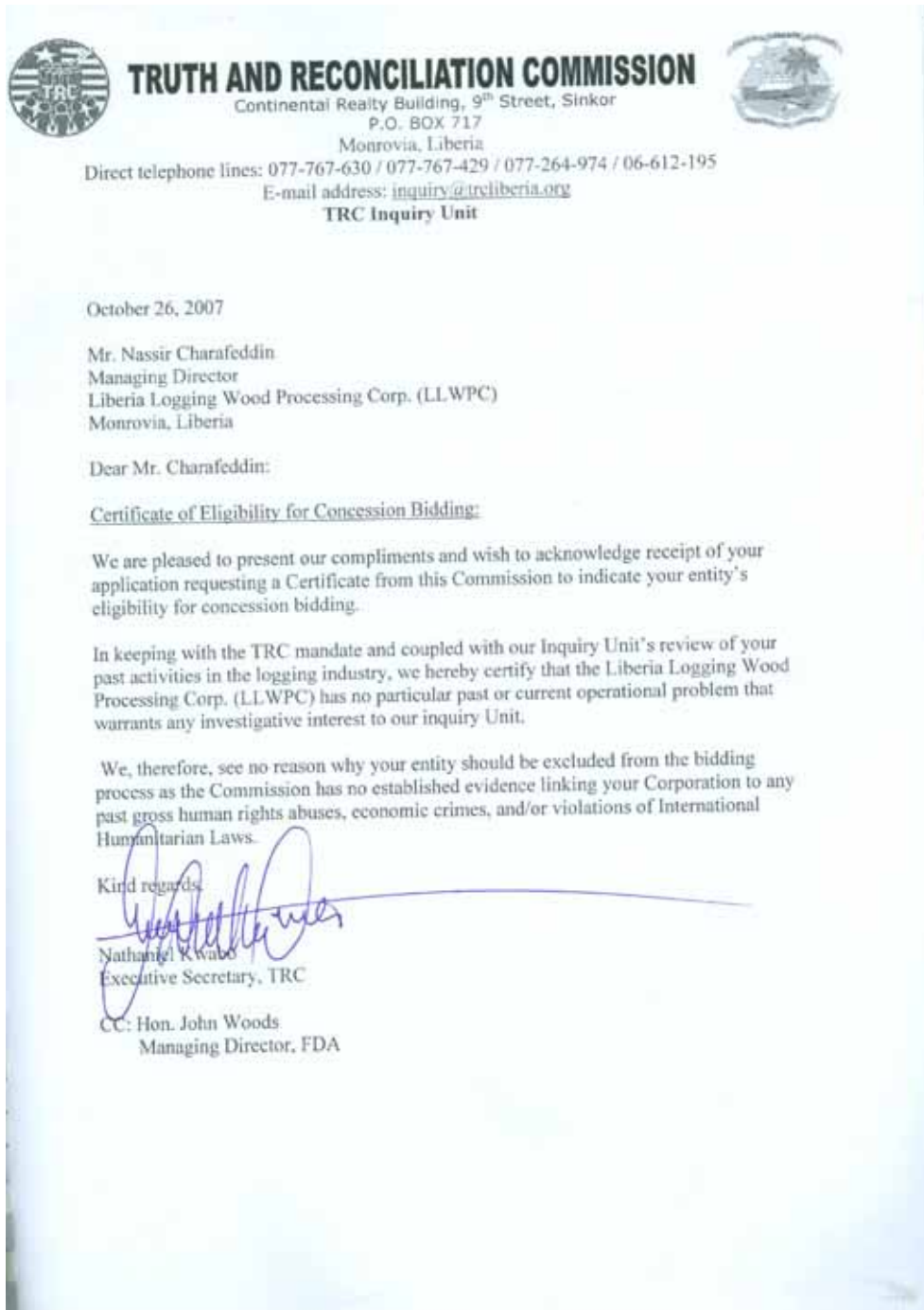
Fearing that companies like LLWPC and TTCO would constantly try to use other means to re-enter the sector, civil society renewed its call for the establishment and publication of the debarment list. This would have clarified once and for all which companies would not be qualified to bid. This call was, however, ignored.

By 2009, as a result of cutting corners, ignoring key provisions, and in some cases selectively complying with the law and regulations, more than 1 million hectares of forest had been allocated to various concessionaires under questionable circumstances and in violation of certain aspects of the laws and regulations.<sup>21</sup> For example, the FDA did not have a Conces-

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20 Government of Liberia, Poverty Reduction Strategy, 2008, p.64.

21 For a detailed discussion of these see the 'Summary of violations and other issues related to the allocation of seven FMCS' ('Liberia: the promise betrayed', 2010, p.16). <http://www.fern.org/sites/fern.org/files/Promise%20report.pdf>



- ▲ Truth and Reconciliation Commission provides clearance to logging company. See text on page 20



- ▲ Truth and Reconciliation Commission withdraws clearance to logging company. See text on page 20

sion Certificate from the Ministry of Planning and Economic Affairs prior to the bidding on the first round of concessions.<sup>22</sup> This was in violation of FDA regulation 104-07, which states that ‘in compliance with Section 87(3) of the Public Procurement and Concessions Act, as amended, prior to commencing any activity for the purpose of offering a specific concession, the Managing Director shall request the Minister responsible for Economic Affairs to issue a Certificate of Concession.’<sup>23</sup> In 2009 concessions were awarded to companies that did not meet the requirements, and in one instance the government negotiated a different bid price with one of the companies after bids had been submitted.<sup>24</sup>

With conflicts between the expectations and priorities of the government, of civil society and of other stakeholders, the cordial working relationship that had existed prior to 2008 began to unravel.

### Poor stakeholder relationships

Using their newly established rights, civil society stepped up its pressure and advocacy for the strict implementation of the law, criticising every attempt to cut corners and violate the new laws. As the voices of the critics became louder, the FDA responded by proposing guidelines for NGOs that would have made their advocacy difficult. The FDA also began to withhold information from NGOs and other stakeholders, in violation of the transparency requirements in the NFRL. For example, instead of providing the concession planning documents and board minutes requested by the UN Panel of Experts, the managing director claimed that he was consulting with the board of directors before doing so, even though the information requested had been classified as public information by the NFRL. The panel made two more attempts to obtain the information, but without success.<sup>25</sup>

The FDA also began to accuse civil society actors of obstructing progress.<sup>26</sup> While civil society and other stakeholders, including the UN Panel of Experts, continued to raise concerns about failures to follow the legal requirements, the FDA kept ignoring parts of the new legal framework. This led to a breakdown of communication between civil society and the FDA. Unresolved conflicts and disagreements spilled over onto other platforms where forestry issues were being discussed. For example, the two key developments – the allocation of concessions and the promulgation of a Community Rights Law with respect to forests – were two separate issues but involved the same actors. Criticism of the FDA on the allocation of concessions would spill over into disagreements over community rights, because of the residual tension that existed.

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22 UN Panel of Experts on Liberia, Report of the Panel of Experts, 12 December 2008, No. S/2008/785. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2008/785](http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/785)

23 Forestry Development Authority, Regulation 104-07 (Section 31), 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

24 UN Panel of Experts on Liberia, Report of the Panel of Experts, 11 December 2009, No. S/2009/640. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2009/640](http://www.un.org/ga/search/view_doc.asp?symbol=S/2009/640)

25 UN Panel of Experts on Liberia, Report of the Panel of Experts, 12 June 2008, No. S/2008/371. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2008/371](http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/371)

26 FDA press release: ‘The NGO Coalition of Liberia has accused the government of putting its own reform into jeopardy’, 9 September 2008. [http://www.fda.gov.lr/press.php?news\\_id=158](http://www.fda.gov.lr/press.php?news_id=158)

### Debarment list

Executive Order No. 1, issued on 2 February 2006 (see Annex 1) adopted the report of the Forestry Concession Review Phase III (2005) and its recommendations (2005, pp 4-8) in full, and instructed the FDA and other responsible agencies of government to:

Develop and implement a transparent forest concession allocation system based on bidding, on community consultation and prior informed consent, and on a comprehensive debarment and suspension system that would include a debarment list of those who had aided and abetted civil disturbances, and a suspension list of those who defaulted on their financial obligations; and

Establish procedures for investigating, crafting appropriate remedies, and taking legal action against financial and tax fraud, human rights abuses, economic sabotage, and violations of labour and other laws attendant upon misuse and mismanagement of the forest resources of Liberia.

The companies named in the Forestry Concession Review Report (2005, pp 27-8) as aiding and abetting civil disturbances were:

- BIN Liberia Inc.
- Forestry and Agricultural Products Corporation
- Inland Logging Corporation
- Jasus Liberian Logging Corporation
- Liberia Forest Development Corporation
- Lofa Logging Company
- Maryland Wood Processing Industry
- Mohammed Group of Companies
- Oriental Timber Corporation (OTC)
- Royal Timber Corporation (RTC)
- Togba Timber Corporation (TTCO)
- United Logging Corporation

The Forestry Concession Review Report (2005) named a further five companies that did not submit data to the concessions review, but for whom available financial and UN sanctions data indicated overt involvement in aiding and abetting civil instability. Those companies were:

- Cavalla Timber
- Exotic Timber Corp. Enterprise Inc.
- Natura Liberia Inc.
- Salami Mohammed Inc.
- Timber Management Corporation (TIMCO)

To implement this order, the FDA developed Regulation 103-07 which provides for the authority to keep a list of debarred companies (and significant individuals) and a list of suspended companies (and Significant Individuals). Board members, holders of corporate offices established in the company by law, those with at least 10 per cent of shares in the company, etc. (See Regulation 103-07 for a full definition.)



## Capacity constraints

In addition to the factors discussed above, the progress of reform was hindered by the limited technical capacity of various stakeholder groups. This became a defining factor as stakeholders turned to the FDA to take a lead in the implementation of the laws and regulations. For instance, there were problems with fully understanding the changes that were required by the law and the regulations, underpinned by the changes in policy. The mandatory involvement of stakeholders at the national, local and community levels required an understanding of what participation should consist of, and the skills required for facilitating participatory processes, but both of these were clearly lacking within the FDA. New transparency requirements also meant that access to information was now a *right* of stakeholders, and that it was not for the FDA to decide when and how to provide information. Poor understanding of this responsibility also affected the agency's ability and willingness to uphold these legal provisions. While the lack of capacity is not a blanket excuse for the many lapses that occurred in the implementation of the reform, it provides a partial explanation for the poor implementation of the forestry law and regulations by the FDA.

As reform discussions moved towards concession planning, the involvement of Liberian stakeholders including the FDA, civil society and the logging industry itself began to diminish, and international consultants virtually took over. The FDA had expected a significant focus on capacity-building as an integral element of the reform. Instead, reliance on external consultants meant that it increasingly lost control over the reform programme, and dissatisfaction within the FDA became so serious that its grievances began to be aired openly in public.

## Revisiting the lessons learnt

Initially there was agreement among the various different actors that there were problems in the forest sector, including failures in governance. There was also awareness that these problems had to be addressed in order for sanctions to be lifted. Local communities and civil society were vocal about how the government had failed them by allowing the logging industry to become a law unto itself. They also severely criticised logging companies for their failure to bring development to the communities where they were logging, and about the brutal treatment meted out to local populations by their security forces. Industry actors also agreed that there were many problems that needed to be addressed. This consensus brought stakeholders together to initiate the reform process, even though there were disagreements as to how they would pursue that process. The text box in the next section presents a timeline and overview of the reform process in the forestry sector.

### **Timeline of forest sector reform and implementation up to the start of the VPA negotiations**

**2003** May: the UN Security Council imposes sanctions on the import of Liberian timber into member countries, and Charles Taylor goes into exile. Civil society recommends reform of the forest sector. In August, the Comprehensive Peace Accord (CPA) is signed by Liberia warring parties and political leaders and the NTGL is inducted in October 2003. The NTGL sets up a committee to develop a road map to achieve the lifting of sanctions.

**2004** FDA initiates two concession reviews. The first review is internal and the report is withheld from the public. A second review is commissioned by the FDA. Following disagreement over the handling of the review and the contents of the report the two civil society participants reject the report and refuse to sign up to it.<sup>27</sup> Civil society proposes a third review to be conducted by a committee independent of the FDA. The third-phase Concession Review Committee is constituted, comprising 18 members and including two members from civil society and others from the international community.

**2005** The committee completes its work and submits its report to the Chairman of the NTGL in May. The report is tabled and no further action is taken.

**2006** Within weeks of taking office, President Ellen Johnson Sirleaf issues Executive Order No. 1 endorsing the concession review report and its recommendations, paving the way for a comprehensive reform process. The UN lifts its timber sanctions in June. In September the New National Forestry Reform Law is enacted by the legislature, after the UN makes it clear that sanctions could be re-imposed if the government fails to do so. Civil society calls on the government to reach out to the EU and express interest in negotiating a VPA to further strengthen the ongoing reform.

**2007** The Ten Core Regulations are adopted and the National Forest Management Strategy is formulated. The government enters into an agreement with SGS to manage the national timber chain-of-custody system in Liberia. Preparation for the allocation of new concessions is escalated. The government indicates interest in the VPA and begins consultations.

**2008** The first batch of new contracts is allocated, including six Timber Sale Contracts (TSCs) and three Forest Management Contracts (FMCs). Contracts are awarded to companies that do not have a valid pre-qualification certificate, have failed to demonstrate financial capacity, and do not qualify to bid at the time of submitting their bid. Concerns about these violations of the law are brushed aside. A mission from the UK's Department for International Development (DFID) arrives in Liberia and consults stakeholders about the VPA.

**2009** Formal negotiations for a VPA between Liberia and the EU are announced. The second batch of concessions, including four FMCs, are awarded in breach of the various aspects of the laws and regulations. Civil society steps up its criticisms, many of which are echoed by the UN Panel of Experts. More than 1 million hectares of forest allocated to logging concessions. The Community Rights Law is also enacted and signed into law.

**2011** The VPA is concluded and signed between the Liberian government and the European Union in Monrovia, Liberia.

27 The author was one of the two persons from civil society that participated in the second review.

## Building on the achievements of forest sector reform

Although the results of forest sector reform process to date have not been perfect, there have been positive developments. For one thing, the process of implementing the VPA will not start from scratch: a lot of preparatory work has been done, and lessons have been learned. During the negotiation process there was a good dialogue between all stakeholders, and this has contributed to improving stakeholder relationships. Community representatives at the table now represent their own interests, and this is helping to remove some of the tensions between the FDA and civil society. The improvement in stakeholder relationships, as well as improvements in policy and law and the achievements of the reforms to date, should be used as foundation on which to build the full and effective implementation of the VPA.

Some achievements are highlighted below. They are all significant, although different stakeholders might rank them differently in order of importance.

*Liberia now has a legal framework that is remarkably progressive compared to what existed in the past and compared to what exists in other West and Central African countries.* In spite of their limitations, the forestry law and the accompanying regulations have established a foundation for improving governance of forest resources, for example by institutionalising public participation, transparency and a move towards equity.

*For the first time in the history of the forestry sector, public participation in forest governance and rule-making processes have been formalised.*<sup>28</sup> Transparency on revenue collection has also been built into the laws and regulations. The Liberia Extractive Industries Transparency Initiative (LEITI) Act<sup>29</sup> and the NFRL require logging companies to publish figures about what they pay to the government, and for the government to reveal what they receive.<sup>30</sup> The Freedom of Information Act also provides a comprehensive legal framework for greater transparency across government.<sup>31</sup>

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28 Forestry Development Authority, Regulation 101-07 on Public Participation, 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

29 Government of Liberia, An Act to Establish the Liberia Extractive Industries Transparency Initiative, 2009. <http://www.leiti.org.lr/doc/act.pdf>

30 Government of Liberia, National Forestry Reform Law, 2006 (Section 5.8, Publication of Payments). <http://www.fda.gov.lr/doc/finalforestrylawPASSEDBYLEGISLATURE.pdf>

31 Government of Liberia, Freedom of Information Act, 2010.

*The laws and regulations now require competitive and fully transparent concession allocation processes, unlike in the past.*<sup>32</sup> This was primarily intended to enable Liberia to take advantage of the maximum possible monetary value of the resources. Before and during the civil crisis, concessions were allocated in very opaque manner, apparently based on political connections and patronage.<sup>33</sup> Although concession allocation has been poorly managed and is often not in conformity with legal requirements,<sup>34</sup> the existence of these provisions has enabled civil society and other stakeholders to point out legal violations and challenge the authorities to do better.

*The steps towards the extraction and export of timber are clear and easily verifiable.* For example, pre-felling requirements outline everything that a company must do in order to receive authorisation for harvesting logs each year. In the past, this largely depended on how quickly an operator could get their equipment into their concession.

*As a part of the reform package, Liberia has taken steps towards recognising and formalising the rights of communities in relation to forest land.* The Community Rights Law (CRL),<sup>35</sup> though limited in several respects, provides that all forest resources in community forests are owned by communities, and it creates a process whereby communities may establish their ownership.<sup>36</sup>

*There is now a benefit-sharing mechanism that enables communities to benefit directly from revenue generated by logging in their areas.* The NFRL (2006) allocates 30 per cent of land rental fees to affected communities and another 30 per cent to the various counties. This is the first time in Liberia's history that communities will receive shares of the revenue from logging to invest in community development. The trust that will hold and disburse community shares of revenue from logging has been established.

*The legal framework also provides for independent monitoring of forest operations by civil society and communities*<sup>37</sup> and requires the FDA to move towards establishing a formal independent monitoring mechanism for the forest sector.<sup>38</sup> All of these provisions together provide for greater transparency and public participation, which are both fundamental principles of good governance.

While these achievements are worth celebrating, poor implementation of the laws and regulations has yielded less than satisfactory outcomes, though this may depend on the point of view of the stakeholder. For example, some FDA personnel refer to the requirements for concession planning, through bidding and the award of concessions, and up to pre-felling activities, as the

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32 Forestry Development Authority, Regulation 104-07 on Tender, Award and Administration of FMCs, TSCs and Major FUPs, 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

33 Forestry Concession Review Committee, Third Phase Concession Review Report, 2005. <http://www.fao.org/forestry/ifi/29664/en/>

34 UN Panel of Experts on Liberia, Report of the Panel of Experts, December 2008, S/2008/785. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2008/785](http://www.un.org/ga/search/view_doc.asp?symbol=S/2008/785)

35 Government of Liberia, An Act to Establish Community Rights Law of 2009 with Respect to Forest Lands, 2009. <http://www.fda.gov.lr/doc/Liberia%20Forestry%20-%20CRL%20October%202009%20-%20official.pdf>

36 One key area of contention has been the inclusion of national legislators in the local community forest governance system, which is seen as neutralising the autonomy the law was intended to create. Also the community rights law has been criticised for lacking safeguards in the allocation of concessions, which has the potential to undermine the nationally mandated transparent concession allocation procedures.

37 Forestry Development Authority, Regulation 108-07, Section 71, 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

38 Forestry Development Authority, Regulation 108-07, Section 72, 2007. <http://www.fda.gov.lr/doc/FDATENCOREREGULATIONS.pdf>

'32 steps to logging'. These requirements are criticised as being too time-consuming. Industry has complained about taxation and has used various means to try and reduce their tax obligations, even though the land rental payable was set through a competitive bid. Civil society and communities have raised concerns about poor implementation of agreed reform measures.

The VPA provides an opportunity to put the reform back on track and consolidate the gains that have been made to improve forest governance. In this regard, a key element is the Legality Assurance System (LAS), which consists of the Legality Definition, Legality Verification, chain-of-custody system and a licensing scheme. Only timber and timber products acquired, produced, processed and marketed in compliance with the LAS requirements will be issued FLEGT licences. The LAS therefore provides a transparent framework that can be easily monitored. With these and other benchmarks established in the agreement, the forest sector in Liberia now has a solid foundation on which to build an enduring culture of good governance. By so doing the sector may set a good example and provide a motivation for similar reform measures in other sectors.

For implementation of the VPA to make a difference in the eye of most Liberians, therefore, it must be comprehensive and clear, and not be characterised by the selective and poor implementation of that was a feature the allocation of the existing concessions. The extent to which implementation of the VPA will successfully build on the achievements of the reform, however, will depend on the extent to which the parties and Liberian stakeholders take account of the lessons discussed earlier.

▼ **Community consultation in Rivercess**



## Looking ahead: expectations, challenges and opportunities

Immediately after the induction of the National Transitional Government of Liberia in late 2003 the government constituted a committee to develop a road map for revitalising the logging industry. Among other things, a concession review process was initiated by the government. When the output of the process was brought into question, and suggestions for a second round of review gained support, the government undertook a second review. Due to doubts about the integrity and scope of the second review, civil society proposed a third review that would be conducted independently of the FDA (but with their involvement) in a participatory and transparent manner. See textbox on page 26.

The government set up an 18-member committee to lead the review and provided the committee a presidential mandate to do so. The European Commission, the US government and the UN mission in Liberia were key actors that provided support for the process. This level of support both internally and externally proved crucial at moments when disagreements arose about the scope of the review, public participation in the process, and publication of the report from the process. In one instance the interim President Gyude Bryant had to intervene in efforts to resolve a stand-off that threatened to derail the process. This level of political support proved pivotal as its earlier absence was a major factor in the poor implementation of the law during the contract allocation process that began in 2008.

But perhaps more crucial was the broad participation of all relevant stakeholders at different stages of the reform process. For example, the concessions review committee was composed of key government ministries and agencies, national and international NGOs, donors, and international experts. The 18-member committee that led the process was very diverse and brought a healthy mix of viewpoints and perspectives to the table. Communities and the public were also directly involved in the process. Suggestion boxes were placed in strategic locations such as offices, banks and shopping centres throughout Monrovia, and at least seven regional meetings were held. These meetings were part of a public awareness and participation strategy designed to give communities the chance to share their experiences, and outline their hopes and fears for the future. This multi-stakeholder process was significant in many ways. Understanding of the expectations and different perspectives of stakeholders was made easier, it encouraged consensus building within the committee, and above all it brought credibility to the results.

For the first time, too, local people were engaged in issues in the forest sector and their voices formed part of the basis for decision-making. Most of the communities that participated in the process saw it as the first indication that change was under way in the sector.

A similar multi-stakeholder approach adopted for the VPA discussions has brought significant benefits. Communities are particularly positive about the process and actively contribute to the national discussions through their regional community platforms. At meetings they are keen to articulate the issues that matter to them, so is not surprising that they have welcomed the final agreement; and their involvement in the stakeholder monitoring committee during implementation would be a positive step. However, now that the agreement has been signed and implementation is assured, it is time to consider the possible challenges and opportunities that lie ahead.

During stakeholder discussions on the VPA in Liberia, some issues resurfaced from the implementation of the reform, while others emerged for the first time. Some of these issues were related to poor implementation of reform measures; others involved situations where people took advantage of ambiguities or gaps in the laws and regulations. Some of the issues were addressed by the discussions on different elements of the VPA, but others have been set aside for future discussion. Regardless of what actions are taken, stakeholders will constantly need to reflect on their expectations for the VPA, identify any challenges to meeting those expectations, and look for opportunities to overcome them.

### **Expectations of stakeholders**

The issue of stakeholder expectations has various elements, but perhaps the most important involves expectations that are specifically covered by the agreement. By outlining ways in which the VPA will address issues that matter to stakeholders, the EU and GoL have raised the expectations of stakeholders. The parties have established the benchmarks or standards by which their performance will be evaluated during implementation of the agreement.

Some stakeholders may view these benchmarks as rigid criteria for measuring success, and believe that altering them would be like moving the goalposts in the middle of a game. However, implementation may require some degree of flexibility, given that new structures are being introduced into the forest governance and law enforcement framework. What is important is that the parties work alongside the different stakeholders and strive to balance the need to fully implement the terms of the agreement with the need to maintain some degree of flexibility. However, the need for flexibility should not be used to justify poor implementation of the terms of the agreement; this would quickly undermine its credibility in the eyes of ordinary Liberians.

Therefore addressing the expectations and motivations of the different stakeholder groups will be crucial. Understanding their implications and taking account of them when designing the implementation framework and response mechanisms will be key to an effective implementation process.

NGOs and communities are passionate about their key concerns, and they have worked hard to attract attention to their core issues, which centre on recognition of their rights – in case of communities-, transparency and equal benefit sharing. Many of these issues are addressed in the LAS, or more specifically in the Legality Definition. Currently their assessment of the process is positive because they feel confident that there are adequate safeguards and opportunities to ensure good governance of the forest sector, which is one of their key stated objectives. Civil society representatives were consistently involved in the discussions, and they played a major role in the internal discussions not just within civil society, but also amongst stakeholders at the national steering committee level. The CSO representative who observed the formal negotiations remained involved throughout the process.

Expectations within government are less clear. There have been concerns that there was inadequate input by government representatives into discussions on different elements of the VPA. There were also concerns that communication between government officials actively involved in the stakeholder discussions and those involved in the negotiations was somewhat inadequate. Because of fears that the lack of dialogue between the negotiators, government technicians and stakeholders could have negative consequences for the negotiations, the VPA secretariat organised a series of meetings between the multi-stakeholder steering committee and the negotiation team. Unfortunately these meetings did not produce the desired results, as negotiators were often unable to attend. It is hoped that during the implementation process the government will be more co-ordinated and visible than they were during the negotiation process.

There are also questions concerning the commitment to the process by industry. The fundamental concern is the fact that those who have concessions, and are therefore more likely to be affected by the implementation of the VPA, were not directly involved in the steering committee discussions. Leading representatives of the Liberia Loggers Association and the Liberia Timber Association did, however, actively participate in the steering committee meetings. It is hoped that they had their own internal arrangements for sharing information and deciding on inputs, even though this was not evident to other stakeholders. It is therefore key during implementation phase that the industry develops an effective feedback mechanism with existing and future concession holders.

## Potential challenges

To implement the agreement fully and effectively, there must be the political will within government to do so. There is still some concern that the government lacks the political will to address issues of bad governance, in the same way that it has failed to act against corruption and abuses of the law. Unless there is political will within government, from the presidency and the legislature to the lowest level within the FDA, the VPA cannot succeed. The key challenge therefore is to ensure there is the political will to ensure proper implementation. EU support towards full compliance is therefore important.



The other challenges, discussed below, are based on the expectation that the government is serious about its obligations under the terms of the VPA.

#### **Effective working relationship between technicians and politicians**

Given the disconnect that existed between the negotiators and technicians there is some apprehension about how political commitments made during the negotiation will translate into enthusiasm for implementation and political support from other government departments. As was found in the initial stages of the reform process, this is crucial. Whereas changes to the policy and the law required careful implementation, politicians at the highest levels of government were less interested in the practicalities and focused instead on using any means possible to maximise logging. This posed challenges for technicians and administrators during implementation of the forestry law and the assignment of the first batch of logging concessions. To overcome this challenge, politicians and technicians must act together and ensure that there is better inter-agency collaboration during implementation of the VPA.

#### **Good understanding of commitments**

The second potential challenge relates to the level of understanding of the terms of the agreement at various levels within government. Implementing the terms of the agreement will require a full understanding of what has been agreed. As mentioned earlier, the disconnect between the government negotiators and their technicians raises questions about whether there is full understanding amongst technicians and senior government officials about what was agreed. Without a proper understanding, there are bound to be serious challenges to implementation.

#### **Creating effective new structures and a culture of openness and accountability**

The third potential challenge relates to the institutional set-up and the distribution of roles and responsibilities for different aspects of the agreement. New entities or departments will have to be created to handle different aspects of implementation. Establishing these new structures, properly aligning them with existing ones and fitting them into the current forest governance framework will be tricky. Framing the roles and responsibilities of these new bodies and ensuring that the separate but complementary roles are understood will require strategic thinking and action.

Related to this are issues around organisational culture. The FDA, the main agency responsible for implementing the agreement, does not have a strong culture of transparency and accountability. There is also insufficient understanding and appreciation of some of the elements of governance, such as participation, transparency, accountability and equity in benefit sharing that are now prominent in forestry discussions in Liberia. This will not change overnight and as long as this remains it will continue to pose problems for efforts to improve forest governance and strengthening law enforcement. The experiences and lessons from the implementation of the new forestry law and regulations are instructive in this regard.

### **Constructive and positive working together between industry and FDA to catch out those bent on undermining rule of law**

While the FDA and the government have been responsive to external pressure for reform – specifically changes in the laws and regulations – implementation has often been undermined by reluctance to fulfil their commitments, and at times collusion between the FDA and industry to mislead the public.<sup>39</sup> For example, the institutional reorganisation that was designed to introduce additional layers of monitoring has not worked as envisaged because in many instances the FDA and industry actors have worked together to undermine them. The pre-qualification process has not served its purpose because of poor implementation by the FDA and industry actors using their government contacts to circumvent the process.<sup>40</sup> Because the debarment and suspension lists have not been published, some of the companies and individuals that should have been excluded have re-entered the sector. In addition, the purpose of an inclusive bid evaluation panel and outsourcing due diligence have not been realised, as actors in the industry and the FDA have colluded to undermine the process. The Public Procurement and Concession Commission and the Ministry of Planning and Economic Affairs, which were supposed to oversee the concession planning process, were also sidelined during the allocation of the first batch of concessions.<sup>41</sup>

It is hard to know whether the nature of the VPA as a legally binding bilateral agreement will bring pressure to bear on the FDA, and therefore lead to changes in the organisational culture.

### **Ensure good stakeholder relationships**

The fifth challenge will be managing stakeholder relationships during implementation. Here all the stakeholders will have a role; it will not depend entirely on the government. As noted earlier, when relationships between stakeholders were good in the past, outputs and performance was better. When relationships came under pressure and the line of communication failed, the output was less satisfactory. Drawing on experience from the reform process, the issues involved in relationship-building and consolidation will have to be carefully considered and addressed. Keeping stakeholders' expectations in focus at all times and paying attention to communication will be extremely important.

Stakeholders need to act together to avoid repeating past mistakes. For example, when it became clear that civil society was determined to see the forestry laws and regulations implemented fully, disregarding the implications of a gradual start-up and the pressure on the FDA to cut corners, the FDA quickly adopted a defensive attitude to criticisms. It responded harshly and with suspicion to all criticisms, and increasingly backed itself into a corner. The louder the criticism became, the stronger was the response from the FDA, and there was a corresponding increase in the level of hostility with which the criticisms were brushed aside. Both civil society organisations and the FDA could have chosen a more constructive approach.

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39 NGO Coalition for Liberia, Will the Forest Sector Reform Make a Difference? FDA continues to violate the forestry law with impunity, September 2010 [http://loggingoff.info/sites/loggingoff.info/files/Lib%20Will%20Forest%20Sector%20Reform%20Make%20a%20Difference\\_Final.pdf](http://loggingoff.info/sites/loggingoff.info/files/Lib%20Will%20Forest%20Sector%20Reform%20Make%20a%20Difference_Final.pdf)

40 NGO Coalition for Liberia, Reform in Jeopardy: reflections on the forest sector reform process in Liberia, July 31 2008, <http://loggingoff.info/sites/loggingoff.info/files/Reform%20in%20Jeopardy.pdf>

41 For a detailed discussion of these see the 'Summary of violations and other issues related to the allocation of seven FMCs' ('Liberia: the promise betrayed', 2010, p.16). <http://www.fern.org/sites/fern.org/files/Promise%20report.pdf>

### **Regular stock taking and evaluation**

Finally, constantly reflecting on implementation of the agreement and checking how to address the potential challenges discussed above, and others that may arise, will be essential for achieving the desired results. This should be relatively easy as the VPA already provides for stakeholder involvement in implementation, which will also be complemented by civil society monitoring and the regular independent audit of the LAS. If properly coordinated, these different mechanisms and tools should work together to ensure that challenges are tackled if and when they arise and difficulties resolved before they get out of control.

These are not only challenges for Liberia; they are likely to impact on the EU and the industry within Europe as well. While there may be an understanding of these challenges in the EU, and appreciation of the need for a step-wise approach towards addressing them, Liberian stakeholders – especially civil society and communities – are unlikely to take a similar view. The dilemma that the EU therefore is likely to face is how to balance its interest in having FLEGT Licensed timber from Liberia while ensuring that Liberia properly implements the agreement on its side.

### **Opportunities and building-blocks**

The first building-block is made up of the interlinked expectations and interests of the various stakeholder groups. Some of the actors within the logging industry hope that entering into the VPA will secure access to EU markets, build confidence among European companies and open the door for partnerships with investors from the EU. There is a related awareness among some actors within the industry that to reap these benefits they will have to improve their operations, and ensure that these improvements are clearly evident to stakeholders.

The VPA is seen by many within civil society as an opportunity to improve governance, fight illegality and ensure that benefits accrue to the people. These expectations have been at the centre of propositions from civil society and communities on various issues. These expectations are in line with, and directly underpin, the broader agenda of the VPA.

The government at the highest level has publicly stated that it wants to use the VPA to reassure the international community that it is determined to break with the past and improve forest governance and management. Underpinning its desire to improve its image appears to be a desire to improve revenue collection, establish a viable timber industry that contributes to poverty reduction and overall development, and secure support for tackling some of the governance and law enforcement challenges that the forest sector is facing.

#### **Building block one: align expectations of all stakeholders**

A good way forward is for all stakeholders – including government, industry, civil society and communities – to embrace each others' expectations and explore ways of integrating them into their own vision for the future. While the expectations of each group will reflect their individual interests, they in fact are tightly intertwined; one cannot be achieved without the other. For example, if the industry is to benefit from access to EU markets and attract investment, it will have to conduct itself in a way that assures civil society and communities that it

will abide by the law and not seek to undermine efforts to improve forest governance. Failure to do so will expose it to attacks by communities and NGOs, which will have ramifications for their investment potential and market access. The expectations of the presidency and the legislature will also be best served if these bodies fulfil their roles properly, including regulating the FDA as well as ensuring it fulfils its tasks properly. Open and constructive dialogue among all stakeholders is therefore essential, including supporting the FDA to insulate itself against corrupt liaisons with bad operators in the industry. If the FDA plays by the rule of law and separates itself from corrupt companies, it will win the confidence and support of the different groups, including NGOs and communities and this will strengthen its role in the sector.

This convergence of interests, if put above the possible individual short-term motivations, could provide a solid foundation for collaboration and proper implementation of the VPA.

#### **Building block two: existing good relationships between stakeholder groups**

The second element relates to the current positive nature of the relationship among stakeholders. This is a strong foundation to build on. The stakeholder discussions on the VPA in Liberia were participatory, involved all the different interest groups, and provided a platform for issues related to legality and law enforcement. This may have contributed to the effective collaboration and has provided a sound basis for moving forward, while staying focused on the key issue of improving clarity of the legal framework and improving forest governance. However, what happens in the early stages of the implementation phase will define the future of these relationships. These relationships may suffer if the agreed measures are not implemented properly.

#### **Building block three: existing legal framework**

The third element relates to the fact that implementing the VPA is not starting from scratch. Some of the building-blocks are already in place, actors have tested the laws and regulations and some of the gaps and weaknesses have been addressed in the VPA agreement, at least in the context of clarifying legal requirements in the Legality Definition. There is a wealth of knowledge and experience that did not exist when the first series of concessions were allocated. This means that all stakeholders are more certain about the line between what is legal and what is not, and there are fewer grey areas in the law. In the past the FDA and the other government agencies involved with the concession allocation process could feign lack of awareness or clarity on some critical issues; the clarity that now exists through the Legality Definition undermines that excuse. If implemented properly, the clarity and specificity of the Legality Definition should ensure that all illegalities will be tackled, which will in turn ensure civil society and communities' support for the VPA Agreement.

In the medium term, when stakeholders begin to evaluate the impact and benefits of the VPA – in terms of the extent to which their expectations about reducing illegal logging and improving forest governance are being met – their relationship may come under strain if the government and the industry fail to live up to their commitments. On the other hand, with the VPA now providing additional clarification and addressing some of the gaps in the legal framework, the forestry sector in Liberia has a solid foundation on which to build an enduring culture of good governance.

Success in the forestry sector may help motivate similar reform processes in other sectors. It could also provide valuable lessons for the other natural resources sectors to ensure they also improve their governance.

▼ Picture taken in Gbarpolu, Gbankay (TSC A7), 21 February 2010



## Implementing the VPA in Liberia

Drawing on the expectations of stakeholders, lessons learnt from the implementation of reform to date, and the challenges and opportunities that exist in the forestry sector, the question that preoccupies stakeholders is ‘how will the implementation of the VPA deliver our expectations?’ The terms of the agreement broadly outline the obligations of the parties, but fulfilling those obligations will have little meaning for Liberians, especially forest communities, if they do not translate into real and meaningful changes on the ground. The hope is that by addressing illegality and bad governance, logging will be better managed and the revenue generated will contribute to addressing poverty in forest communities. However, this may not happen in practice. To live up to the expectations of stakeholders, especially forest communities, implementation will have to focus on addressing illegalities while providing tangible benefits; both need to be pursued in tandem.

Obviously this will be a challenge, partly for the reasons discussed earlier. Despite this, some simple practical measures could greatly improve the chances of a positive outcome.

One way of building on the positive relationship that currently exists between stakeholders is to ensure that mutually beneficial and constructive dialogue is maintained. This may involve regular and scheduled meetings, improved communication, and a move towards a participatory approach to developing the agenda for those meetings. For example, it may be wise to invite stakeholders to contribute agenda items that reflect their own issues and concerns, and encourage discussion on these issues. This is far more participatory than developing agendas that only reflect the interests, concerns and understanding of one stakeholder.

It is also important to maintain the current momentum. The parties should go straight from the negotiating table to ratification and then begin implementation, including addressing the outstanding issues. This may entail the government of Liberia and stakeholders quickly moving towards establishing the multi-stakeholder implementation committee, developing a time-bound work calendar, and rolling out the agreed work plan. The work plan should prioritise discussion and resolution of the key issues that were tabled for further action during the negotiation process. Some of these outstanding issues are outlined below.

## Addressing the outstanding issues

Some issues were fully addressed while others were not. The issues that were fully addressed include specifying the products that the VPA will cover, the question of the inclusion of the domestic market, the inclusion of exports to other non-EU markets including China, and the roles of civil society and communities in implementing and monitoring the agreement. Issues that were not sufficiently clarified or addressed include how rubber wood and related products would be handled in terms of application of the Legality Definition, how the domestic market would be integrated into the VPA, and the lack of consistency between the Community Rights Law and the NFRL. Addressing these outstanding issues will require thoughtful and carefully managed stakeholder discussions, perhaps more so than it has been to date. This will be crucial because some of the outstanding issues were put aside because they were so contentious.

For example, while stakeholders agreed on the questions of whether access to forest or the allocation of concessions have followed due process, it is not clear how this will apply to the current concessions. This is a matter for concern because questions remain about the legality of some of these concessions. Some stakeholders have argued that applying the full legality check on timber products from existing concessions would amount to implementing the terms of the agreement retrospectively, while others argue that to be granted a FLEGT licence, all the requirements of the LAS must be fulfilled regardless of when the concession was granted. How this and the other outstanding issues are addressed will set precedents that will have far-reaching implications, and will influence how the different stakeholders come to regard the VPA in practice.

## The inclusion of rubber wood

The large rubber plantation companies, those that stand to benefit most from the rubber wood sector, have a long and chequered history in Liberia. In May 2006 two reports were produced about rubber plantations in Liberia. One was produced by a joint Government of Liberia and United Nations Rubber Plantation Task Force, headed by the Minister of Agriculture; the other was produced by the United Nations Mission in Liberia (UNMIL).

The Joint Task Force Report<sup>42</sup> noted that:

***Most concession and/or management agreements of the assessed plantation are old, with the bulk being signed in the 1950s. As a result the agreements are not in line with Liberia's obligations in terms of national and international law. In addition, they do not reflect contemporary responsible business practices. For example, community participation is now considered a major aspect of natural resource management. Also, there is internal and external pressure to upgrade the working environment and living conditions of the workers and their dependents. All these factors have benefits for plantation facilities and services to surrounding communities. All these factors have***

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42 Joint Government of Liberia – UN Rubber Plantations Task Force, Report, 2006. [http://www.laborrights.org/files/Rubber\\_TF\\_Report.pdf](http://www.laborrights.org/files/Rubber_TF_Report.pdf)

***rendered the prevailing agreements outdated and call for their modernization and standardization. (p.2)***

As stated above, the 2006 UNMIL report ‘Human rights in Liberia’s rubber plantations: tapping into the future’ gave cause for concern. The report noted that concession agreements concluded between the Liberian government and major rubber companies impose limited or vague obligations to respect human rights on these corporations. The report further noted that:

***Many workers lack effective trade union representation. Living and working conditions on the plantations violate fundamental human rights standards. The situation is particular poor in relation to child; child labour is indirectly encouraged by work practices and lack of access to education. Health care facilities are scarce and poorly equipped. Living conditions, hazardous working conditions and the impact of industry upon the local environment exacerbate health concerns. (p.5)***

The issues highlighted in these reports are particularly relevant in the light of Liberia’s legal obligations under the African Charter on Human and Peoples Rights, which Liberia is a signatory to. The Charter provides that ‘State parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.’<sup>43</sup>

These issues are equally relevant for the Liberian government more broadly, and the VPA in particular. By tackling the myriad of environmental, social and human rights problems associated with the rubber plantations, it will reassure communities affected by the sector that it is ready to break with the past and take steps to protect and defend the interests of local populations. Specifically for the VPA, this will ensure that timber and timber products (including rubber wood) that are licensed as legal are subject to the same standards and principles regarding environmental, community and human rights. Finally, for the government, this will bring it in line with its obligations under the African Charter on Human and Peoples’ Rights.

In addition to meeting its obligations under this charter, the government and stakeholders should learn from the benefits of forest sector reform to date: for example, the fact that rural communities suffer much less from the sense of marginalisation and exclusion that were so widespread just a few years ago. Even though the real benefits of engaging and participating have been slow in coming to the grass-roots and communities, when you speak to people in many communities they certainly appreciate the changes that are taking place in the forest sector. These benefits should encourage dialogue about the rubber wood industry. This could be done in such a manner as to fully discuss the rights and environmental issues associated with rubber plantations and agree on measures that would be taken to bring the sector into compliance with this provision of the African Charter on Human and Peoples Rights.

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43 Article 21(5) of the African Charter on Human and Peoples Rights, adopted 27 June 1981 and entered into force on 21 October 1986.



There are also more specific concerns related to community rights and benefits. It is hoped that those which relate specifically to land rights will be addressed in policy proposals from the Land Commission, to form part of a broader land reform agenda. But community benefits from the rubber wood industry should be discussed as a priority. For example, communities are entitled to 30 per cent of land rental fees generated from logging in their areas, and additional cubic metre fees on logs extracted from forests in their communities. Similar payments have been introduced in the mining sector and now form part of major mining agreements; however, these have not been fully extended to the rubber wood sector.

A useful starting point would be a comprehensive review of the rubber wood sector, based on the model adopted for the review of logging concessions, to help define the best path for bringing the rubber wood sector in line with the community, environmental, social and human rights standards in the forestry sector legal framework.

### **The multi-stakeholder committee and facilitation**

Article 16 of the VPA provides for involving stakeholders in the implementation of the agreement, and this has been particularly welcomed by civil society and communities. This is in line with the forestry legal framework, especially provisions on public participation as outlined in Regulation 101-07 and the participatory management of forest resources. The agreement notes that Liberia shall ensure that the implementation and monitoring of the agreement will be done in consultation with relevant stakeholders, and specifically notes industry, civil society, local communities and other people dependent on forests. In furtherance of this provision Liberia is also required to establish a national committee to monitor implementation of the VPA. The national committee should be made up of representatives of relevant government agencies and the other stakeholders mentioned above. The JIC, which will have overall responsibility for monitoring implementation of the VPA, will also engage with stakeholders on both sides by establishing an effective complaints mechanism for addressing problems that may arise during implementation of the agreement. Other foreseen actions of the JIC include supporting the national multi-stakeholder monitoring committee to hold regular open public consultations on the implementation of the VPA, where stakeholders will be able to give feedback. This is particularly important because experience in the forest sector in Liberia has shown that while representation was useful in bringing the diverse perspectives of stakeholders to the table, it has not been successful in ensuring downward accountability or reporting back. By establishing these open public forums the VPA takes participation to a level that may be described as the highest possible standard for public engagement in public policy formulation. However, as with all forms of participatory processes, there are bound to be challenges. Effective facilitation is often a major challenge to multi-stakeholder and other participatory processes. This will be a particular challenge because two levels of engagement are proposed: a national multi-stakeholder committee and open public forums.

In order to maintain momentum and build on existing relationships, it may be desirable to maintain the current composition of the national steering committee and turn it into a national VPA implementation committee, with slight modifications to ensure that other government agencies are adequately involved. The new committee may be chaired by the FDA or the

Ministry of Agriculture, as these are the two agencies most concerned with agriculture and forestry issues in Liberia. Also, as the main implementing agencies of the VPA, they could use this medium to ensure that feedback from stakeholders is directly provided to them and in real time, at the national level. By doing this the government will ensure that knowledge about the agreement is retained within the committee and that new members will benefit from the lessons that the current members have learnt from their engagement over the last two years.

### **Ensuring meaningful and broad public participation**

In addition to ensuring key stakeholder groups have a 'seat at the table' during implementation of the VPA, it is important - as was also seen in the reform process - to ensure the public at large can participate in the process. The VPA recognises and provides for this. The VPA also promotes the following key measures<sup>44</sup>:

(a) preparing and implementing a communication strategy with the goal of raising public awareness via modern and traditional media to keep the public and the timber trade informed about implementation of the VPA and its impact and benefits;

...

(c) establishing an information exchange platform for consistent dissemination of information to domestic and international partners, including considering where it should be located in the overall implementing structure.

There are many different ways this could be taken forward to ensure the active participation of the public at large in the implementation of the agreement. One way forward would be organising regular national or regional or county-level open forums where communities and the wider public can be informed about the agreement and the implementation arrangements. The public would then directly provide their views on specific aspects of the the process and the conduct of stakeholders. Another suggestion would be to secure the active involvement of the media by developing a series of programmes which e.g. allow the public to phone-in and publicise the successes and the failures of the forest sector, especially on the issues of governance, law enforcement and community rights and benefits in an open and honest way. The public could then use platforms like these to provide feedback on the VPA to ensure and improve implementation.

Additionally , the FDA should establish a fully functioning reading room to ensure that the right of the public to access to forest related information, especially those related to VPA implementation is realized.

Last, to ensure that other non-forestry related platform and organisations become well informed and can present their view, specific meetings could be organised with with e.g. the Federation of Liberian Youth (FLY) to involve the opinion of Youth into the implementation of the VPA.

44 Voluntary Partnership Agreement between the Government of Liberia and the European Union, 9 May 2011.

## Monitoring by civil society and communities

Comparing the various concerns of civil society, ensuring that the agreement incorporates provisions on civil society monitoring was one of its key demands. This was considered important because there was an expectation that by formally providing for civil society and community monitoring of the implementation of the VPA, it would provide an opportunity to be able to document and highlight issues of concern during implementation and to share those with the parties and other stakeholders in real-time. In response to this request, the parties agreed specifically to provide for civil society to monitor implementation of the VPA and in so doing contribute to improving forest governance; one of the key objectives of the VPA.

Two valuable opportunities exist for civil society and communities to directly engage with and monitor the implementation of the VPA. The first opportunity is to participate in the national VPA implementation committee and the second is to design and implement a monitoring programme that is situated outside of the national committee. But how can this be done while avoiding creating a conflict of interest? How will civil society monitor implementation when it is sitting on the implementing committee? Some suggestions have been floated but the one that seems to have most traction proposes a separation of the two functions while at the same time ensuring that both arms collaborate and coordinate their efforts; so that they do not undermine or compete with each other. This will not be easy, and to do it successfully, CSOs, with the assistance of the national committee and other stakeholders, will have to discuss and design a system that enables them to respond to this challenge.

### ▼ VPA community consultation in Rivercess, Cestos in December 2010



## Conclusions

The VPA, if implemented properly, could be a useful tool for improving forest governance, curbing illegalities and ensuring recognition of and respect for community rights. By including rubber wood, the agreement could also be used as a vehicle to reform the rubber sector and bring it in line with the forestry sector, to ensure that all the products that are licensed are subject to the same community rights, environmental and broader human rights principles and safeguards.

The expected benefits of the VPA, including improved governance, better law enforcement, increased environmental and economic benefits should therefore be seen as a first step, and as an incentive for the government to embark on similar reforms in the agriculture sector, as it impacts directly on forests. This will ensure that activities in the agriculture sector do not undermine the gains made in the forestry sector.

Maximising the benefits of the VPA will require thorough implementation, which in turn will require strong political support. Many of the safeguards built into the legal framework for the forestry sector were either compromised or disregarded during implementation of forest sector reform in the latter part of the last decade. Gaps in the law and regulations were exploited, while various provisions were ignored. Therefore unless there is political will within government, especially at the level of the presidency and the legislature, the VPA will not be properly implemented. Politicians and technicians in Liberia must act together and ensure effective inter-agency collaboration during implementation.

It is key to consolidate and build on the positive relationships that currently exists amongst stakeholders. One way to achieve this is ensuring that mutually beneficial and constructive dialogue is maintained. The relatively harmonious relationship among stakeholders is one of the factors responsible for the successful preparation of an inclusive negotiating position for the government. A key feature of this was the direct participation of communities. This allowed for communities to not only share their experiences with other stakeholders but also to directly contribute to national discussion on issues that directly affect them.

Finally, the EU has a critical role to play in implementing the agreement, and it must act to ensure compliance where failure on the Liberian side threatens its credibility.



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