

09 Logging outside Timber Sales Contract A2 A three year permit issued in 2009

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Summary

This policy brief highlights evidence of approximately 14,000 cubic meters of ekki harvested in 2018/19, in the name of 'road alignment', under a permit that should have expired in 2012. Field investigations found signs that at least some of this was cut outside the permit boundary. Documents suggest at least 9,000 m³ were exported in 2019, a volume worth nearly US\$2.5 million in the international market.

If correct, this evidence represents a huge breach of the law, and points to a disturbing trend of irregularities and non-compliance with the forest laws of Liberia. Two years on, there is no news that any individual or company responsible for illegal logging has been brought to justice.

The purpose of the brief is to inform the public and support policy makers take action to address weak law enforcement and weaknesses in laws, regulations, procedures or systems that may have allowed this logging outside a supposedly expired permit to occur.

Key Messages

- Logging of a valuable timber outside of any legitimate permit appears to have occurred on a massive scale; sizeable operators must have been involved, and evidence points to two, closely intertwined companies.
- **An official investigation into the TSC A2 case was commissioned by the Ministry of Justice over a year ago. The Ministry should immediately release the report of this investigation.**
- A lack of accountability for violating the laws is reinforcing impunity. Enforcement action must be taken, including prosecuting individuals or companies involved, and revoking all relevant permits.
- The inability of the Forestry Development Authority (FDA) to enforce the laws contributes to irregularities within the sector. Reforms must be implemented, including public access to LiberTrace data.
- The evidence points to a significant loss of revenue to the State and to communities. This must be remedied, and communities must receive the full benefits they have a right to, including from expired TSCs.

Legal context

Liberia has formulated a progressive legal framework for the forest sector, stemming from the 1986 Constitution, which commits to managing natural resources in a way that ensures the maximum feasible participation of all Liberians under conditions of equality with the purpose of advancing the welfare of the Liberian people.¹ Under the

2006 National Forestry Reform Law (NFRL), one of four permits types is called Timber Sales Contract (TSC), and allows logging in areas up to 5,000 hectares (ha) for a maximum period of three years.² All logging must take place within one of the four permits, and there are no permits for logging alongside roads that lie outside permit

The IFM CM is a collection of seven Liberian CSOs working together to strengthen Civil Society-led Independent Forest Monitoring (CS-IFM) in line with Forestry Development Authority Regulation 108-07 (Part 7) and Annex VIII of the Voluntary Partnership Agreement (VPA).

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areas. A company holding a TSC must demonstrate competence in forest operations, have sufficient working capital and equipment, and not be in tax arrears.³ It must make area- and volume-based payments to the State.⁴

Every TSC also conveys certain obligations in favor of the local communities. The Government must make 30% of the Land Rental Fees it collects available to the local communities, and the company must pay them an agreed Cubic Meter fee.⁵ A Social Agreement must be signed between the company and the communities, prior to logging, which stipulates the agreed Cubic Meter fee and promises other contributions in kind, such as community buildings and basic services.⁶

This brief focusses on the road-side area to south of TSC A2 (see Figure 1) and shows that many of these legal and social obligations have not been met. This is a different location than Bokay town road, which Tarpeh Timber Company (TTC) formerly used when it operated TSC A2.

Findings

Based on information gathered by the Independent Forest Monitoring Coordination Mechanism (IFM CM) of alleged illegal logging taking place in District Number 1, Grand Bassa County, in July 2020 three member institutions of the IFM CM conducted a joint IFM investigative mission. This included examining documents and conducting fieldwork, the main findings of which are summarized below.

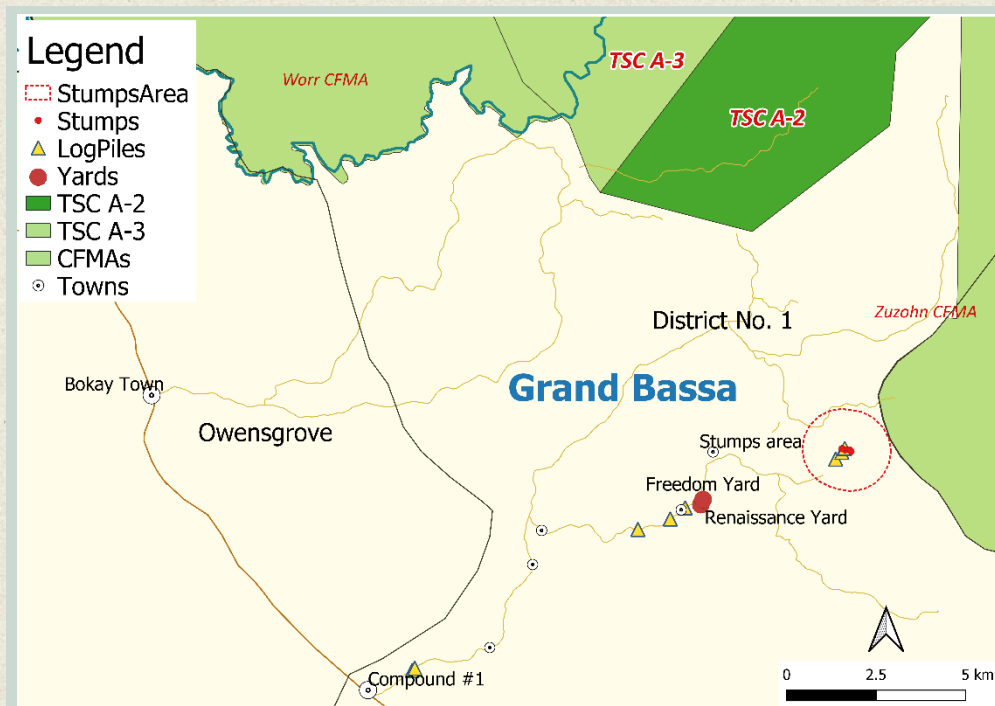


Figure 1: TSC A2 and evidence of logging outside it.

Logs linked to TTC permits for TSC A2

The investigation uncovered considerable logging, mainly if not entirely of valuable ekki (*Lophira alata*, or LOP) timber, has taken place in the area without a valid Forest Resource

License. It found logs marked TTC (see Figure 2) suggesting that TTC is associated with the logging activities. Logs were tagged with the barcodes from the Legality Verification Department (LVD), indicating that the FDA has approved the logs to legitimately enter into the chain of custody system. TTC was issued TSC A2 permit for three years in 2009, which means the permit has expired long ago, and the team found no evidence that TTC's permit has been renewed.



Figure 2: Logs marked TTC/RGI and others marked FGL found during the investigation (20 July 2020)

Logging six kilometers outside of the boundary

The logs were found some 6 kilometers (km) outside of the nearest boundary to TSC A2, in a series of small log landings and two larger log yards alongside the road from Compound Number #1 towards the former TSC A2. The investigation confirmed the log yards belonged to logging companies Renaissance Group Incorporated (RGI) and

Freedom Group Liberia (FGL) (see Figure 1). Representatives from each company told the investigation that they are sub-contractors for TTC.

A short walk from the log landing (thus similarly some 6km outside the permit area), the investigation found a number of stumps (see for example Figure 3). TTC, as the original permit holder, should be cognizant of its permit boundary having been fined for a similar violation in 2009 (see Box 1). This raises questions about TTC and the FDA allowing the TSC A2 permit to be utilized by two other companies, and this pointed to the need for a detailed investigation into their status.

Who are the companies?

Alongside the field investigation, the team sought to obtain as much relevant documentation as possible and to interview key informants, including representatives of TTC,

RGI and FGL, company workers, forestry officials, local political and elected leaders, and local community members.



Figure 3: A stump found during the investigation (20 July 2020)

During these interviews, respondents asserted that FGL is an auxiliary company of RGI and has been involved in logging activities since October 2019 in the same area where RGI is operating. This has created confusion as to which company was actually recognized by the FDA as having the right to extract logs from the area. Informants and documents indicated contested claims of ownership of the assets of the two companies had resulted in a stay order on logging activities issued by the MoJ in 2019, which was still in force at the time of the field visit in July 2020. The investigation found logs being trucked, allegedly by RGL, closer to Compound Number #1 in anticipation of shipping the logs when the stay order is lifted.

The Business Registration Certificate for RGI (expired in May 2019), seen by the investigation team, states that mining is the core activity of the company, yet it has been involved in logging since 2018. A senior representative of FGL affirmed that RGI was first conceived by seven investors with interest to mine gold, not to log, but that the “bogus behavior” of an agent of the company led to the core function of the company changing to dealing in abandoned logs, and later to felling logs without a permit. This informant furthered that the investors later discovered their names were not on the Articles of Incorporation of RGI, so switched their support to FGL.

Other testimonies and documents allude to the ‘**cost of doing business**’. For example, a highly placed political leader in the county asserted that “I was promised to get US\$25,000 if I talked for [the logging company agent] while in the meeting with his investment partners”. This informant also alleged that the company’s representative induced community elites in each of five sections with

US\$5,000 to fast-track signing of agreements with the communities to allow them operate in the area.

Furthermore, the investigation team gathered that when the logging outside TTC’s original permit area became known to the FDA in 2018, it fined RGI US\$5,000. Only after pressure from some of the FDA’s associates the management of the FDA instituted a second fine of US\$100,000.⁷

Box 1: Logging outside of boundaries: the FDA’s challenge to implement its mandate to ensure compliance

- According to the UN Panel of Experts, in 2009 TTC was exposed for felling “trees illegally outside of the concession”. The timber was value at least US\$100,000 on the international market, yet the FDA fined TTC only US\$2,000.⁸
- In 2016, SDI established that logging had taken place outside Blouquia Community Forest, and the FDA committed to “formulate a regulation ensuring forestry legal requirements are followed regarding felling of logs alongside access road leading into a concession area”.⁹
- In 2018, VOSIEDA published evidence of logging outside Numopoh Community Forest¹⁰. The FDA reluctantly instituted action by halting the operations of the company. There are no reports that further punitive action was taken against the company or suspects involved.

To date, no regulation on logging outside of permit boundaries has been formulated, and the NFRL rightly makes this difficult as it is clear that all logging must take place under one of the exiting permits. Laundering logs for ‘road widening’ and similar reasons is a widespread illegal practice in many similar countries.¹¹

The investigation team was also provided with a copy of an order issued in February 2019 from the Environmental Protection Agency, warning RGI to halt all logging activities because it had no environmental permit.¹²

How much?

The scale of this logging became clear when the investigation team learnt that a total of 14,000m³ of ekki had been enrolled into the LVD’s chain of custody system, and 9,000m³ had been exported.¹³ Market information data from the [International Timber Trade Organization](#) at that time indicated that ekki was worth up to US\$275 per m³, so an export of this volume would be worth US\$2.475 million. So the fines levied represent only 4% of the possible gains made from the logging and export. Given the value of the exported logs, the appropriate punitive

measure that the FDA would have instituted should have been to confiscate the logs.¹⁴

In summary, between 2018 and 2019, logging operations have been taking place outside of TSC A2 by RGI, FGL and TTC, and the FDA's response has been to levy a insignificant fines against violators compared to the scale of the logging by these companies. The fines do not appear to have hindered the operations at all, evidenced by the companies' continuing to extract logs in the area.

Follow-up actions

Amid these confusions and irregularities in the sector, the investigation learned that the FDA Board and the Ministry of Justice (MoJ) commissioned a "forensic investigation" into the impasse in TSC A2.¹⁵ In the spirit of cooperation and in light of the serious allegations, in October 2020, the IFM CM investigation team provided a more detailed report to the official investigation team. CSOs note with dismay that the report of the official investigation has still not been published, almost one year later. **It is critically important for Liberia, its people and its forests, that the rule of law is seen to be applied, and that citizens have the information they need to hold the government and each other to account.**

Conclusion

The evidence points to companies involved in logging operations can have the perception that felling outside a permit boundary is a low-risk activity and they can get away with violating the law. The lack of legal compliance and enforcement in the forest sector is once again leading to a loss of revenue to the State and to communities, and diminishing Liberia's ability to demonstrate sustainable

forest management for people, the economy, and mitigating climate change.

The reforms the sector has seen since the NFRL 15 years ago will not be sustained without concrete actions taken by policy makers to address these problems. The Government of Liberia must publish the official report, and respect all its recommendations. If justified by the evidence, GoL must take strong punitive action against those culpable, to assure the public and Liberia's international partners that Liberia's forest sector reform is still on course. This will increase investors' confidence and ensure that communities benefit equitably from their forest resources.

Recommendations

The MoJ must immediately release the forensic investigation report on allegations of irregularities of logging activities taking place in resource areas covered by TSC A2 in Grand Bassa County.

The FDA must, in collaboration with the MoJ, prosecute any employee of the FDA named in the official investigation who has facilitated or abetted irregular extraction of logs in the name of TSC A2.

The FDA must, if the official investigation advises, revoke the permit licenses of the three companies mentioned in this brief and others carrying out illegal logging in Liberia.

The FDA and international partners must study the evidence of this case and identify structural or systemic problems in the legality assurance system, which they must then work to resolve. Key amongst these is a public portal into the LVD database, to deter manipulation of the database and to enable more timely identification notification of any such concerns.

References

- ¹ Article 7 of the 1984 Constitution
- ² GoL, 2006, National Forest Reform Law (NFRL), Section 5.4; www.fda.gov.lr/general/liberia-law-database.
- ³ FDA, 2007, Regulation 103-07, Bidder Qualifications; Regulation 104-07 Tender, Award and Administration of FMCS, TSCs and Major Forest Use Permits; www.fda.gov.lr/general/liberia-law-database.
- ⁴ FDA, 2007, Regulation 107-07, Forest Fees, Sections 22 and 33; www.fda.gov.lr/general/liberia-law-database.
- ⁵ GoL, 2006, NFRL, Section 14.2.e.(ii), and FDA, 2007, Regulation 105-07, Major Pre-Felling Operations, Section 34; www.fda.gov.lr/general/liberia-law-database.
- ⁶ GoL, 2006, NFRL, Section 5.1.f.(iii); and FDA, 2007, Regulation 105-07, Section 31; www.fda.gov.lr/general/liberia-law-database.
- ⁷ The investigation team were given a copy of the receipt for the US\$100,00, issued by the Liberia Revenue Authority and dated April 2019. See GoL, 2006, NFRL, Chapter 20 for the offences, fines and penalties an individual or company is liable upon conviction for contravening provisions in the NFRL; www.fda.gov.lr/general/liberia-law-database.
- ⁸ UN Panel of Experts midterm report N°. S/2009/290, pursuant to Security Council resolution 1854 (2008), 5 June 2009; www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Liberia_S_2009_290.pdf.
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- ¹⁰ FrontPageAfrica, 3 February 2019, NGO Coalition Calls on the Gov't to Investigate 'Illegal logging, Consistent Noncompliance by Delta Timber Company in Sinoe'; <https://frontpageafricaonline.com/environment/liberia-ngo-coalition-calls-on-the-govt-to-investigate-illegal-logging-consistent-noncompliance-by-delta-timber-company-in-sinoe/>.
- ¹¹ See for example Global Witness, 2013, Logging in the Shadows, how vested interests abuse shadow permits to evade forest sector reforms; www.globalwitness.org/sites/default/files/shadow%20permit%20report%202013%20final_web.pdf.
- ¹² Letter issued to RGI by the Environmental Protection Agency dated February 8, 2019, reference ED/EPA-01/00384/19/RL.
- ¹³ 'Urgent situation in TSC A2', letter from Société Française de Réalisation, d'Etudes et de Conseil (SOFRECO), the appointed Independent Auditor of Liberia's timber Legality Assurance System, to the FDA, 5 November 2019, reference R2004/MBH/1289.
- ¹⁴ FDA, 2017, Regulation 118-17, Confiscated Logs, Section 3.a.1(i); www.fda.gov.lr/general/liberia-law-database.
- ¹⁵ Letter from the FDA Board to MOJ, dated 16 June 2020, reference FDA/BC/003/2020 -2.