

Timber Legality Risk Assessment Liberia

Version 1.2 | November 2017



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This risk assessment has been developed by NEPCon with support from the LIFE programme of the European Union, UK aid from the UK government and FSC™.



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This material has been funded by the UK aid from the UK government; however the views expressed do not necessarily reflect the UK government’s official policies.

Contents

A. Introduction	1
B. Overview of legality risks	2
C. Overview of the forest sector in Liberia.....	6
D. Legality Risk Assessment	8
LEGAL RIGHTS TO HARVEST	8
<i>1.1. Land tenure and management rights.....</i>	<i>8</i>
<i>1.2. Concession licenses.....</i>	<i>14</i>
<i>1.3. Management and harvesting planning</i>	<i>18</i>
<i>1.4. Harvesting permits.....</i>	<i>21</i>
TAXES AND FEES	25
<i>1.5. Payment of royalties and harvesting fees.....</i>	<i>25</i>
<i>1.6. Value added taxes and other sales taxes</i>	<i>28</i>
<i>1.7. Income and profit taxes.....</i>	<i>29</i>
TIMBER HARVESTING ACTIVITIES	32
<i>1.8. Timber harvesting regulations</i>	<i>32</i>
<i>1.9. Protected sites and species</i>	<i>35</i>
<i>1.10. Environmental requirements.....</i>	<i>37</i>
<i>1.11. Health and safety.....</i>	<i>40</i>
<i>1.12. Legal employment.....</i>	<i>42</i>
THIRD PARTIES' RIGHTS	45
<i>1.13 Customary rights</i>	<i>45</i>
<i>1.14. Free prior and informed consent</i>	<i>47</i>
<i>1.15. Indigenous/traditional peoples' rights</i>	<i>49</i>
TRADE AND TRANSPORT	51
<i>1.16. Classification of species, quantities, qualities</i>	<i>51</i>
<i>1.17. Trade and transport</i>	<i>52</i>
<i>1.18. Offshore trading and transfer pricing.....</i>	<i>54</i>
<i>1.19. Custom regulations</i>	<i>55</i>
<i>1.20. CITES.....</i>	<i>57</i>
<i>1.21. Legislation requiring due diligence/due care procedures.....</i>	<i>58</i>
Annex I. Timber Source Types	61

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ACRONYMS USED

APA - Advance Pricing Agreement

CM – Control Measure

CNDRA - Center for National Documents and Records Agency

CNRA - Centralised National Risk Assessment

CRL - Community Rights Law of 2009

CW – FSC Controlled Wood

EU - European Union

EU FLEGT – The European Union’s Forest Law Enforcement, Governance and Trade Action Plan

FDA - Forestry Development Authority

FMC – Forest Management Contract

FPIC – Free Prior and Informed Consent

GFR – Global Forest Registry

HCV – High conservation value

HCV CG – High Conservation Values Common Guidance (see Bibliography)

IMCC - Inter-Ministerial Concession Committee

LEITI - Liberia Extractive Industries Transparency Initiative

LR - Land Registry

LRA - Liberia Revenue Authority

LTP - Land Tenure Policy

NFPIS - National Forestry Policy and Implementation Strategy

NFRL - National Forestry Reform Law (NFRL) of 2006

NGO – Non-governmental Organization

NRA – National Risk Assessment

NRA-WG – National Risk Assessment Working Group

NFRL – National Forestry Reform Law of 2006

PUPs - Private Use Permits

SGS - Société Générale de Surveillance

SIR – Scale, Intensity and Risk

SIIB - Special Independent Investigate Body

TCR - Ten Core Regulations

TSC - Timber Sales Contract

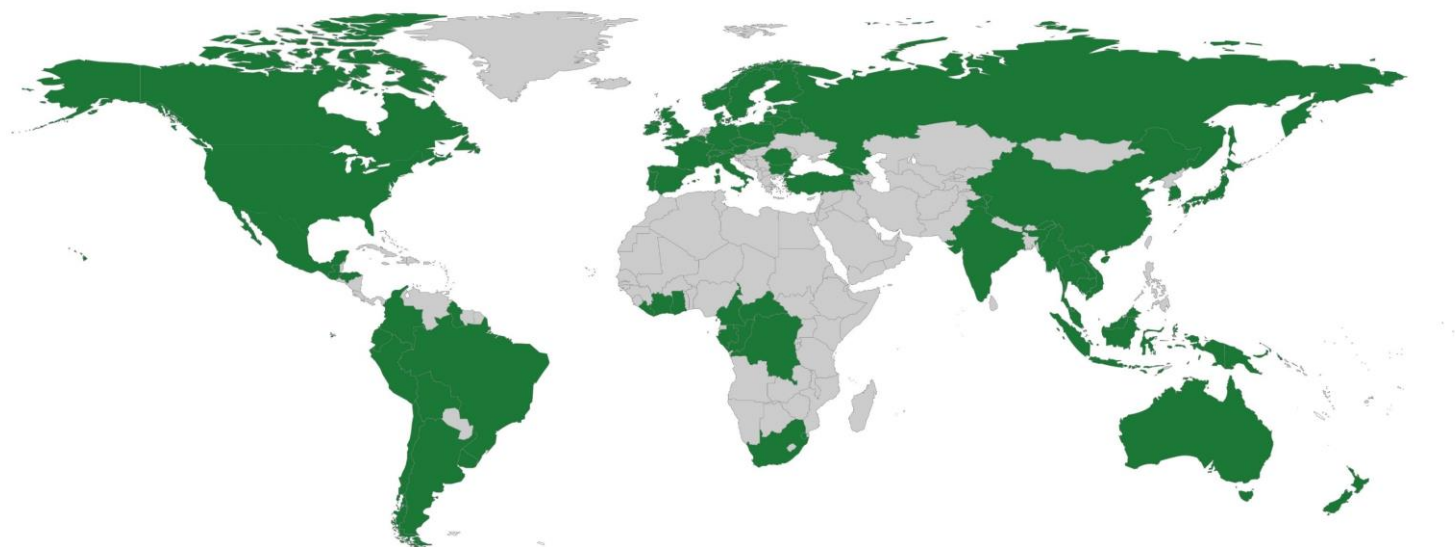
VPA - Voluntary Partnership Agreement

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A. Introduction

This Timber Legality Risk Assessment for Liberia provides an analysis of the risk of sourcing timber from areas of illegal harvesting and transport. NEPCon has been working on risk assessments for timber legality, in partnership with a number of organisations, since 2007.

In that time, NEPCon has developed timber risk assessments for more than 60 countries, illustrated in Figure 1.



Map created by StatSik (2016). StatPlanet: Interactive Data Visualization and Mapping Software. www.statistik.com

Figure 1. Countries for which NEPCon have developed a legality risk assessment for timber

The risk assessments are developed in collaboration with local forest legality experts and use an assessment methodology jointly developed by FSC and NEPCon. A detailed description of the methodology can be found on NEPCon's website.

B. Overview of legality risks

Timber Risk Score: 22 / 100 in 2017

This report contains an evaluation of the risk of illegality in Liberia for five categories and 21 sub-categories of law. We found:

- **Specified risk for 14 sub-categories.**
- **Low risk for 4 sub-categories.**
- **No legal requirements for 3 sub-categories.**

The Timber Risk Score for Liberia is 22 out of 100. The key legality risks identified in this report concern timber harvesting activities related to legal rights to harvest, taxes and fees, timber harvesting activities, and third parties' rights.

For **Legal Rights to Harvest**, there is a risk that:

- areas and time periods of tenures overlap, leading to unclear Land tenure and management rights (Sub-category 1.1).
- local communities with customary rights on public or tribal land do not have the legal deed to defend their customary title against modern tenures allocated to forest companies (1.1).
- licenses are issued by the State through a non-competitive process that circumvents the established process to issue such documents (1.2).
- forest management plans do not always provide detailed annual plans as required by law (1.3).
- forestry operators conduct forest management operations (harvesting) without an annual harvesting certificate (1.4).
- harvesting permits are issued without forestry operators complying with requirements for obtaining permits (1.4).

For **Taxes and Fees**, there is a risk that:

- royalties and harvesting fees are not paid (1.5).
- value added taxes and other sales taxes are not paid (1.6).
- income and profit taxes are not paid (1.7).

For **Timber Harvesting Activities**, there is a risk that:

- operational prescriptions of annual management plans are not implemented (1.8).
- commercial logging activities are conducted in proposed protected areas (1.9).
- private use permits are issued without an environmental impact assessment (1.10).
- Personal Protective Equipment is not used (1.11).
- quality of drinking water provided to employees and their families is not up to standard (1.11).
- health and safety committees are non-existent or dysfunctional (1.11).
- foreign companies bring in foreign workers from their country of origin without proper work permits (1.12).

For **Third Parties' Rights**, there is risk that:

- corrupt companies and individuals exploit and use their land without having obtained communities' approval or without having provided just compensation for the use of community land (1.13).
- affected communities are not involved in the validation process of management contracts and FPIC is not obtained from them (1.14).
- while trying to fulfil FPIC and third parties rights, companies enter negotiations with groups or individuals who are not recognized by the communities as their valid representatives (but claim themselves to be) (1.14, 1.15).

For **Trade and transport**, there is a risk that:

- Illegal trade of CITES listed species takes place (1.20)

Timber source types and risks

There are five timber source types found in Liberia. Knowing the "source type" that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all five of these source types and found that if legislation is in place for the specific source type, the risk is the same.

Forest management contract (FMC)	Timber from state owned land under concessions on lands of 50,000-400,000 hectares. Small FMCs (50.000-100.000 ha) are reserved for majority-owned (51%) Liberian companies. There are no restrictions on large FMCs.
Timber Sales Contract (TSC)	Timber from state owned natural forests from concessions no greater than 5,000 ha. The contract must not exceed three years. TSCs are reserved for majority-owned Liberian companies.
Private Use Permit (PUP)	Timber from private land, with the consent of the land owner. On 4 January 2013, the President issued Executive Order 44 suspending the issuance of PUPs. However, some PUPs in existence prior to 2013 continue to this day.
Forest Use Permit	Timber from Community owned natural forests. The area must be less than 1,000 hectares. Only timber that will be used within the country or by the community can be harvested.
Community Forest	Timber from a community forest. A Community Forest Agreement allows the community to access, manage, use, and benefit from the forest resources. Only timber that will be used within the country or by the community can be harvested.

This table summarises the findings of the timber legality risk assessment by source type.

Legal Category	Sub-Category	Risk conclusion				
		Commercial forest		Private Use Permit (PUP)	Community forest	
		Forest management contract (FMC)	Timber Sales Contract		Forest Use Permit	Community forest agreement
Legal rights to harvest	1.1 Land tenure and management rights	Specified	Specified	Specified	Specified	Specified
	1.2 Concession licenses	Specified	Specified	N/A	N/A	N/A
	1.3 Management and harvesting planning	Specified	Specified	Specified	Specified	Specified
	1.4 Harvesting permits	Specified	Specified	Specified	Specified	Specified
Taxes and fees	1.5 Payment of royalties and harvesting fees	Specified	Specified	Specified	Specified	Specified
	1.6 Value added taxes and other sales taxes	Specified	Specified	Specified	Specified	Specified
	1.7 Income and profit taxes	Specified	Specified	Specified	Specified	Specified
Timber harvesting activities	1.8 Timber harvesting regulations	Specified	Specified	Specified	Specified	Specified
	1.9 Protected sites and species	Specified	Specified	Specified	Specified	Specified
	1.10 Environmental requirements	Specified	Specified	Specified	Specified	Specified
	1.11 Health and safety	Specified	Specified	Specified	Specified	Specified
	1.12 Legal employment	Specified	Specified	Specified	Specified	Specified
Third parties' rights	1.13 Customary rights	Specified	Specified	Specified	Specified	Specified
	1.14 Free prior and informed consent	Specified	Specified	N/A	N/A	N/A
	1.15 Indigenous/traditional peoples rights	N/A	N/A	N/A	N/A	N/A
Trade and	1.16 Classification of species, quantities,	Low	Low	Low	Low	Low

transport	qualities					
	1.17 Trade and transport	Low	Low	Low	Low	Low
	1.18 Offshore trading and transfer pricing	N/A	N/A	N/A	N/A	N/A
	1.19 Custom regulations	Low	Low	Low	Low	Low
	1.20 CITES	Specified	Specified	Specified	Specified	Specified
	1.21 Legislation requiring due diligence/due care procedures	N/A	N/A	N/A	N/A	N/A

C. Overview of the forest sector in Liberia

Source: Risk tool – Liberia. <http://www.forestlegality.org/risk-tool/country/liberia>. Forest Legality Alliance. Consulted on June 1st 2016.

The Republic of Liberia has forest area is an estimated 44% of the total land area. There are three types of forest in Liberia: 1. State (which by extension would entails public ownership) 2. Community and 3. Private. The Republic holds all forest resources in trust for the benefit of the People except for forest resources located in Communal Forests and forest resources that have been developed on private or deeded land through artificial regeneration. The state also owns all minerals above and below the subsoil as detailed in Article 22 b. which states that "Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic."

While the forestry sector has undergone some reforms, past activities from the sector prior 2006 have been marked by mismanagement that led to loss of revenue¹ for the government of Liberia and inadequate benefit to the local communities that were directly affected by the activities of the sector. Over the last several years, Liberia has developed a range of laws and policies that govern forest management, such as the National Forest Reform Law of 2006 (NFRL), the Community Rights Law of 2009 (CRL), Ten Core Regulations (TCR), National Forestry Policy and Implementation Strategy (NFPIS), the Land Tenure Policy (LTP), and many others. Despite these laws, regulations, and policies, there are still major issues of mismanagement of forest resources, corruption and poor governance.² As a result, Liberia currently has no certified forests. The country signed a Voluntary Partnership Agreement (VPA) with the European Union (EU) in July 2011 after negotiations commenced in 2009. On December 2, 2013, the Liberia-EU VPA was entered into force, and marked by Liberian officials signing project funds over to civil society organizations.

Historically, the most common land use category promoted by the Government of Liberia was commercial logging on private land under Private Use Permits (PUPs). Over a period of two years from 2010 and 2012, the PUPs have extended over an estimated area of more than 2.3 million ha, which is approximately 20% of Liberia's land mass and 30% of Liberia's forests. Following the Special Independent Investigative Body (SIIB) in 2012, the legitimacy of some PUPs have been questioned. In response, the government has taken action and there have even been prosecuted and convictions and those permits have been terminated. In addition, Executive Order No. 44 in January 2013 was passed, setting out a temporary moratorium on the issuance of PUPs for activities involving or related to the felling or export of logs or under any PUPs granted, authorized or approved by the Forestry Development Authority (FDA). Today, the most promoted forest regime by the government is the Community Forest through the CFMA

¹ <https://eiti.org/files/LEITI-forestry-report.pdf>

² This claim was refuted in feedback received from the Liberia Forestry Development Authority.

During Liberia's period of civil war, the UN imposed a global ban on Liberian timber, which was being used to fund the conflict. After the war, the UN lifted its sanctions, but the regeneration of large-scale timber extraction in the country proved complicated for local people, the environment, and efforts to strengthen governance. In 2004, Liberia initiated a forest sector reform process, which included a review of all existing logging concession claims. This required a review of all laws and regulations relating to forestry, as well as the forest policy and management strategies. The action 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.

Key pieces of legislation were brought in, including the 2006 National Forestry Reform Law, which is the current legal instrument that guides the management of forest resources in Liberia. It also led to the Community Rights Law of 2009. Under the framework of these two statutes, a variety of different permits and concessions types have developed, which are dependent on the ownership and type of land, and the resources to be extracted. The National Forest Policy of 2006 describes the main directions for the future of forestry development in Liberia, and it updates earlier policies so they take into account the new law. The 2009 Community Rights Law was brought in to fully engage and empower communities in the sustainable management of the Liberian forests by creating a legal framework that defines and supports community rights in the management and use of forest resources even though it falls short in awarding direct land ownership to these communities. Section 2.1 provides the specific objectives of the Community Rights Law (CRL). 2.1a identifies community rights as owners, so long as they can provide proof of ownership, whether through statutory or customary means. In the future, statutory ownership may be provided through the Land Rights Act, today the CRL has recognized Community Ownership to Forest land that they can demonstrate ownership of, whether customary or otherwise.

The law designates the Forestry Development Authority as the representative of the Government in any matters concerning the use of forest-related Government property, including the use of Forest Land and the harvest or other use of Forest Resources. The Liberia Land Authority (LLA) Act, which was recently passed by the Senate and submitted to the House of Representatives will handle the responsibility of the land functions currently handled by the Ministry of Lands, Mines and Energy, and certain functions of the Ministries of Internal Affairs and Public Works, and the Center for National Documents and Records Agency. The LLA will also implement existing land legislation such as the act against the criminal conveyance of land.

Additional sources:

- FAO. 2015. Global Forest Resources Assessment 2015. FAO.
<http://www.fao.org/forest-resources-assessment/en/>

D. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

- National Forestry Reform Law of 2006. Available at:
<http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
 - CHAPTER 2. OWNERSHIP AND USE OF FOREST RESOURCES
 - Section 2.1 Ownership of Forest Resources
 - a. All Forest Resources in Liberia, except as provided in Subsection (b) of this Section, are held in trust by the Republic for the benefit of the People.
 - b. The following types of Forests Resources are neither owned nor held in trust by the Republic:
 - (i) Forest Resources located in Communal Forests; and
 - (ii) Forest Resources that have been developed on private or deeded land through artificial regeneration.
 - Section 2.3 Non-Interference
 - a. No Person shall intentionally and unreasonably interfere with the lawful exercise of rights granted under any Forest Resources License.
 - Chapter 5 (1) (b-d) relates to permission for engaging in commercial use of forest resources in Liberia
 - Chapter 5 (1)(f) relates to protection of community land tenure rights
 - f. The Authority shall, by Regulation or otherwise, undertake measures to institutionalize the participation of communities in forest management. Such measures may include, but are not limited to:
 - (i) Recognition and protection of community land tenure rights;
 - Section 5.4 Timber Sale Contracts
 - j. In awarding a Timber Sale Contract under Subsection (i) of this Section, the Authority shall:
 - (i) Take into account the terms of any existing contract, deed, or similar instrument pertaining to the ownership or management of the Forest Land to

be covered by the Timber Sale Contract; and

- (ii) Respect established contractual and property rights, if any, under these instruments to the greatest extent possible, consistent with the purposes of this Law.
- Chapter 10 Section1 Community Empowerment
 - a. the Authority shall by Regulation grant to local communities user and management rights, transfer to them control of forest use, and build their capacity for sustainable forest management.
- CHAPTER 11. RIGHTS OF LAND OWNERS AND OCCUPANTS
- Section 11.4 Procedure on Refusal of Land Owner to Allow Operations
 - a. If a Land Owner refuses to grant permission to the Holder of a Forest Resources License to conduct Operations, the Holder may petition the Authority to intervene, setting forth all relevant facts and circumstances, including any financial offers made to the Land Owner or Occupant.
- National Forestry Policy and Implementation Strategy, available at: <http://www.fao.org/forestry/16167-0dd77b0af6b1e94481d519ab979fd40db.pdf>
 - 8.1 Land tenure, ownership and land use planning
- Community Right Law of 2009 With Respect to Forest Lands, available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-of-2009-with-Respect-to-Forest-Lands.pdf>
 - Section 2.3 - Classified forest land designated as community forest land; land ranging from 5,001 to 49,999 hectares; Public land with any of the following deeds (aborigines Grant deed, Public land Deed, Public Land Sales Deed, Tribal land Deed Certificate and warranty deed).
 - Section 3 - sets out the rights and responsibilities of the communities in the management of the community forest
 - Section 6.5- set out the land rental fee (Area Fee) and bids premium for community forest.
- Liberia Land Tenure policy 2013, available at: [http://www.landlib.org/doc_download/Land%20Rights%20Policy%20Final%20Final%20Final%20\(2\).pdf?a4705305cd27e04fb1f66830e7e0ef9d=ODc%3D](http://www.landlib.org/doc_download/Land%20Rights%20Policy%20Final%20Final%20Final%20(2).pdf?a4705305cd27e04fb1f66830e7e0ef9d=ODc%3D)
 - 2.1. Secure Land Rights. The most important principle guiding the Land Commission's policy recommendations is ensuring that all communities, families, individuals, and legal entities enjoy secure land rights free of fear that their land will be taken from them, except in accordance with legal due process. By creating secure land rights people expect those rights to be stable and secure in the future, which promotes long term decision making.
 - 4.1 - The Government of Liberia is responsible for administering and management land within the territory of Liberia in the public interest.
 - 6.3 - Customary Land Right that are not deeded are treated as public land/

government land

- 6.3.1 - Community ownership of customary lands is formalize only upon the issuance of a title deed
- 6.3.2 - The Government has exclusive ownership rights over "any mineral resources "any mineral resources on or beneath any land or . . . any lands under the seas and waterways." The Government will have authority to regulate natural resource use and access, consistent with customary ownership rights and legal due process.

6.3 - Customary Land Right that are not deeded are treated as public land / government land

- 6.3.1 - Community ownership of customary lands is formalized only upon the issuance of a title deed
- FDA Ten Core Regulations, available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>
 - Regulation 103-07 - Deals with pre-qualification requirements by the FDA to participate in the competitive bidding process of the PPCC for the acquisition of forest resource license.
- Liberia Code of Forest Harvesting Practices 2007, available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Code-of-Forest-Practices-2007.pdf>

1.1.2. Legal authority

- Forestry Development Authority
- Inter-Ministerial Concession Committee (IMCC)
- Land Registry (an entity under the control of the Probate Court.)
- Center for National Documents and Records Agency (CNDRA)
- Land Commission of Liberia, available at: http://www.landlib.org/doc_download/ACT%20CREATING%20THE%20COMMISSION.pdf?a4705305cd27e04fb1f66830e7e0ef9d=NDY%3D. Mandate and Purpose of the commission: The Commission is to propose, advocate and coordinate reforms of land policy, laws and programs in Liberia. It does not have adjudicatory or implementation role.
- Ministry of Lands, Mines and Energy, Ministry of Internal Affairs, Ministry of Agriculture, Ministry of Public Works (Regulations to the Community Rights Law with Respect to Forest Lands, available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-Regulations-Printed-Version.pdf> (Section 5)

1.1.3. Legally required documents or records

- Current Business Registration
- Article of Incorporation

- Certificate or Letter of Recognition issued by the FDA
- Performance bonds
- Permission from the Land Owner in writing
- Community Forest Agreement. Available at: http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-Regulations_Printed-Version.pdf
- Title Deed
- Forest Resource License

1.1.4. Sources of information

Non-Government sources

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1.1.5. Risk determination

Overview of legal requirements

The National Forestry Reform Law of 2006 provides the management and operational framework for the forest sector in Liberia. It defines the process that forest companies involved in large, medium or small scale (pit sawyers) should adhere to become and remain compliant. For example, Forest Management Contracts (FMC) are subject to a land area of at least 50,000 hectares and no more than 400,000 hectares; in case the area is less than 100,000 hectares, the bid documents must state that qualified bidders should demonstrate at least 51% ownership by Liberian citizens; only persons with a valid pre-qualification certificate can submit bids for FMCs; and the land area should be subject to validation. Where the land is privately owned, the FDA shall attest to its use for commercial purpose to ensure consistency with land use, environmental impact, and a social agreement that provides some rights to communities that depend on the forest for livelihood.

The Community Rights law of 2009 provides the legal framework that empowers local communities to access, manage, use, and benefit from forest resources they are located on or near. The law does not give the communities ownership but customary and management rights on the land. To be defined as an Authorized Forest Community

within a specific geographic area, a community must submit an application and seek approval from the Forest Development Authority which will then grant the community a Community Forest Agreement that allows the community to access, manage, use, and benefit from the forest resources.

Under both the National Forestry Reform Law of 2006 and the Community Rights law of 2009 the FDA grants the rights to manage the forests. Tenure to forest land in Liberia is basically owned by the state. Liberia has the sole right to land ownership except for private or deeded land. Government also owns all forest resources except for forest resources located in Communal Forests and forest resources that have been developed on private or deeded land through artificial regeneration (NFRL Section 2.1).

Description of risk

The main risks related to land tenure and management rights are caused by the overlapping of tenures, and by the periods for which tenures are allocated. There are problems with customary tenures that overlap with legal tenures, as well as with legal tenures overlapping with each other:

1. Local communities with customary rights on public or tribal land do not have the legal deed to defend their customary title against modern tenures allocated to forest companies (Wily, 2007 p. 244). While this is not a risk with regards to legality per se, it represents an operational risk caused by overlapping tenures, i.e. legal VS customary. However, according to the author of this analysis (Sam Tokpah – based on his extensive field experience in Liberia), unofficial land claims and shifting cultivation do pose risks to the legality of timber with regards to tenure and management rights. Based on the author's experience, poor coordination between government ministries (Mines, Forestry, Agriculture) have led to land agreements with private companies that overlap with land where communities have customary rights. For example, most community forest areas have not been deeded and as such are case for conflicts between authorities and communities over classification, and illegal logging could occur as a result of this situation (Brown, 2016). Some areas are subject to encroachment by local people and are converted to agriculture against the law. The timber from such areas may enter the log supply. On this point, the FDA have stated that Community forest are clearly demarcated prior to the signing of Community Forest Management Agreement (CFMA) and as such, there is no such competing claim between the Authority and Communities. The FDA concedes that there have been competing claims between adjacent communities which are usually settled and boundaries determined (Feedback on NEPCon National Timber Legality Risk Assessment provided by the FDA, October 2016). Another example: Over 1million hectares have been allocated as FMC and TSC concessions to wood suppliers in Liberia which may be the object of land claims by communities on the basis of their customary ownership. Land tenure issues remain largely unresolved in Liberia (*Halton et. al, not dated*).

2. Corruption is affecting land tenure and management rights by the issuance of licenses / agreements / permits by authorities outside of the tenure and areas/boundaries defined by forest or other laws. "Complicit in the illegal logging, the central government sometimes also confuses the tenure situation by giving multiple licenses to the same area." (Blundell, 2008). "Rights to land ownership and use of resources such as minerals and timber have become increasingly critical issues in recent years, fueled by increased

foreign investor interest and clashes between traditional and statutory land uses. Though the GOL placed a moratorium on public land sales in 2010 to resolve conflicting land tenure systems, it continues to enter into legally binding investment agreements with firms to use land, including for mineral and agricultural concessions." (US Department of State, 2015). In other areas, PUPs were allocated overlapping with existing FMC concessions, creating uncertainty over the status of existing concessions (Halton et. al, not dated). The FDA argues against Halton et al claim, stating that no multiple licenses have been issued to the same forest concession area by the Authority (Feedback on NEPCon National Timber Legality Risk Assessment provided by the FDA, October 2016).

3. There is a lack of consistency and disregards for legal prescriptions in the periods that tenures are issued. For example, there are 23 Private Use Permit licenses which have been issued for periods ranging between 3 – 23 years. While the law prescribes that "the duration of the rotation (of FMCs) is set at 25 years, but can be extended if justified by the holder. The rotation is generally a multiple of 5 years" (LEITI, 2013), an FMC in the Grand Gedeh County (which also occupies a land area allocated as PUP in favor of People of Cavalla District, was extended for 23 years (LEITI, 2013, p. 81). This claim by LEITI was refuted by the FDA, who stated that "No FMC and/ or TSC was ever issued by the Authority in the Cavalla District in Grand Gedeh County" (Feedback on NEPCon National Timber Legality Risk Assessment provided by the FDA, October 2016).

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.1.6. Risk designation and specification

Specified risk

1.1.7. Control measures and verifiers

- In areas with land ownership conflicts, consultation with neighbours, local communities or the landowner shall confirm that land tenure rights are clear and not overlapping.
- Purchasers of wood from Liberia should verify the period the tenure was allocated to its supplier, making sure it is in accordance with legal prescriptions with regards to tenure durations/periods for renewals.

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

- General Business Law No. 4.3 to 4.5
- Chain of Custody System Standard Operating Procedure (sections 5, 7, 8, 9, 19, 20, & 21)
- National Forestry Reform Law 2006, Sections 3.3; 4.1-4.5; 5.2a; 5.3; 5.6 ; Chapter 6 (1-3) related to assignment, termination, and transfer of forest resource licenses basic qualification to engage in commercial forest operation (above 18yrs of age, mentally sound, non convict, etc.)
- Regulation 103-07 (21-22) - forbids changing ownership structure during the bidding process
- Regulation 104-07 (31-36, 41-46, 61b, 62) deals with conditions for issuance of performance bonds
- Public Procurement & Concessions Act, Section 44
- CRL 2009:
 - Chapter 6
 - Chapter 5 (1) (b-d) relates to permission for engaging in commercial use of forest resources in Liberia
 - Chapter 5 (1)(f) relates to protection of community land tenure rights
 - Chapter 5 (2) related to basic qualification to engage in commercial forest operation (above 18yrs of age, mentally sound, non co nvict, etc.)
 - Chapter 6 (1-3) related to assignment, termination, and transfer of forest resource licenses basic qualification to engage in commercial forest operation (above 18yrs of age, mentally sound, non-convict, etc.)
- Amendment and restatement of the public procurement and concessions act, 2005

1.2.2. Legal authority

- Ministry of Commerce & Industry
- Forestry Development Authority
- Public Procurement & Concession Commission
- Inter-Ministerial Concession Committee
- Liberia Business Registry

1.2.3. Legally required documents or records

- a) Notification of the results of the inter-ministerial commission concerning the selection of the forestry entity like the best bidder, issued by the minister in charge of forestry.
- b) Proof of payment of caution fee in public treasury within the stated time limit
- c) temporary or permanent exploitation agreement signed between the private

economic operator and the State

- In case of transfer:
 - a. Receipts / transfer requests addressed to the Minister of Forestry by the concessionary and the applicant
 - b. Notification of the transfer of the concession by the competent authority
 - c. Receipts for the payment of the transfer tax as stated by the law
- Current Business Registration
- Article of Incorporation

1.2.4. Sources of information

Government sources

- FAO (2006) *National Forestry Reform Law of 2006* [online]. (Part II of Title 23 of the Liberian Code of Laws Revised) Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
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Non-Government sources

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- Liberia Extractive Industries (2013). *Liberia Extractive Industries Transparency Initiative Post Award Process Audit Process Report*. [online]. Available at: <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/151344593-leiti-post-award-process-audit-process-report.pdf> [Accessed 22 July 2016]
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- De Wit, P. (2012). *Land Inventory and Land Management Planning in Sinoe County* [online]. Land Commission of Liberia. Available at: http://eeas.europa.eu/archives/delegations/liberia/documents/press_corner/20130916_02.pdf [Accessed 22 July 2016]

1.2.5. Risk determination

Overview of Legal Requirements

The Forest Law of 2006 defines the process through which licenses are acquired by companies or individuals in Liberia's forest sector. All Forest Management Contracts (FMC) must:

- have gone through a competitive bidding process as defined under the Public Procurement and Concessions Act
- be signed by the President
- ratified by the Legislature during the legislative session in which the contract has been presented.

Per the PPCA (section 111), a Concession Bid Evaluation Panel (CBEP) must be constituted by IMCC for each concession.

For FMC covering land area between 50,000 and 99,999 hectares, at least 51% Liberian citizens are required. If there are no qualified bidders in the current bid cycle, the FDA may start a new bid around until qualified Liberians are identified (at least 51%). All FMCS covering 100,000 hectares to 400,000 hectares shall be open to all Liberian as well as international investors. A valid pre-qualification certificate is required to submit bids for FMC. Land awarded to FMC must not include private land. (NFRL, Section 5.3).

Timber Sale Contracts (TSC) which should also follow the PPCA are acquired through a bidding process which also requires 51% Liberian Ownership. The Authority may grant TSCs to successful bidders but shall take into account "the terms of any existing contract, deed, or similar instrument pertaining to the ownership or management of the Forest Land to be covered by the Timber Sale Contract".

The Community Right Law of 2009 defines the process for small to large scale use of forest resources, all community forest land must be "identified, validated and recommended by the Forestry Development Authority for approval to the Community Forest Management Body." The Community Assembly (CA) is the highest decision making arrangement for community forest matters, including forest management plans.

All awarded TSC have Annual Operational Plan as required by the law. Annual Operational Plan (AOP) is one of the pre-felling requirements in obtaining a Harvesting Certificate.

Description of risk

1. Request for bidding or invitation to bid, and bidding documents for several FMCs and TSCs did meet the approval of the IMCC, as required by the PPCA (LEITI, 2013, p.56). In many instances, the IMCC was not even set up to review applications and licenses were issued anyway by the State, through a non-competitive process, circumventing the established process to issue such documents.
2. Overlapping FMCs land area with private land. There is evidence that Euro Liberia Logging Company with land acreage of 253,670 hectares was awarded a land area which overlapped with a private land, Thienpo Chiefdom (LEITI, 2013, p.72).

Risk conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.2.6. Risk designation and specification

Specified risk

1.2.7. Control measures and verifiers

- Proper legal procedures for obtaining concession licenses shall be followed.
- Valid concession license agreements shall exist.
- Consult with a private lawyer versed in the forest sector to ensure full compliance the bidding process;
- Check that the supplier had a valid pre-qualification certificate before submitting its bids for FMC;
- Work with the Ministry of Mines to confirm that land area is unencumbered, and at the same time meet with forest communities to confirm land demarcation.

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

- Liberia code of Forest Harvesting Practices 2007
 - Chapter 2 relates to Planning requirement and pre harvest enumeration.
 - Chapter 2 (1) deals with the various type of forest management planning;
 - Operational planning covers the background, conditions and plans for the

entire contract area

- Detailed planning for operations covers activities to be carried out within a 5-year period; and
- Annual planning covers the previous year's activities and operational plans for the following year including Silvicultural prescription/treatments
- Chapter 2 (2) deals with pre harvest enumeration; the purpose of pre harvest enumeration; the standard of preharvest enumeration and the necessary parameters that must be assessed and recorded during pre harvest enumeration.
- Chapter 3 relates to exclusion areas and buffer strips that must be taking into consideration when doing forest harvesting and management planning.
- National Forestry Reform Law 2006, Sections 5.3; 5.6 deals with management and operations plans
- CRL 2009, Sec. 6.4 Forest Management Plan must be produced before commercial activities can occur.
- Guidelines for Forest Management Planning in Liberia. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Forest-Mgmt-Plan-Guidelines-2009.pdf>

1.3.2. Legal authority

- Forestry Development Authority
- Environmental Protection Agency

1.3.3. Legally required documents or records

- a. Forest management plans (required for all forest management contracts) are approved by the Forestry Development Authority.
- b. TSC holders are required have at least the annual plans, while FMCs are required to have a detailed plan.
- c. Strategic Forest Management Plans

Agreements with local communities fall under the Public Use Permit (PUPs) - communities consummate arrangements directly with companies for use of their forest areas. This has proved to be the most scandalous/controversial forest agreements in Liberia.

1.3.4. Sources of information

Government sources

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- FAO (2006) *National Forestry Reform Law of 2006* [online]. (Part II of Title 23 of the Liberian Code of Laws Revised) Available at: <http://www.fao.org/forestry/16151->

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Non-Government sources

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- fao.org (N.Y.) *The Liberia Forest Initiative*. [online]. Liberia Forest Initiative. Available at: <http://www.fao.org/forestry/ifi/en/> [Accessed 1 September 2016]
- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 1 September 2016]

1.3.5. Risk determination

Overview of Legal Requirements

A Forest Management Plan is required before any activity begins in the commercial forest sector, according to the Code of Harvesting 2007 (section 2.1). The plan should include operational considerations, should be detailed, and cover annual operations planning. The emphasis is mostly on FMCs. TSCs are required to have, at the minimum, an annual operations planning documents validated by the FDA. Each forest management plan must include inventory of the area to be harvested including the species allowed to be cut, and a pre-harvesting exercise to document trees to be harvested.

Description of Risk

1. Forest Management Contract (FMC) forest management plans do not always provide detailed annual plans as required by law (SIIB, 2012);
2. Not all Timber Sales Contracts (TSC) have annual plans as required;
3. Many operators fail to comply with the legal requirements of their forest management plan (species, volumes, minimum diameter, harvest areas, etc.) when conducting forestry activities.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.3.6. Risk designation and specification

Specified risk

1.3.7. Control measures and verifiers

- Approved forest management plans shall exist for the FMC and Communal Forest where the harvesting is taking place.
- Forest management plans shall contain all legally required information and procedures.
- Annual operating or harvesting plans shall be in place and approved by legally competent authorities.
- Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.
- The contents of the operating and harvesting plans shall be consistent with approved forest management plans.
- Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.
- Harvesting restrictions shall be identified in management plan and maps when applicable.
- Harvesting inventories and pre-harvesting exercises shall be conducted according to legal requirements and included in the management plan for each type of license.
- Field verifications by the company as well as by forest authorities shall indicate that the contents of the harvesting plans are adhered to in the field.
- Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process.
- The contents of the management plan shall be technically sound and consistent in meeting legal requirements.

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

- National Forestry Reform Law of 2006 Chapters 4 to 7. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- National Forest Management Strategy. Available at:

<http://www.fao.org/forestry/16167-0dd77b0af6b1e94481d519ab979fd40db.pdf>

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- Community Rights Law 2009 Sec. 6.4. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-of-2009-with-Respect-to-Forest-Lands.pdf>

1.4.2. Legal authority

- Forestry Development Authority
- Environment Protection Agency
- Community Forest Management Body

1.4.3. Legally required documents or records

- Forest Use Permits
- Private Use Permits
- Timber Sale Contracts
- Forest Management Contracts
- Environmental and social impacts assessment
- Harvesting permit

1.4.4. Sources of information

Government sources

- forestlegality.org (N.Y.) *Community Forest Contract (CRL 3.1)* [online]. Available at: <http://www.forestlegality.org/risk-tool/country/liberia>
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Non-Government sources

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- Global Witness (2012). *Spoiled: Liberia's Private Use Permits*. [online]. Available at: <http://ic.fsc.org/pre-download.gwsamfusadi-2012spoiled-liberias-pup.1954.htm> [Accessed 1 September 2016]
- emansion.gov.lr (2013) *President issues Executive Order 44 suspending issuance of Private Used Permits*. [online]. January 5 2013. Available at: http://emansion.gov.lr/2press.php?news_id=2472&related=7&pg=sp [Accessed 1 September 2016]
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1.4.5. Risk determination

Overview of Legal Requirements

Chapter 5 of the Forest Reform Law of 2006 gives the Forestry Development Authority the sole rights to issue Annual Harvesting Certificates (AHC) to all entities or individuals engaged in the forest sector (TSC, FMC, FUP and PUP holders). To obtain their AHC from the FDA, forest companies have to demonstrate they have performed an environmental impact assessment (EIA), do a forest inventory, do a social impact assessment, enter into agreements with affected communities. The Environmental Protection Agency (EPA) issues Environmental Impact Assessment (EIA) Licenses

Description of Risk

Authorities issue harvesting permits to forestry operators without verifying that they fully comply with requirements of the regulatory framework such as the assessment of social and environmental impacts (SIIB, 2012). The age of this investigation is noted.

In particular, holders of Private Use Permits (PUPs) don't always comply with EIA requirements (LEITI, 2013), but manage to obtain their AHC regardless through corruption of the authorities.

Some forestry operators (regardless of the type of license, not just PUP) conduct forest management operations (harvesting) without an annual harvesting certificate (SIIB,

2012). This is done through the production of forged AHCs, through the use of corruption and because of lack of capacity by the FDA to effectively control operators.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.4.6. Risk designation and specification

Specified risk

1.4.7. Control measures and verifiers

- The supplier shall be able to provide the purchaser with its social and environmental impacts assessment.
- The supplier should verify that the harvesting permit is authentic and not forged.
- Harvesting and extraction permits (license or similar legal document governing the harvesting of forest resources) shall exist.
- Stakeholder consultation shall confirm that harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority.
- Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.
- Field inspection shall confirm that information regarding area, species, volumes and other information given in the harvesting permit are correct and within limits prescribed in the legislation.

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

- The National Forest Reform Law of 2006 Section 14.2. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- Regulation 107-07. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-Regs-1-10-2007.pdf>
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- Liberia Revenue Code of 2000 as Amended. Available at: http://www.fda.gov.lr/wp-content/uploads/2015/07/Liberia_revenue_authority_act.pdf

1.5.2. Legal authority

- Forestry Development Authority
- Liberia Revenue Authority

1.5.3. Legally required documents or records

- Tax clearance by the LRA evidencing settlement of all tax arrears at the time of signing of the contract or the issuance/renewal of sawmill or timber processor permit.
- Report of any authorized representative of FDA
- Receipts of payment for area fee by any authorized representative of FDA
- Receipt of bid premium payment
- Receipt of annual registration fee payment
- Copy of Manager's check
- Receipt of stumpage fees payment
- Receipt of payment of contract administrative fees
- Receipt of payments of annual coupe inspection fees
- Receipt of payment of waybill fees
- Proof of payment of chain of custody fees
- Tax return

1.5.4. Sources of information

Government sources

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1.5.5. Risk determination

Overview of Legal Requirements

The Liberia Revenue Code defines most of the fiscal terms for the forest sector – it defines the taxes, fees and fines for the sector. Section 2108 of Phase One of the Reform Tax Code of Liberia, authorizes the FDA, in collaboration with the MFDP to establish fees for: (i) Stumpage; (ii) Land rental (area fee); and (iii) Forest Product fees.

Stumpage fees shall be assessed for all forest products harvested based on volume and species. For Category A species, 10% of the market price of harvested logs, FOB Monrovia; Category B, 5%; Category C, 2.5%. Where the logs are harvested on private lands and the trees are artificially regenerated, the fees shall be reduced by half ([Section 22 of Regulation 107-07](#)).

Section 3.1.d of the Community rights law states that communities have rights to at least 55% of all revenue (in the form of stumpage fees) generated from FMCs.

The law prescribes annual payment of the Area Fee (2.50US\$/ha for FMCs; 1.25US\$/ha for TMCs) by the forest companies.

Description of Risk

In 2007 Liberia contracted Société Générale de Surveillance (SGS) to implement its chain of custody process and established the Liberia Revenue Authority (LRA) in 2014. SGS routinely provides information on fees, taxes and exports, while the LRA ensures payments are collected.

Accuracy of the assessment of taxes and fees has improved since SGS has come into play. The Liberia Revenue Authority (LRA) has been very aggressive in the collection of taxes and fees.

While assessment of taxes and fees and collection of new mounts have improved, historic issues with regards to payment of these fees continue to this day. In December 2013, Global Witness writes "logging concessions have failed to deliver the expected revenues as of August 2013, companies owed the state US\$43,772,657 in arrears on FMCs and TSCs, most of which is the bid premium, an annual payment companies themselves offered to make during the competitive concession allocation process." (Global Witness, 2013). These amounts continue to be unpaid to this day.

In September 2009, Al-Jazeera quoted Global Witness: "Logging concessions granted for public land resulted in \$107m in taxes being owed to the Liberian government between 2008 and 2011, according to Global Witness. Private use permits bring in no tax revenue."

As a result, communities had not received up to \$1.9 million dollars owed between 2008 and 2014.

While the assessment of fees and taxes and their collection has improved, the risk here remains specified because of the outstanding amounts owed by forest companies in Liberia.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.5.6. Risk designation and specification

Specified risk

1.5.7. Control measures and verifiers

- Receipts shall exist for payments of harvesting related royalties, taxes, harvesting fees and other charges
- Volumes, species and qualities given in sales and transport documents shall match the paid fees
- Classification of species, volumes and qualities shall match the royalties and fees paid.

The control hereunder shall be carried out:

1. Obtain proof of payment of the forestry stumpage fees for the current year and the

<p>year before verification</p> <ol style="list-style-type: none"> 2. Attestation of non-indebtedness/royalties from a competent tax office or Tax clearance 3. Avoid using third party to make payments, there have been reports of third party or expeditors using fake government receipts
<p>1.6. Value added taxes and other sales taxes</p> <p><i>Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.</i></p>
<p>1.6.1. Applicable laws and regulations</p> <ul style="list-style-type: none"> • The National Forest Reform Law of 2006 Section 14. Available at: http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf • Revenue Code of Liberia. Available at: https://lra.gov.lr/laws-insuances/revenue-code <p>1.6.2. Legal authority</p> <ul style="list-style-type: none"> • FDA • Liberia Revenue Authority • Ministry of Finance and Development Planning <p>1.6.3. Legally required documents or records</p> <ul style="list-style-type: none"> • Tax Clearance • Forest Management Contracts • Timber Sale Contracts <p>1.6.4. Sources of information</p> <p><i>Government sources</i></p> <ul style="list-style-type: none"> • devincorp.net (2000) <i>Liberia Revenue Code, Act of 2000</i>. [online]. Available at: http://www.devincorp.net/docs/Revenue%20Code%20of%20Liberia%20Act%20of%202000%20-%20Phase%20One.pdf <p><i>Non-Government sources</i></p> <ul style="list-style-type: none"> • PKF (2012). <i>Liberia Tax Guide</i> [online]. Available at: http://www.pkf.com/media/387134/liberia_2012.pdf <p>1.6.5. Risk determination</p> <p><i>Overview of Legal Requirements</i></p> <p>Liberia does not have a value added tax. Forest products in Liberia are subject to the sales tax at the rate of 7%.</p>

Description of Risk

Historically, calculation and collection of sales taxes has been deficient, to the detriment of government revenue and to the benefit of forest companies. However, since the establishment of the LRA, supported by SGS, the situation has improved. However, large amount continue to be owed to the State by forest companies. For this reason, the risk of illegality continues to be specified.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.6.6. Risk designation and specification

Specified risk

1.6.7. Control measures and verifiers

- Sales documents shall include applicable sales taxes.
- Receipts for payment sales taxes shall exist.
- Volumes, species and qualities given in sales and transport documents shall match the fees paid.
- Sales prices shall be in line with market prices.
- Harvested species, volume and qualities shall match the sales documents.
- Consultation with financial authority to verify that all required income and profit taxes have been paid
- The purchaser should work with its supplier to verify that either there is no amount owed by the supplier to the State, or that a payment schedule/plan has been agreed to between the parties and that it is met.
- Avoid using third parties to make payments
- Ensure staff are trained to avoid dubious individuals and dishonest tax agents

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

- Liberia Revenue Code of 2000 as Amended. Available at: http://www.fda.gov.lr/wp-content/uploads/2015/07/Liberia_revenue_authority_act.pdf
- The National Forest Reform Law of 2006 Section 14.1. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>

1.7.2. Legal authority

- Liberia Revenue Authority
- Ministry of Finance & Development Planning

1.7.3. Legally required documents or records

- Payment receipt for the corporate income tax as well as Withholding Income tax
- Tax clearance document

1.7.4. Sources of information

Government sources

- Ira.gov.lr (2012) *Revenue Code of Liberia* [online]. Available at: <http://Ira.gov.lr/LRCamended2011.pdf>

Non-Government sources

- sgs.com (N.Y) *SGS Chain of Custody Certification*. [online]. Available at: <http://www.sgs.com/en/agriculture-food/forestry/services-for-forest-products-and-solid-biofuels/audits-certification-and-training/forest-product-chain-of-custody-certification>
- globalwitness (2013) *Liberia's Forest Sector: A New Window of Opportunity*. [online]. Available at: <https://www.globalwitness.org/en/campaigns/liberia/liberias-forest-sector-new-window-opportunity/>
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- World Bank (2016). *Paying taxes in Liberia*. [online]. Available at: <http://www.doingbusiness.org/data/exploreeconomies/liberia/paying-taxes/>
- Global Witness (2013). *Liberia's forest sector: A new window of opportunity* [online]. Available at: <https://www.globalwitness.org/en/campaigns/liberia/liberias-forest-sector-new-window-opportunity/> [Accessed 1 September 2016]

1.7.5. Risk determination

Overview of Legal Requirements

The Liberia Revenue Code defines most of the fiscal terms for the forest sector – it defines the taxes, fees and fines for the sector. The income tax rate for forest products is 25% (Section 602 Liberia Revenue Code Amended, 2011).

Description of Risk

There is a history of lack of payment for all sorts of fees, sales taxes and income taxes by forest companies to the government. In December 2013, Global Witness writes "logging concessions have failed to deliver the expected revenues as of August 2013,

companies owed the state US\$43,772,657 in arrears on FMCs and TSCs, most of which is the bid premium, an annual payment companies themselves offered to make during the competitive concession allocation process” (Global Witness, 2013).

In September 2009, Al-Jazeera quoted Global Witness: “Logging concessions granted for public land resulted in \$107m in taxes being owed to the Liberian government between 2008 and 2011, according to Global Witness. Private use permits bring in no tax revenue.”

The establishment of the Liberia Revenue in 2013 is expected to address some of these challenges.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.7.6. Risk designation and specification

Specified risk

1.7.7. Control measures and verifiers

- Consultation with financial authority to verify that all required income and profit taxes have been paid
- Check the documentary evidences of payment of Forest Royalties and share paid to the populations
- Work closely with SGS and the Liberia Revenue Authority to ensure strict compliance

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

- National Forestry Reform Law of 2006 Chapters 4 to 7. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/%20National-Forestry-Reform-Law-2006.pdf>
- National forestry policy and implementation strategy. Available at: <http://www.fao.org/forestry/16167-0dd77b0af6b1e94481d519ab979fd40db.pdf> - 4.2, 5.3, 7.3, 8.3.4
- Act for the Establishment of A Protected Forest Area Network and Amending Chapter 1 and 9 of the new National Forestry Law, Part II of Title 23 of the Liberian Code of Laws Revised.
- Forestry Core Regulations - FDA Ten Core Regulations (effective September 2007) . Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>
- Act to Establish the Community Rights Law with respect to Forest Lands of 2009. Available at: <http://faolex.fao.org/docs/pdf/lbr143892.pdf>
- FDA Regulations to the Community Rights Law with Respect to Forest Lands, July 2011. Available at:
<http://faolex.fao.org/docs/pdf/lbr61868.pdf>
- Liberia Code of Forest Harvesting Practices II to V & VII. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Code-of-Forest-Practices-2007.pdf>
- Chain of Custody SOP 7 to 11. Available at: <http://www.sgs.com/en/agriculture-food/forestry/services-for-forest-products-and-solid-biofuels/audits-certification-and-training/forest-product-chain-of-custody-certification>
- Environmental Protection Management Law 23. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Liberia-Environmental-Management-Act.pdf>
- AMENDMENT AND RESTATEMENT OF THE PUBLIC PROCUREMENT AND CONCESSIONS ACT. Available at: <http://www.ppcc.gov.lr/doc/PPCA%20Sept%2013%202010%20FINAL.pdf>
- Community Rights Law 2009. Available at: <http://www.fda.gov.lr/wp->

[content/uploads/2015/07/Community-Rights-Law-of-2009-with-Respect-to-Forest-Lands.pdf](http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-of-2009-with-Respect-to-Forest-Lands.pdf)

- Code of Forest Practices. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Code-of-Forest-Practices-2007.pdf>

1.8.2. Legal authority

- Forestry Development Authority
- Environment Protection Agency
- Public Procurement and Concessions Commission³ - Section 73-1-g

1.8.3. Legally required documents or records

- Annual management plans

1.8.4. Sources of Information

Non-Government sources

- forestlegality.org (2014) *Risk Tool – Liberia* [online]. Forest Legality Alliance. <http://www.forestlegality.org/risk-tool/country/liberia> [Accessed 1 September 2016]
- allafrika.com (2009) *Liberia: PPCC Overturns FDA Decision* [online]. Available at: <http://allafrica.com/stories/200909230781.html> [Accessed 1 September 2016]
- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 22 July 2016]
- Drakenberg, O., Andersson, F., Ölund, G. (2014). *Liberia Environmental and Climate Change Policy Brief* [online]. Sida's Helpdesk for Environment and Climate Change. Available at: http://sidaenvironmenthelpdesk.se/wordpress3/wp-content/uploads/2014/01/Liberia_EnvCC-PolicyBrief-2013-Final-Draft.pdf [Accessed 1 September 2016]
- Liberia Extractive Industries (2013). *Liberia Extractive Industries Transparency Initiative Post Award Process Audit Process Report*. [online]. Available at: <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/151344593-leiti-post-award-process-audit-process-report.pdf> [Accessed 22 July 2016]

1.8.5. Risk determination

Overview of Legal Requirements

Annual management plans stipulate the multiple operational requirements with regards to species allowed for harvest, use of the roads, road maintenance, minimum diameter,

drainage, water course protection, reforestation, etc.

The 2007 Liberian Code of Forest Harvesting Practices prescribes detailed operational requirements with regards to:

- Planning requirements
- Exclusion areas and buffer strips
- Construction works for logging
- Logging operations
- Non-timber Forest Product (NTFP) Management Practices
- Post-harvest activities
- Operational hygiene
- Camp hygiene
- Health and safety
- Harvest control, monitoring and assessment
- Social issues

Description of Risk

The FDA has low capacity for the monitoring and enforcement of conformance by forest companies of the operational prescriptions of their annual management plans.

Drakenberg et. Al (2014) speak to uncontrolled forestry practices a factor contributing to land degradation.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.8.6. Risk designation and specification

Specified risk

1.8.7. Control measures and verifiers

- Harvesting shall be conducted within the authorized boundaries of the FMU.
- Harvesting shall not take place in areas where harvesting is legally prohibited.
- Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans.
- Harvesting restrictions shall be observed in the field.
- Tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field
- Control measures shall be performed over the entire chain of control (from site up to the national stratum). This control aims at ensuring data compliance

- When way bills are secured and stamped by the relevant authority from the ministry in charge of forestry for logs and sawn lumbers by road
- Make observations on the field
- Inspect the timber
- Check inscriptions over all timbers of the DF10 N°, cutting down date, Title N°, Operator name, Annual logging unit Number
- Check whether the potting certificate of the relevant customs service (transportation by containers) comes along with potting report from the forestry service of the loading point
- If the special statement on slip is signed by the relevant officer in case of transportation by railway
- Check the compliance of the destination of products

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

- The New Forestry Reform Law of 2006 Chapters 9, 13, & 16;
- The Protected Forest Area Network Law of 2003
- National forestry policy and implementation strategy – 6, 7
- Code of Forest Harvesting Practices 2007 – III
- Act to Establish the Community Rights Law with respect to Forest Lands of 2009
- Community Forest Contract (CRL 3.1)
- Land Rights Policy of 2012 (5.1.4, 5.1.6, 5.2.2, 6.2)
- The Environment Protection and Management Law of Liberia
- The Environment Impact Assessment Procedural Guideline

1.9.2. Legal authority

- Forestry Development Authority
- Environment Protection Agency
- Land Commission of Liberia

1.9.3. Legally required documents or records

- The only permit that allow the protected sites and species to be harvested legally are those specifically designed for land clearing, where all the trees are to be cut.

1.9.4. Sources of Information

Government sources

- fao.org (2006). *The New Forestry Reform Law of 2006 - An act adopting the national forestry reform law of 2006* [online]. Chapters 9, 13, & 16. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- Land Commission of Liberia (2013). *Land rights policy* [online]. Available at: http://www.landlib.org/doc_download/Land%20Rights%20Policy%20Final%20Final%20Final.pdf?a4705305cd27e04fb1f66830e7e0ef9d=NDk%3D [Accessed 1 September 2016]

Non-Government sources

- rainforests.mongabay.com (2006) *Liberia* [online]. Available at: <http://rainforests.mongabay.com/20liberia.htm> [Accessed 1 September 2016]
- Fauna and Flora International (N.Y) *Liberia* [online]. Available at: <http://www.fauna-flora.org/explore/liberia/> [Accessed 1 September 2016]
- Johnson, S., Hund, K. (2015). *National Biodiversity Offset Scheme: A road map for Liberia* [online]. Available at: <http://documents.worldbank.org/curated/en/183611467991015452/pdf/95959-WP-PUBLIC-Box391432B-Liberia-1512662-FinalWeb-PUBLIC.pdf>
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- Lomax, T. (2008). *Forest governance in Liberia - An NGO Perspective*. [online]. Report produced for FERN. Available at: http://www.efi.int/files/attachments/euflegt/fern_forest_governance_in_liberia.pdf [Accessed 1 September 2016]
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- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 22 July 2016]

1.9.5. Risk determination

Overview of Legal Requirements

The Forestry Law of 2006 provides for the establishment of Protected Forest Areas Network, Conservation Corridors, and incorporating existing National Forests into a total of approximately 1.5 million hectares which comprise close to 30 percent of the existing forested area. It identifies and protects the list of animals and plants that are threatened or in danger of extinction. It prohibits harvesting, hunting, trading or capture

of any protected animals except by special permission of the Forest Development Authority

Description of Risk

According to SIIB (2012), the FDA has allowed PUPs to be issued to areas designated as Proposed Protected Areas. Still according to SIIB (2012), allowing PUPs to operate in proposed protected areas and for prolonged periods is illegal. FDA has failed to ensure the conservation goals of the NFMS are met, allowing commercial logging activities in proposed protected areas.

SIIB (2012) goes on to state that "FDA's compliance with the National Forest Management Strategy was selective and rare. Allowing PUPs to operate in proposed protected areas is a violation of the NFRL and jeopardizes conservation requirements of the Forest Management Strategy."

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.
- Legal established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.
- Nature protection regulations such as protected areas, set-aside areas, protected species and hunting regulations shall be enforced

The control hereunder shall be carried out:

1. With regards to the risk of allocation of tenure overlapping with protected areas, the purchaser should be aware of the location of existing and proposed protected areas, then obtain the map of the area where his supplier has been operating, and compare both.
2. Verify the suppliers' forest operation procedures with regards to protected species and sites. Consultation with local and national stakeholders should indicate the supplier applies best practices with regards to protected sites and species, including compliance with requirements for water bodies, sacred sites, protected areas, buffer zones, forest reserves etc.
3. As far as documentation is concerned, by making sure that the holder of a logging title has been issued a certificate of compliance with standards by the authorities.

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of

environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

- The New Forestry Reform Law of 2006 Chapter 8; Section 9.11 7 9.12
- The Environment Protection and Management Law of Liberia Part III, 21-27; Part VI; & Part VII
- The Environment Impact Assessment Procedural Guideline – Chapter 2
- National Environment Policy of Liberia (2002)
- Code of Harvesting Practices VIII to X. Available at: <http://www.fao.org/wairdocs/i3564e/i3564e.pdf>
- Regulation 105-07
- Chain of Custody SOP 9

1.10.2. Legal authority

- Forestry Development Authority
- Environment Protection Agency

1.10.3. Legally required documents or records

- Forest Management Plan for all Forest Management Contracts
- Certificate of compliance issued by the FDA

1.10.4. Sources of information

Government sources

- fao.org (2006). *The New Forestry Reform Law of 2006 - An act adopting the national forestry reform law of 2006* [online]. Chapters 9, 13, & 16. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
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- Ministry of foreign affairs (2003). *The Environment Protection and Management Law of Liberia* [online]. UNESCO Cultural Heritage Laws Database. Available at: http://www.unesco.org/culture/natlaws/media/pdf/liberia/liberia_act2002_engorof.pdf
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http://www.fda.gov.lr/wp-content/uploads/bsk-pdf-manager/Forest_Mgmt_Plan_Guidelines_2009_20.pdf

- Ministry of foreign affairs (2003). *Environmental Protection Agency Act of Liberia*. [online]. Available at: http://law.pace.edu/sites/default/files/IJIEA/primary_sources/Liberia_EPA_Act_2002.pdf

Non-Government sources

- USAID (2008). *Liberia Environmental Threats and Opportunities Assessment* [online]. Available at: http://pdf.usaid.gov/pdf_docs/Pnadm926.pdf [Accessed 1 September 2016]
- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 22 July 2016]

1.10.5. Risk determination

Overview of Legal Requirements

Section 5.6 (v) of the Forest Reform Law requires an applicant for commercial use of the forest to have prepared a five-year land management plan satisfactory to the Authority and has complied with all legal requirements for environmental impact assessment. In short, the environmental impact assessment must be prepared prior to production occurs.

Annual management plans stipulate the multiple operational requirements with regards to species allowed for harvest, use of the roads, road maintenance, minimum diameter, drainage, water course protection, reforestation, etc.

The 2007 Liberian Code of Forest Harvesting Practices prescribes detailed operational requirements with regards to:

- Planning requirements
- Exclusion areas and buffer strips
- Construction works for logging
- Logging operations
- Non-timber Forest Product (NTFP) Management Practices
- Post-harvest activities
- Operational hygiene
- Camp hygiene
- Health and safety
- Harvest control, monitoring and assessment
- Social issues

Description of Risk

There are many instances where private use permits were issued without an environmental impact assessment (SIIB, 2012, p24).

The FDA has low capacity for the monitoring and enforcement of conformance by forest companies of the operational prescriptions of their annual management plans and of the Code of Forest Harvesting Practices.

Drakenberg et. Al (2014) speak to uncontrolled forestry practices as a factor contributing to land degradation.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.10.6. Risk designation and specification

Specified risk

1.10.7. Control measures and verifiers

- Environmental and/or Social Impact Assessments shall be in place and approved by the legally competent authority if legally required.
- Requirements for environmental monitoring shall be observed.
- Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.

The control hereunder shall be carried out:

1. On the operating site by ensuring that low-impact forest operation principles are being complied with (compliance with water bodies, compliance with sacred sites, compliance with protected areas, compliance with buffer zones, compliance with forest reserves etc)
2. As far as documentation is concerned, by making sure that the holder of a logging title has been issued a certificate of compliance with standards
3. Ensure complete inventory of harvested area to identify species and environmental challenges
4. The purchaser should request the Environmental and Social Impact Assessments of its supplier

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest

operations.

1.11.1. Applicable laws and regulations

- Code of Harvesting Practices VIII to X. Available at: <http://www.fao.org/wairdocs/i3564e/i3564e.pdf> -
- The New Forestry Reform Law of 2006 Chapter 9, Section 9.12. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>

1.11.2. Legal authority

- Forestry Development Authority

1.11.3. Legally required documents or records

- A nursing / care agreement between the forest company and a health center / a working physician for its employees.

1.11.4. Sources of information

None

1.11.5. Risk determination

Overview of Legal Requirements

The Code of Forest Harvesting Practices requires "Employers have the main responsibility for safety and health in forestry work. They shall install and maintain work systems and methods which are safe and without risk to health. Employers shall provide insurance for all employees and workers. All machine operators shall receive the necessary training and instruction to ensure competency to safely operate equipment for the job they are assigned to do".

More specifically, the Code prescribes the following:

- A nursing / care agreement between the forest company and a health center / a working physician for its employees;
- Employers need to perform medical visits at the time of recruitment;
- The employer needs to provides employees and their families with clean water;
- The existence of a health and safety committee;
- The existence and the use of personal protective equipment (PPE) per workstation;
- The existence and the use of safety equipment on heavy machinery;
- Maintenance of working equipment;
- The existence and execution of safe working practice.

Description of Risk

The FDA has low capacity for the monitoring and enforcement of the health and safety prescriptions of the Code of Forest Harvesting by forest companies. According to the author of this analysis, and based on his extensive field experience, supply, training and enforcement of use of PPEs are low in the forest sector. Because doctors are relatively

rare in Liberia, employers (forest companies) will have difficulty meeting the legal requirement of providing access to a health center/physician and performing medical visits are recruitment. Water quality is not always up to standard. Health and safety committees are sometimes non-existent or dysfunctional.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.11.6. Risk designation and specification

Specified risk

1.11.7. Control measures and verifiers

Control measures on workers' health issue focus on:

- Whether or not in the business of a nursing / care agreement with a health center / a working physician;
- The medical records of workers;
- Records of medical recruitment visits;
- Analysis of the quality of the water provider to employees and their families;
- The purchaser should request to see records of meetings of the health and safety committee;
- The purchaser should request to see the accident record and communicate with H&S committee reps to verify that it is accurate;
- The maintenance of equipment, the existence and execution of safe working practice and the existence and the use of personal protective equipment (PPE) per workstation and on heavy machinery will likely require on site verification by the purchaser, unless a strong, working and independent H&S committee can testify that the issue of PPEs is in order.

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

- Liberia Labor Law 54-60, 74-75, 500-513, 700-706, 1503, 9060, 2500-2501.
Available at: <http://www.ten.org.lr/>

- Immigration Law. Available at: <http://pul.org.lr/doc/Liberia%20Alien%20Law.pdf>
- National Social Security Law 89.9

1.12.2. Legal authority

- Ministry of Labour
- National Social Security & Welfare Corporation
- Forestry Development Authority

1.12.3. Legally required documents or records

- Work permits
- Work Permits for non Liberians
- Proof of workers insurance

1.12.4. Sources of information

Government sources

- ten.org.lr (N.Y.) *Liberia Labor Law* [online]. Available at: <http://www.ten.org.lr/>

Non-Government sources

- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 22 July 2016]

1.12.5. Risk determination

Overview of Legal Requirements

The immigration law requires foreign workers to have work permits. Foreign workers are subject to payment of income tax like all other workers in Liberia.

The Liberian Labor Law prohibits Child labor: It shall be unlawful for any person to employ or hire any child under the age of sixteen years during the hours when he is required to attend school in any portion of any month when school is in session...". The Law also provides the requirements and protection for employees in the country, provides protection against wrongful dismissal, and defines processes to settle labour disputes. It also describes the method of compensation, conditions for pension/retirement, and maximum hours to work.

Description of Risk

An investigation into the issuance of Private Use Permits by the SIIB in 2012 cites "The SIIB review of operations of three forest companies showed disregard for sound labor practices, the environment and their social obligations to the communities." (SIIB, 2012, p46).

Foreign companies will sometimes bring in foreign workers from their country of origin without proper work permits, will pay a portion of their income in their bank accounts in

their country of origin, circumventing the Liberian income taxes for those foreign workers.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.12.6. Risk designation and specification

Specified risk

1.12.7. Control measures and verifiers

- Labor contract or worker's file (check employee's nationality, age, etc.)
- Employee's pay slip (check regularity, social security number, etc.)
- Employees' training reports/certificate
- Demographics of worker
- Working conditions – on site verification

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

- National Forestry Reform Law of 2006 Chapter 2, 13 & 14.2d - h. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- Community Rights Law of 2008 With Respect To Forest Land Chapters 2 & 3. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/Community-Rights-Law-of-2009-with-Respect-to-Forest-Lands.pdf>
- Land Commission of Liberia, 2013. Land rights policy. Available at: http://www.landlib.org/doc_download/Land%20Rights%20Policy%20Final%20Final%20Final.pdf?a4705305cd27e04fb1f66830e7e0ef9d=NDk%3D. Consulted Sept 1st, 2016.
- Regulation 106-07; 111-10.15. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-Regs-1-10-2007.pdf>

1.13.2. Legal authority

- Forestry Development Authority
- Liberia Revenue Authority
- Ministry of Finance & Development Planning
- Central Bank of Liberia
- National Benefits Sharing Trust Board
- Land Commission of Liberia

1.13.3. Legally required documents or records

- Social agreement between companies and the affected communities
- Stumpage fee receipt
- Area fee payment receipt

1.13.4. Sources of information

Government sources

- FAO (2006) *National Forestry Reform Law of 2006* [online]. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- Land Commission of Liberia (2013). *Land rights policy* [online]. Available at: http://www.landlib.org/doc_download/Land%20Rights%20Policy%20Final%20Final%20Final.pdf?a4705305cd27e04fb1f66830e7e0ef9d=NDk%3D [Accessed 1 September 2016]

Non-Government sources

- Special Independent Investigating Body (2012). *Report on the issuance of private use permits* [online]. Available at: <http://www.illegal-logging.info/sites/default/files/uploads/SIIBReportonPUPs.pdf> [Accessed 22 July 2016]
- allafrika.com (2013). *Liberia: Forest Dev. Committee Cries for Land Rental Fees - Petitions National Legislature* [online]. Available at: <http://allafrika.com/stories/201307021194.html> [Accessed 1 September 2016]

1.13.5. Risk determination

Overview of Legal Requirements

Communities are entitled to at least 55% of revenues generated (stumpage fees) from large scale commercial contracts between the communities, FDA and third parties (i.e. companies), [Community Rights Law 2009, Chapter 3](#).

Social agreements need to be signed between the forest company and local communities, represented by the Community Forestry Development Committees (CFDC). The communities are represented by CFDC which are composed of elders and other representatives from the communities.

Affected communities are entitled to 30% of all Area Fees collected through the National Benefit Sharing Trust, [Ten Core Regulations, Section 21](#).

"The Authority shall attest to a Private Use Permit only if all of the following conditions are satisfied: ... (vi) the applicant and the land owner commit in writing to a social agreement that shall be attested to by the Authority and that defines benefits and access rights for local forest-dependent communities", Section 5.6. vi [National Forest Reform Law 2006](#).

Description of Risk

Since its founding, Liberia has not protected the lands of customary communities, [Land Rights Policy, p6](#).

"The Government of Liberia has treated all land that is not deeded as public." "...there has never been a clear definition of public land nor a clear relationship to preexisting customary land rights." ([Land Rights Policy, p6](#)). Communities are at risk of corrupt companies and individuals exploiting and using their land without getting their approval or providing just compensation for their land.

In several instances social agreements with communities are not executed; where they are executed benefit programs are not always fully implemented ([SIIB, 2012, p ix](#)). According to the author of this assessment (Sam Tokpah), it can be challenging for the forest company to confirm the individuals it engages with truly represent the community. There are instances where individuals from the community have wrongfully claimed to be members of the CFDC. Companies do not always know who to enter into agreement with.

Direct financial benefits collected by the government have are not consistently transferred to communities creating tension and insecurity in local communities. ([Liberia:](#)

[Forest Dev. Committee Cries for Land Rental Fees - Petitions National Legislature\)](#)

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.13.6. Risk designation and specification

Specified risk

1.13.7. Control measures and verifiers

- Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.
- In order to control risks to legality, the purchaser should:
- Make sure the supplier operating on PUPs or FUPs conduct stakeholder consultation;
- Require demonstration that communities are benefitting from the use of their land;
- Require demonstration that communities are getting just compensation for the use of their land;
- Require demonstration of executed benefit sharing agreement with local communities;
- Ensure compliance with LEITI reporting which includes disclosure of social payments;
- Request to see the social agreements between companies and the affected communities;
- Request evidence from the supplier that the CFDC is truly representative of the community. This might require consultation with the community by the purchaser in order to verify the supplier's claim;
- Request stumpage fee and area fee payment receipts, and ensure communities are aware of these amounts and of the % that is required to be funneled back to them.

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

- Core Regulation 104-07 (Regulation on Tender, Award, and Administration)

1.14.2. Legal authority

- Forestry Development Authority

1.14.3. Legally required documents or records

- Social Agreement with affected communities

- Written proof of FPIC by the communities

1.14.4. Sources of information

Government sources

- fda.gov.lr (2007). *Ten Core Regulations* [online]. Regulation on Tender, Award, and Administration, Section 22.J. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>

Non-Government sources

- Forest Peoples Programme (N.Y.) *Supporting forest peoples' rights* [online]. Available at: <http://www.forestpeoples.org/location/africa/liberia>
- fao.org (2014). *Respecting free, prior and informed consent* [online]. Available at: <http://www.fao.org/3/a-i3496e.pdf>
- forestpeoples.org (2015). *Communities in the Driving Seat: A Manual on Free, Prior and Informed Consent* [online]. Forest Peoples Programme. Available at: <http://www.forestpeoples.org/sites/fpp/files/training/2016/02/Communities%20in%20the%20Driving%20Seat.pdf> [Accessed 1 September 2016]
- Liberia Extractive Industries (2013). *Liberia Extractive Industries Transparency Initiative Post Award Process Audit Process Report*. [online]. Available at: <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/151344593-leiti-post-award-process-audit-process-report.pdf> [Accessed 22 July 2016]

1.14.5. Risk determination

Overview of Legal Requirements

Section 4.5 of the National Forestry Reform Law (NFRL), requires the FDA to validate the "sustainability of the area for the proposed land use" prior to committing making it available under the National Forest Management Strategy to a proposed land use, the Authority (i.e. FDA) shall validate the suitability of the area for the proposed land use."

For validation purposes and in accordance with Section 22 of FDA Regulation n° 104-07, FDA shall not proceed with offering a proposed FMC or TSC unless it (the FDA) has obtained free prior informed consent, in writing, from CFDC representing all Affected Communities, to negotiate in good faith a social agreement with the winning bidder.

The FDA needs to ensure that through their CFDC, the communities are involved and aware of the entire forest license award process.

Description of Risk

In reality, the requirement to involve and get FPIC from the communities is not upheld by the FDA and the communities themselves. There is a lack of community involvement in the validation process by affected communities (LEITI, 2013, Findings # 17, p. 70). As a result, FPIC is often not obtained by the FDA and forest companies, which as a result creates much dissatisfaction and even unrest amongst the communities.

Companies also risk entering in negotiations with groups or individuals who claim to represent the communities, while in fact are pursuing their own interest and are not

recognized by the communities as their valid representatives.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.14.6. Risk designation and specification

Specified risk

1.14.7. Control measures and verifiers

- Community Forest Management Community represents affected communities – investigate to ensure they are indeed legitimate, there are reported cases of splinter groups purporting to be legitimate
- The Forest Development Authority needs to attest to any agreement between communities and companies.
- The purchaser of wood from Liberia should ask its supplier to demonstrate FPIC was obtained by the local communities. The signed document attesting of FPIC is evidence of that, but because this document could be forged, ideally the purchaser should communicate directly with the CFDC and even with individuals from the community FPIC was indeed granted.

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

N/A. Indigenous peoples are not recognized in law in Liberia.

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

- Regulation on Certain Forest Trees (Regulation 107-07)

1.16.2. Legal authority

- FDA
- SGS
- Liberia Revenue Authority

1.16.3. Legally required documents or records

- SGS's Chain of Custody form

1.16.4. Sources of information

Government sources

- fda.gov.lr (2007). *Ten Core Regulations* [online]. Regulation on Tender, Award, and Administration, Section 22.J. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>

Non-Government sources

- sgs.com (2007). *SGS to pioneer timber verification in Liberia* [online]. Available at: <http://www.sgs.com/en/news/2007/06/sgs-to-pioneer-timber-verification-in-liberia?dc=http&lb> [Accessed 1 September 2016]
- Siakor, S.K. (N.Y) *Illegal logging and corruption: a Liberian case study* [online]. Available at: http://www.12iacc.org/archivos/WS_3.1_SIAKOR.PDF [Accessed 1 September 2016]

1.16.5. Risk determination

Overview of Legal Requirements

The FDA Regulation on Certain Forest Trees (Regulation 107-07) describes the type of tree species for harvesting and trade. Section 43 of the Regulation describes categories A, B, and C as the three categories of tree species, including the amount of export fees payable to the government. For example, all logs falling in A category shall pay 10%; B, 5%; and C, 2.5% in export fee to government.

Description of Risk

There were reported cases of misclassification (Saikor, not dated) in which Sipo (\$135/m³) was reported as Ekke (\$87/m³) in the late 90s. Since 2013, Liberia through the Revenue Authority has been working with SGS, a private timber verification entity, to support the forest sector to ensure compliance with timber classification, collections of appropriate fees, and exports. Since this system is in place, occurrences of misclassification of species and volumes were significantly reduced.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.16.6. Risk designation and specification

Low risk

1.16.7. Control measures and verifiers

- Products shall be correctly classified (species, quantities, qualities etc.) on sales documents, custom declarations and other legally required documents
- Evidence shall be provided upon request (photographs of labelling)
- Physical control where it should be verified that the present material equals what has been invoices and marked

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

- Regulation on Certain Export Fees (Regulation 107-07). Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>
- National Forest Reform Law 2006. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf> (Section 13.5 - 13.8)

1.17.2. Legal authority

- FDA
- SGS
- Liberia Revenue Authority

1.17.3. Legally required documents or records

- Waybill
- Valid Transporter Registration
- Export License
- Log Export Fee
- Verification of payment and classification via Chain of Custody

1.17.4. Sources of information

Government sources

- fda.gov.lr (2007). *Ten Core Regulations* [online]. Regulation on Tender, Award, and Administration, Section 22.J. Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>

Non-Government sources

- sgs.com (2007). *SGS to pioneer timber verification in Liberia* [online]. Available at: <http://www.sgs.com/en/news/2007/06/sgs-to-pioneer-timber-verification-in-liberia?dc=http&lb> [Accessed 1 September 2016]
- foresttransparency.info (2011). *Liberia: Indicators - Forestry Tax Collection and funding systems* [online]. Available at: <http://www.foresttransparency.info/liberia/2011/themes/16/105/>

1.17.5. Risk determination

Overview of Legal Requirements

Regulation 108-7 prohibits the harvesting of timber products for commercial use outside of the chain of custody system (Section 22). No one is allowed to transport or possess unprocessed logs, more than 3 cubic meters of wood products unless it has been entered into the chain of custody system (in which SGS is implicated as controller), using forms and means established by the Forestry Development Authority (Section 22.c)

Additionally, consigned timber, logs or wood products transported on public roads for processing or exports requires a waybill and a valid transporter registration, both issued by the FDA. No person shall transport logs, timber or wood product on public roads at night, from 15 minutes after sunset until 15 minutes before sunrise unless authorized by the Authority.

Description of Risk

In 2007 Liberia contracted Société Générale de Surveillance (SGS) to implement its chain of custody process. SGS routinely provides information on fees, taxes and exports of wood to the FDA and other Liberian control agencies. The implication of SGS in the legality of trade and transportation of wood products has improved significantly.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by

the authorities and/or by the relevant entities.

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

- Requirements related to transport means (e.g. trucks) shall always be followed
- Species and product types shall be traded legally.
- Required trade permits shall exist and be documented.
- All required transport documents shall exist and be documented.
- Volume, species and qualities shall be classified according to legal requirements.
- Documents related to transportation, trade or export shall be clearly linked to the specific material in question

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

- Liberia Revenue Code of 2000 as Amended. Available at: http://www.fda.gov.lr/wp-content/uploads/2015/07/Liberia_revenue_authority_act.pdf

1.18.2. Legal authority

- Liberia Revenue Authority / Ministry of Finance
- Forestry Development Authority

1.18.3. Legally required documents or records

- Advance Pricing Agreement (APA) (not currently not applicable due to lack of regulations and guidelines to enforce this law)

1.18.4. Sources of information

Government sources

- Ministry of Finance (2012). *Liberia Revenue Code (Amended 2011)* [online]. Section 18. Available at: <http://www.ifrc.org/Global/Publications/IDRL/DM%20acts/The%20Revenue%20Code>

[%20of%20Liberia%20As%20Amended%202011.pdf](#)

1.18.5. Risk determination

Overview of Legal Requirements

The Liberia Revenue Code (2011) provides general guidelines in relation to transfer pricing. It states that the Government of Liberia and a contractor may agree to a transfer pricing methodology in advance of the transaction (Section 18). Anyone who enters an Advance Payment Agreement must maintain books and records sufficient to ensure compliance by the Ministry of Finance. The Law also requires the Ministry of Finance to establish transfer pricing guidelines. However, the application regulations and guidelines for this Law have not yet been established based on the author's conversation with the Ministry officials. Because these regulations and guidelines have not been established since the 2000 adoption of the law, the Law is not applicable.

Description of Risk

N/A

Risk Conclusion

N/A

1.18.6. Risk designation and specification

N/A

1.18.7. Control measures and verifiers

- If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as "tax havens".
- There shall be no illegal manipulation in relation to the transfer pricing

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

- Regulation 108-07 (41, 42, & 43). Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>
- Chain of Custody Standard Operating Procedure (18, 20, & 21)

1.19.2. Legal authority

- Forestry Development Authority
- Liberia Revenue Authority

1.19.3. Legally required documents or records

- Valid Exporter Registration
- Application for a SGS license

- Export shipment specification log (SOP 20)
- Export specification for sawn timber (SOP 21)
- Tax clearance/Proof of payment of export fees (SOP 26)
- Log export volume report
- Reference price as found in market intelligence data base (MIDB) maintained by LVD

1.19.4. Sources of information

Government sources

- fda.gov.lr (2007). *Ten Core Regulations* [online]. Regulation 108-07 (41, 42, & 43). Available at: <http://www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf>

Non-Government sources

- profor.info (N.Y.) *Lessons from the Establishment of a Timber Chain of Custody System in Liberia* [online]. Available at: <http://www.profor.info/notes/lessons-establishment-chain-custody-system-liberia>
- sgs.com (N.Y.). *National Forestry Control from SGS – improving transparency and accountability in the forestry sector* [online]. Available at: <http://www.sgs.com/en/public-sector/monitoring-services/timber-traceability-and-legality/national-forestry-control?dc=http&lb=>
- USDA Forest Service International Programs (2006). *Liberia Forestry Initiative (LFI) - Request for Proposals: Chain of Custody Management Contract for Wood Products* [online]. Available at: https://rmportal.net/library/content/usda-forest-service/africa/Chain_of_Custody_Management_Contract_RFP_-_Liberia.pdf
- sgs.com (2007). *SGS to pioneer timber verification in Liberia* [online]. Available at: <http://www.sgs.com/en/news/2007/06/sgs-to-pioneer-timber-verification-in-liberia?dc=http&lb> [Accessed 1 September 2016]

1.19.5. Risk determination

Overview of Legal Requirements

"No person shall export forest products without an export permit from the Authority", (NFRL 2006 Section 18.8). The export license is only issued after verification of payments of taxes and fees, and verification of product type through the chain of custody process (sections 43 & 44)."

Description of Risk

An agreement between the FDA and [SGS](#) in 2007 has improved transparency and accountability around exports and classification of timber products. The risk of illegal practices with regards to this indicator is low.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by

the authorities and/or by the relevant entities.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

- Products shall be correctly classified (type, custom code, species, quantities, qualities, etc.).
- All required import and exports permits shall be in place.

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

- National Forest Reform Law 2006, Section 13.1.b. Available at: <http://www.fao.org/forestry/16151-05fd47b845599b5d3a594a9b0240dacff.pdf>
- Liberia is a signatory to the CITES Convention and the Convention has been ratified by the Liberian Legislature.

1.20.2. Legal authority

- Forestry Development Authority
- Environment Protection Agency

1.20.3. Legally required documents or records

- CITES export permit

1.20.4. Sources of information

Non-Government sources

- CITES.org (N.Y.) *CITES website – Liberia* [online]. Available at: <https://www.cites.org/eng/cms/index.php/component/cp/country/LR> [Accessed 1 September 2016]
- CITES.org (2016) *CITES Recommends to Suspend Trade with Liberia* [online]: <https://cites.org/sites/default/files/notif/E-Notif-2016-030.pdf> [Accessed 1 September 2016]
- Forest Legality Initiative (N.Y.) *Risk Tool – Liberia* [online]. Available at: <http://www.forestlegality.org/risk-tool/country/liberia> [Accessed 15 September 2016]
- CITES.org (2005) *Notification No. 2005/035* [online]. Available at: <https://cites.org/sites/default/files/reports/09-10Liberia.pdf> [Accessed 1 September 2016]

1.20.5. Risk determination

Overview of Legal Requirements

Liberia is a signatory to the CITES Convention and the Convention has been ratified by the Liberian Legislature. Section 13.1.b of the National Forest Law 2006 forbids the export or re-export of protected species as defined by CITES, except for research purposes.

Description of Risk

Liberia became Party to CITES in 1981. *Cyathea camerooniana*, *Pterocarpus erinaceus* and *Dalgeria* spp. are listed on the Appendix II of CITES list (citeschecklist.org, N.Y)

Appropriate measures to enforce the provisions of the CITES convention have not yet been put fully in place by Liberia (CITES recommends to suspend trade with Liberia, 2016).

There were reports of some protected animals being killed. "Problem elephant was killed; ivories are presently in possession of Conservation Department." (Notification No. 2005/035).

Risk Conclusion

As Liberia is suspended from CITES because of lack of legal provisions to enforce the convention, this indicator has been evaluated as specified risk of exporting CITES listed tree species.

1.20.6. Risk designation and specification

Specified risk

1.20.7. Control measures and verifiers

- All cross border-trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

There is no legislation covering due diligence/due care procedures.

1.21.2. Legal authority

N/A

1.21.3. Legally required documents or records

N/A

1.21.4. Sources of information

Government sources

- fda.gov.lr (2009). *Opening Statement of Minister Chris Toe during the launching of the VPA on March 26, 2009* [online]. Available at: http://www.fda.gov.lr/wp-content/uploads/bsk-pdf-manager/FORMER_MINISTER_OF_AGRICULTURE/Chris_Toe_Opening_Remarksat_the_Launch_of_the_VPA_Negotiations_27.pdf
- The various Aide Memoires as it relates to the four negotiation meetings for the VPA;
- The various Aide Memoires as it relates to the three Pre-Joint Implementation Committee meetings
- The various Aide Memoires of the three meetings of the Joint Implementation Committee that have been held between May 27, 2014 and January 22, 2016.

1.21.5. Risk determination

Overview of Legal Requirements

There are no due diligence/due care procedure requirements in Liberia. However, it is worth mentioning that a Voluntary Partnership Agreement (VPA) between the European Union and the Liberian Government was launched on March 26, 2009. Ratification of the VPA by the EU was concluded on May 14, 2012 while on the Liberian side, the process was completed on September 18, 2013. This Agreement entered into force on December 1, 2013 and aims at ensuring that all timber exported to the European Union has been produced according to Liberian laws and regulations. Liberia is expected, under the VPA to produce 1) a legality standard, 2) a licensing system, 3) a chain of custody system, and 4) an independent monitoring system. Liberia has completed its legality standard and has, through SGS, a chain of custody system in place. Liberian definition of legality for use by the VPA was developed with strong stakeholder input. For Liberian timber to be legal, it must abide by all legislation applicable to Liberia's forest sector (including forestry, environment, human rights, labour and trade) and ratified international agreements.

Liberia has ratified the VPA and taken action to implement its commitments. The National Forest Reform Law prescribes chain of custody requirements like the marking of trees to be felled and the numbering of the logs to ensure their tracking throughout the chain.

Description of Risk

As there is no actual legislation applicable, the risk is considered not applicable.

Risk Conclusion

N/A

1.21.6. Risk designation and specification

N/A

1.21.7. Control measures and verifiers

N/A

Annex I. Timber Source Types

The table **Timber Source Types in Liberia** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- a) **Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- b) **Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- c) **Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- d) **Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- e) **Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- f) **License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN LIBERIA

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
Natural Forest / Primary Forest	All	Commercial forest	State	State management	<p>Forest Management Contracts – FMC (NFRL 5.3); Annual Harvesting Certificate</p> <p><u>Main license requirements:</u> Forest management plans; business plan; annual operations plans (including inventory and pre-harvesting exercise to document trees to be harvested); environmental impact assessment; legal and financial qualifications; social agreement with local forest-dependent communities.</p>	<p>State owned natural forests –</p> <p>The land area subject to the contract must be at least 50,000 hectares and no more than 400,000 hectares.</p> <p>Government shall accept bids on Forest Management Contracts covering a land area of between 50,000 and 99,999 hectares only from qualified bidders that demonstrate at least 51% ownership by Liberian citizens.</p> <p>All Forest Management Contracts covering 100,000 hectares to 400,000 hectares shall be open to all Liberian as well as international investors.</p>
		Commercial forest	State	State management	<p>Timber Sales Contracts (NFRL 5.4); Annual Harvesting Certificate</p> <p><u>Main license requirements</u> Term of the contract must not be more than three years;</p>	<p>State owned natural forests –</p> <p>The land area subject to the contract must be no more than 5,000 hectares;</p> <p>The land involved must not include</p>

					annual operations plan, inventory and pre-harvesting exercise to document trees to be harvested.	private land.
		Community forest	Community	Community management/ State regulated	<p>Forest Use Permits (NFRL 5.5); Annual Harvesting Certificate</p> <p><u>Main License requirements</u> Land Owner's permission; include in Forest Use Permits sufficient conditions to ensure the Conservation of Forest Resources</p>	<p>Community owned natural forests -</p> <p>If a Forest Use Permit allows the Holder to exercise exclusive use of a Forest Resource in a particular area, the area involved must be less than 1,000 hectares</p> <p>No Person shall harvest Forest Resources on private land under a Forest Use Permit without the Land Owner's permission.</p>
		Private Land	Private	Private, under a five-year land management plan	<p>Private Use Permits (NFRL 5.6); Annual Harvesting Certificate</p> <p><u>Main License requirements</u> Person must have permission from the Land Owner in writing; business plan and demonstrates to the Authority's satisfaction that the applicant has the technical and financial capacity to manage the forest</p>	<p>Private Land</p> <p>Since 2013, PUPs were suspended pending the promulgation of the regulations. No PUP in existence since the moratorium. -</p> <p>In 2013, the President issued Executive Order 44 suspending issuance of PUPs. However, some PUPs in existence prior to 2013 continue to this day.</p>

					sustainably; five-year land management plan; complied with all legal requirements for environmental impact assessment; applicant and the Land Owner commit in writing to a social agreement; annual Operations plan.	
		Community forest	Community	Community management/ State regulated	<p>Community Forest Contract (CRL 3.1)</p> <p><u>Main license requirements</u> To be defined as an Authorized Forest Community within a specific geographic area, a community must submit an application and seek approval from the Forestry Development Authority which will then signed a Community Forest Agreement, upon the community meeting all management and technical requirements established by the CRL, its regulations and the NFRL where applicable</p>	<p>Community owned natural forests -</p> <p>A Community Forest Agreement allows the community to access, manage, use, and benefit from the forest resources.</p>
		Forest conversion	State	State Management		State owned natural forests



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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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