

03 Logging Outside the Blouquua Community Forest Management Area 2

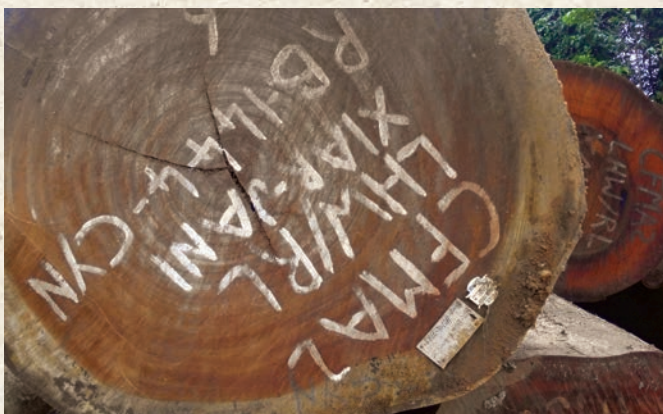
BRIEFING | JULY 2016

Background

From 4th to 7th September 2015, a SDI mission visited Rivercess and Grand Gedeh Counties to investigate the origin of logs marked 'CFMA 2' observed stocked at the Timbo River Bridge in Rivercess County. The Community Forest Management Agreement 2 or CFMA 2 is located in Grand Gedeh County, more than 60 km away from where the logs were found. During this mission, the team also found logs marked CFMA 2 between Safee Village in Rivercess County and Geewon in Grand Gedeh County.

The team interviewed in early September a member of the Community Forest Management Body or CFMB responsible for managing CFMA 2. The CFMB member confirmed that Liberia Hardwood Corporation (LHC) harvested the logs and that there were several stockpiles at various locations along the route between Safee Village and Geewon. He reported that the company harvested the logs through "side-felling" or on both sides of the road as they reconditioned the road leading to Geewon. He asserted that the logs were extracted outside the CFMA 2 area.¹ This immediately raised two questions:

1. Were the logs harvested outside CFMA 2 but marked CFMA 2?
2. If the logs were harvested outside CFMA 2, was there any legal justification for labeling them as CFMA 2 logs, or for harvesting them at all?



Roadside log.
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SDI investigation and inquiries with the FDA

From 9th – 11th September 2015, SDI fielded a follow up mission to Rivercess and Grand Gedeh counties to investigate the situation further and to gather more information. The team confirmed that the logs observed along the route to Geewon were indeed extracted from Rivercess County and not in Grand Gedeh County, where CFMA 2 is located. Based on the official map of CFMA 2 and GPS coordinates of tree stumps documented by the team, SDI confirmed that Liberia Hardwood was harvesting timber outside CFMA 2 but marking them as coming from CFMA 2.

Logging outside the designated contract area would appear to violate regulation 108 Section 22 which states that that:

- a). *No Person shall harvest timber for commercial use without (1) being in full compliance with the terms of the Forest Resource License under which the harvesting activity is to occur; and*
- d). *No person shall attach false or misleading identification to Logs, Timber or other wood products.²*

Such violation or type of behavior could result in the termination of Forest Resource License by the Authority. The Liberia National Forestry Reform Law (NFRL 2006) Chapter 6.1 states that "The Authority may terminate Forest Resources Licenses on any of the following grounds:

- h). *Intentional extraction of any natural resource or Forest Product not authorized by the license or otherwise expressly permitted by the Government.*
- i). *Intentional misclassification or mislabeling of Forest Products for any purpose.³*

Also, according to several local residents interviewed during this mission, Liberia Hardwood was observed logging in forest areas adjoining several villages and towns in Rivercess including Solo Village, AmLib Gold Camp, Gbagbo Village, Tokpa Village, Safari Base, Plank Villages 1 & 2, Safee Village, Jacksonville and continuing to James Gbanomo Village, all situated within Rivercess County.

footnotes

- 1 CSDI letter to SGS dated 9th September 2015, based on information acquired from a Blouquua CFMB member.
- 2 FDA Regulation 108, 2007, Section 22 (a)(1) and (d).
- 3 NFRL 2006, Section 6.1 h and i.



At the same time SDI fielded the mission to conduct the follow up investigation, SDI wrote to SGS (see Box 1), the company managing the Chain of Custody system for the logging industry in Liberia, seeking confirmation on whether these logs were harvested outside CFMA 2 but labeled CFMA 2, and if yes, whether there was a legal basis for doing this.⁴ On 11th September 2015, SGS forwarded SDI's inquiry to the FDA for a response. About two weeks later, on 24th September 2015, SDI sent a reminder to SGS⁵ and SGS immediately sent a follow up email to the FDA. The Deputy Managing Director for Operations at the FDA, Mr. Darlington S. Tuagben responded seeking clarification from SGS about the inquiry. Mr. Tuagben then requested SGS to resend SDI's letter of inquiry. SDI was either copied or forwarded all these emails that have been referenced here.

Two months later, on 2nd November 2015 SDI sent a follow up letter directly to the FDA management seeking the authority's response. Following several reminders the FDA senior management then requested and met with the SDI Forest Governance Program team on 22nd March 2016. The FDA requested the meeting to address inquiries SDI had made in the letter of 2nd November 2015. During the meeting the FDA confirmed:

1. that there is no legal basis for commercial logging on the roadside outside of a logging concession;
2. that the FDA granted the permission for the logging outside of the Blouquia CFMA;
3. that ongoing logging outside of the Blouquia CFMA will continue while it seeks to address the current legal gaps; and
4. that the practice of commercial logging along roadside outside of a concession has occurred prior to the incumbent FDA management.

The FDA further asserted that it would table the matter of the legal gaps with the FDA Board of Directors for action on the same day of 22nd March 2016.

SGS data for logging under CFMA 2

Box 1: SDI Letter to SGS



SGS has provided SDI with two separate Chain of Custody reports for logs extracted from the CFMA 2 concession. Responding to a request made by SDI on 18th November 2015,⁶ SGS provided SDI with the aggregated total volumes for CFMA 2 Concession.⁷ According to the SGS Chain of Custody reports (see Box 2), Liberia Hardwood commenced exporting logs from CFMA 2 in 2012. From 2012 to 2015 the company extracted 7,145.859 cubic meters and exported 6674.733 cubic meters of round logs from CFMA 2. According to SGS, this is the total volume of logs harvested both within the concession and along the road as per its summary chart emailed to SDI on 18th November 2015.

footnotes

- 4 SDI letter to SGS dated 9th September 2015.
- 5 Email from Jonathan Yiah to Clinton Bambridge, Forestry Project Manager, SGS Liberia Inc, 24th September 2015.
- 6 Email from Jonathan Yiah to Clinton Bambridge, 18th November 2015.
- 7 Email from Clinton Bambridge to Jonathan Yiah, 4th December 2015.

A log field in Rivercess County.
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Box 2: Summary chart of CFMA 2 logs, SGS, 18th November 2015

CFMA 2 Harvested volume of logs

No.	Company	Site	Port of origin	2009	2010	2011	2012	2013	2014	2015	Total
1	Liberia Hardwood Corporation	CFMA 2	Buchanan	0	0	0	181.407	0	3582.754	3381.698	7145.859

CFMA 2 Exported volume of logs

No.	Company	Site	Port of origin	2009	2010	2011	2012	2013	2014	2015	Total
1	Liberia Hardwood Corporation	CFMA 2	Buchanan	0	0	0	181.407	0	3477.851	3015.475	6674.733

Box 3: Summary chart of CFMA 2 and Buffer area logs, SGS, 24th February 2016

Summary

No.	Company	Site	# of export permits issued	Total approved volume
1	Liberia Hardwood Corporation	CFMA 2	12	3,477.86
2	Liberia Hardwood Corporation	CFMA 2R*	16	4,948.54
Total			28	8,426.40

As a follow up SDI repeated its request⁸ and SGS fulfilled its promise⁹ on 24th February 2016 and provided SDI with disaggregated volumes of round logs to indicate which volumes have been extracted from the CFMA 2 logging contract area and which ones have been extracted from the Buffer area (see Box 3). This shows that 3,477.86 cubic meters of logs have been extracted from the Blouquia CFMA 2 logging contract area and 4,948.54 cubic meters of logs have been extracted from the roadside felling area or buffer area (see box 4).

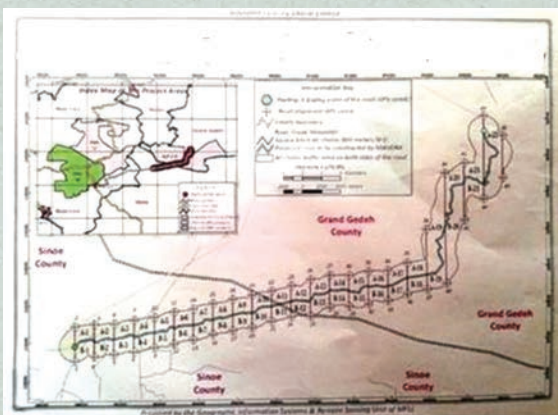
footnotes

8 Email from Jonathan Yiah to Clinton Bambridge, 4th December 2015.
9 Email from Jonathan Yiah to Clinton Bambridge, 4th December 2015 and Clinton Bambridge response, 24th February 2016.

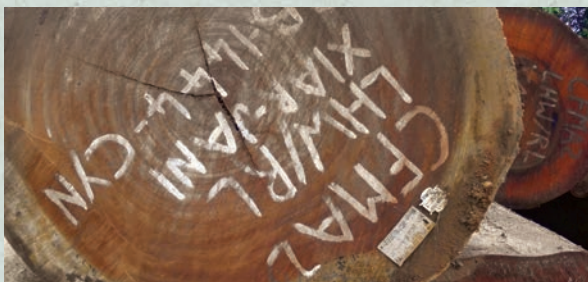


Thus a total 8,426.40 cubic meters of logs have been extracted from CFMA 2 and the buffer area as per the SGS data emailed to SDI on 24th February 2016. SGS did not provide an explanation in the variance in the data with the 7,145.859 cubic meter figure it provided to SDI on 18th November 2015, although SDI acknowledges that there is a two month gap between these two figures.

Box 4: Map of one square kilometer block outside of CFMA 2 (Courtesy of Blouquia CFMB)



Box 5: Photo of roadside felling or buffered logs (Rivercess: SDI January 2016)



Repeating the past

In 2009, a similar situation occurred in Grand Bassa, specifically in relation to the Timber Sale Contract Area A-2 operated by Tarpeh Timber Corporation (TTC). The company had extracted approximately 100 Ekki logs outside the concession, while reconditioning the road leading into the concession. According to the UN Panel of Experts report on Liberia of June 2009, TTC felled the “trees illegally outside of the concession”.¹⁰ This was considered a major infraction and the FDA subsequently fined TTC US\$2,000 for logging outside the TSC A-2 concession. This set a precedent even though questions remain about whether the FDA had the legal authority to levy the fines through Administrative procedures or whether the matter should have been referred to the Ministry of Justice for prosecution given the value of the timber involved. According to FDA Regulation 109-07:

The Authority may impose an administrative penalty for an offense, rather than referring the offense to the Ministry of Justice, if all of the following conditions are satisfied:

- a). *The offense did not result in physical injury to any person;*
- b). *The offense did not significantly harm the interests of a local community;*
- c). *The offense did not result in damage to Forest Resources or the Environment exceeding 10,000 United States dollars in value;*
- d). *The violator consents to imposition of the administrative penalty; and*
- e). *The conduct giving rise to the offense does not support a felony criminal charge.*¹¹

The UN Panel of Experts estimated that the value of the timber at the time was around US\$500,000, which was significantly higher than the US\$10,000 threshold established in the regulation.

footnotes

¹⁰ Midterm report of the UN Panel of Experts on Liberia, S/2009/290 (5th June 2009).
¹¹ FDA Regulation 109, 2007, Section 41.



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Conclusions and recommendations

Logging without a permit or outside a logging contract area or concession is illegal. The FDA has an obligation to regulate the logging sector, enforce the forestry law and regulations, and whenever appropriate refer breaches or violations of the law or regulations to the Ministry of Justice for further investigation and prosecution. Beyond the concern that Liberia Hardwood extracted timber outside of CFMA 2 but labeled them CFMA 2, this situation highlights two other concerns.

Firstly, the FDA is frequently implicated, through deliberate actions or negligence, in various illegalities in the forestry sector. This appears to be driven by a culture of impunity that is taking root in the sector. With the exception of the prosecutions related to the Private Use Permit scandal that rocked the industry in 2013, numerous infractions since the resumption of logging operation, in 2010 have either been poorly handled or persistently denied.

For example, in 2009 and 2010 several logging concessions were allocated in violation of various Liberian laws yet none of those contracts have been nullified and none of those involved was ever penalized.¹² Also, although some of the illegalities surrounding the allocation of Private Use Permits were first brought to the attention of FDA in 2011, the FDA continued to deny any wrongdoing, the Board of Directors continued to ignore calls for decisive action to address the problem, and the central government did not act until the situation spiraled out of control by 2013. This led to significant financial and environmental losses to communities and the central government.

Secondly, there appears to be a tendency within the FDA to selectively respond to requests for information. This is in violation of the FDA's legal obligation to respond to requests for information in a timely manner. In this instance, SDI's request for clarification on whether the logs extracted outside CFMA 2 could legally be labeled as logs from CFMA 2 was not addressed for over four months until a meeting was requested by the FDA and during which a verbal response was provided. At the same time, other requests from SDI have been responded to promptly.

To address this situation, the FDA Management should oversee the development of regulations regarding the legitimate removal of trees for the purpose of enabling access by logging companies to forests. These should not supersede logging permits authorized under the NFRL but should instead be a clarification within these existing permit regimes.

footnote

¹² http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_post_award_process_audit_final_report.pdf



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National Multi-stakeholder Committee (NMSMC) Feedback on SDI brief prior to publication

In adherence to a procedural measure mutually acknowledged by forest stakeholders during a NMSMC monthly meeting held in February 2016, the final draft of SDI brief on logging outside Blouquia community forest was shared with stakeholders prior to the April meeting for feedback and follow up actions before its publication. Following SDI presentation, discussion on the brief was postponed for the next NMSMC meeting in May. The reason for the postponement was in part due to the meeting lasting beyond the two hours allotted for each meeting. Prior to the May NMSMC meeting the Liberia Timber Association (LTA) formally reacted to the SDI brief claiming that “Liberia Hardwood” Corporation (LHC) had “acted in the ambit of the law and did not violate the law” without providing any legal reference as had been done by the SDI brief (Please see full text annexed to this brief). The FDA also provided evidences including letters confirming communities need for the road and the Authority’s acquiescence granting approval to LHC to fell logs alongside road while constructing an access road to Blouquia Community Forest. Following discussion at the May meeting regarding the merit of SDI’s brief the following actions were agreed.

1. FDA to formulate regulation ensuring forestry legal requirements are followed regarding felling of logs alongside access road leading into a concession area.
2. SDI to liaise with Liberia Timber Association (LTA) to correct minor errors in their response before inclusion into the SDI brief on logging outside Blouquia Community Forest.

Annex: The Liberia Timber Association (LTA) Response to the Sustainable Development Institute (SDI) briefing paper entitled: “Logging outside the Bloquiah Community Forest Management Area 2”

Background

This document which is before the National Multi-stakeholder Monitoring Committee, accuses the Liberian Hardwood Corporation of breaching the law by harvesting logs from outside CFMA-2 and marking them as CFMA2. This, according to the SDI document is against NFRL 2006, Section 6.1 h and i. SDI further alleged that several local residents confirmed to them during an interview that they (locals) had observed Liberian Hardwood carrying out logging activities in forest areas adjourning several villages and towns in Rivercess County, whereas CFMA 2 is located in Grand Gedeh County, 60 miles Km away from CFMA-2 Concession area and were stockpiled by the company (Liberian Hardwood Corporation.) Based on the law issues involved, SDI said it initiated conversations with SGS and later the FDA, as referenced in the document.

In the six-page document by SDI, is now before the National Multi-stakeholder Monitoring Committee of (NMSMC), and this body has asked the Liberia Timber Association (LTA) to respond to the alleged violation of the law by one of its member.



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Below is the LTA response as requested by the NMSMC.

1. Based on investigation conducted by the LTA and documents it has obtained from the Liberian Hardwood Corporation, the company acted legally and there is no breach of any law.
2. The FDA in a letter dated August 4, 2014 addressed to Mr. Jihad Akkari, Managing Director of the Liberian Harwood Corporation, the FDA granted permission to the company to construct a 800 meters road side felling and extraction of merchantable tree species while constructing a 45 kilometer road commencing from Sarpee Village and leading to Gbole-Geewon town in the Bloquiah Community Forest (CFMA-2) located in Grand Gedeh County (see Exhb. A).
3. That in line with the FDA's letter of permission, the LHC requested the SGS (Exhb. B.) for tags and clear distinction of logs coming from the CFMA-2 and those within and along the road alignment area, which was granted by the SGS (Exhb C)
4. Additionally, in compliance with count 2, of the FDA Permit, LHC had worked along with the Ministry of Public Works to ensure that the road construction was done properly and in accordance with the Ministry standard. See Ministry of Public Works "Road Audit Report" (Exhb. D)
5. LHC has to date made, in addition to other social development projects and government taxes, made:
 - Direct payments to the communities of (1) US\$60,216.76 for land rental and (2) US\$ 20,194.15 as royalty fees, summing up to US\$80,410. 91-USD 60,216.76 Land rental payments for Bloquiah community share (CFMA-2)
 - USD 6,279.00 Royalty fees CFMA-2 Bloquiah Communities.
 - USD 4,000.00 Royalty Fees Bo-Gewon Community (Road Alignment).
 - USD 9,915.15 Royalty Fees Sarphee Village Community (Road Alignment).
 - Total:USD\$ 80,410.91
6. The LHC has and continues to work with local communities in driving their developmental aspiration as indicated to the MD of the FDA in a communication under the signature of the Chairman of the Bloquiah Community Forest Management Board (BCFMB), Mr. Sampson Zammie (see Exhb. E)
7. Logs found along the stress of road between Sarpee and Bo-Geewon are clearly marked CFMA-2R to distinguish them from those of CFMA2.
8. Please see Exhb. G, the map of the 45 kilometers of road clearly marked block by block for the purpose of traceability of trees and logs harvested during the road construction.
9. References are replete to show that the Liberian Hardwood acted in the ambit of the law and did not violate the law.

Finally, we urge SDI and other civil society organizations to always contact the LTA or the company involved in the case where they feel the law is being violated. Had SDI contacted the LTA or the Liberia Hardwood Corporation, this clarification would had been provided with all the supporting documents.



Blouquia Community meeting. © SDI



The Sustainable Development Institute (SDI) works to transform decision-making processes in relation to natural resources and to promote equity in the sharing of benefits derived from natural resource management in Liberia. The organization's vision is a Liberia in which natural resource management is guided by the principles of sustainability and good governance and benefits all Liberians. Its activities cover a range of crosscutting issues including governance and management, the environment, state and corporate social responsibility, economic and social justice for rural populations, and the democratic participation of ordinary people in government management of natural resources. The organization received the Goldman Environmental Prize (the world's largest prize honouring grassroots environmentalists for outstanding environmental achievements) in 2006.

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