



**global witness**

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### Brief on problems with Liberian Forest Management Contracts (FMC) process

On 23 September 2009, legislators ratified four forest management contracts (FMCs) each for 25 years, despite serious flaws in their allocation. Investigations by Global Witness and local civil society groups revealed that Liberian law had been violated by bidding companies; some companies lack the financial capacity to operate; and the government-appointed due diligence team carried out inadequate background checks of the bidders and failed to report links with notorious Malaysian illegal logger Samling. Global Witness has made these concerns clear on numerous occasions. President Sirleaf signed the FMCs on the 30 September 2009.

Problems with the FMCs include:

#### **1. Two companies broke the Public Procurement Concessions Commission (PPCC) Act**

There are strong indications that Atlantic Resources collaborated with another bidder, Southeast Resources. The evidence for this is that Atlantic's technical proposal was delivered in the envelope presented by Southeast at the bid opening ceremony. Liberia's Public Procurement and Concessions Law calls for companies found to be colluding to be banned from participating in public procurement for up to six years.

#### **2. Two companies broke the Forest Development Authority (FDA) Regulation 103-07**

International Consultants Capital breached FDA Regulation 103-07 by transferring ownership of 92.5% of its shares on 18 February 2009, the day before bid opening and failing to pre-qualify again. This should have resulted in its bid being thrown out.

One of the winners of the first round of FMC allocations, Alpha Logging, also violated FDA Regulation 103-07 during the FMC allocation process, with 60% of its shares changing hands between the time it prequalified and the submission of its bid.

#### **3. Three companies are linked to notorious illegal logging company Samling**

Both Atlantic Resources and Southeast Resources are linked to and are financially dependent upon the notorious Samling group of companies, which has a long and well documented record of illegal logging and conflicts with local communities, notably in Cambodia, Guyana, Malaysia and Papua New Guinea. The link between the bidding companies and the Samling Group is via Perkapalan Damai Timar (PDT) and Woodman.<sup>1</sup>

Alpha Logging, who won one of the FMCs in the first round of allocations, is also linked and financially dependent upon Samling.

#### **4. Three Companies do not have the financial capacity to operate**

While the government-commissioned due diligence report contains very serious gaps in both the scope and quality of its analysis, it does nonetheless highlight a number of serious deficiencies in the financial arrangements of the

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<sup>1</sup> Southeast Resources Limited is 60% owned by Woodman, a firm in which Samling is reported to have a 50% stake. Another bidder, Atlantic Resources Limited, is linked to Samling via a firm called Perkapalan Damai Timar (PDT). PDT holds a 60% stake in Atlantic and a 5% stake in Samling. It has a series of interconnected relationships with other members of the Samling group.

bidders. Three of the companies (Geblo Logging Corporation, International Consultants Capital and Atlantic Resources) do not have the capital necessary to carry out the intended logging operations. These companies are dependent on foreign financial backers, but have not presented legally binding agreements guaranteeing that these funds actually exist or will be available in practice.

#### **5. Breach of a Public Procurement Concession Commissions decision**

The PPCC received a complaint from Southeast Resources Limited against the FDA concerning the fact that FMC Area "K" had not been awarded to them. The complaint was passed to the Independent Complaints, and Appeals and Review Panel within the Commission for investigation. According to section 127 (b) of the PPCC Act "The panel can revise or amend an unlawful decision of any procurement or concession entity."

On 19 September the Review Panel found that complainant Southeast Resources Limited be awarded the FMC Area "K" which it had won consistent with its submission and the procurement practices law. According to section 128 (3) of the PPCC Act "The decision of the Complain, Appeals and Review Panel shall be final and may be appealed only in a court of competent jurisdiction." However on 23 September 2009 the Legislature ratified the FMCs and failed to consider the decision of the Panel.