

**LIBERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
(LEITI)**

POST AWARD PROCESS AUDIT

FINAL REPORT

May 2013



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ABBREVIATIONS AND ACRONYMS

CBEP	Concession Bid Evaluation Panel
CPP	Concession Procurement Plan
CRL	Community Rights Law of 2009
ECC	Entity Concession Committee
Eoi	Expression of Interest
FDA	Forestry Development Authority
FIFA	First-in First Assessed
FMC	Forest Management Contract
GBL	General Business Law
GOL	Government of Liberia
HTC	Hydrocarbon Technical Committee
IMCC	Inter-Ministerial Concessions Committee
IMTC	Inter-ministerial Technical Committee
LEITI	Liberia Extractive Industries Transparency Initiative
LGS	Liberia Geological Survey
MDA	Mineral Development Agreement
MLME	Ministry of Lands, Mines and Energy
MOA	Ministry of Agriculture
MPEA	Minister of Planning and Economic Affairs
MSG	LEITI Multi-Stakeholder Steering Committee
NBC	National Bureau of Concessions
NFMS	National Forest Management Strategy
NFRL	National Forestry Reform Law of 2006
NIC	National Investment Commission
NMML	New Minerals and Mining Law of 2000
NOCAL	National Oil Company of Liberia
NPL	New Petroleum Law of 2002
PPCA 2005	Public Procurement and Concessions Act of 2005
PPCA	Amended and Restated Public Procurement and Concessions Act of 2010
PPCC	Public Procurement and Concessions Commission
PSC	Production Sharing Contract
PUP	Private Use Permit
SIIB	Special Independent Investigating Body
TSC	Timber Sale Contract

1. EXECUTIVE SUMMARY

The present assignment was requested by the LEITI Multi-stakeholder Steering Group (MSG) in accordance with Section 4.1 of the LEITI Act 2009 which stipulates that LEITI is entitled to perform “appropriate audits and/or investigations of the process by which each material concession, contract, license, and other rights have been awarded in respect of forestry, mining, oil, agriculture and other designated resource sectors of Liberia in order to determine whether each concession, contract, license, and similar right was awarded in compliance with applicable Liberian laws.”

Objectives

The objective of our assignment was to conduct a post-award audit of the processes involved in awarding material public concessions, contracts, licenses, permits and other rights of exploitation of diamond, gold, oil, timber, and agricultural resources of Liberia from 13 July 2009 to 31 December 2011. We were to ascertain that these processes were in compliance with applicable Liberian Laws at the time of award.

As part of the other objectives, we were also required to develop sector-specific compliance templates summarising all relevant laws and procedures applicable to the sectors covered under the LEITI programme. Such templates will serve LEITI as a guide in future for evaluating the process of the award of concessions, contracts, licenses, permits and any other rights.

Process and methodology

The assignment started on 13 November 2012 and was carried out in three stages as follows:

First mission: from 13 to 30 November 2012;

Second mission: from 17 to 28 December 2012; and

Third mission: from 2 January to 8 March 2013

Our review was carried out in accordance with our Terms of Reference presented in Annex 10 and with International Standard on Related Services (ISRS 4400) applicable to agreed-upon procedures engagements.

In accordance with the foregoing, we have carried out the following tasks:

- held meetings with all Government Agencies involved in the process as well as Civil Society Organisations;
- obtained a description of the award process within each Government Agency and for each category of contract;
- reviewed the Materiality Report prepared by the LEITI Secretariat and approved by the MSG in order to ensure the completeness of the contracts and to make sure that no material contract had been excluded;
- collected and analysed the applicable laws and regulations related to each sector;
- developed audit programmes for the audit of the award process. These audit programmes had been tailored for each sector and contract category;
- performed thorough testing of the documentation submitted;
- performed a review of the contracts in order to ensure their compliance with the applicable laws and regulations; and

- developed sector-specific compliance templates summarising all relevant laws and procedures applicable to the sectors/contracts covered under the LEITI programme. These templates are presented in Annex 9 of this report.

Scope

The audit involved 4 Government Agencies and 68 contracts as detailed in the table below:

Sector/Agency	Category	Number of Contracts
Agriculture - MOA	Concessions	4
Number of Contracts in the Agricultural Sector		4
Oil - NOCAL	Production Sharing Contracts	5
Number of Contracts in the Oil Sector		5
Forestry - FDA	Forest Management Contracts	4
	Timber Sale Contracts	5
	Private Use Permits	23
Number of Contracts in the Forestry Sector		32
Mining - MLME	Exploration Licences	14
	Class B Mining Licences	4
	Gold and Diamond Dealers	5
	Mineral Development Agreements	4
Number of Contracts in the Mining Sector		27
Total Number of Contracts		68

Limitation of Scope

We were not provided with the following documents and information from the following Government Agencies:

FDA – Forestry Sector

FDA did not provide us with a response on the Materiality Report relating to Private Use Permits. As a result, we have not been able to gain adequate assurance that all contracts that should be reviewed have been included in the Materiality Report. In addition, based on the Special Independent Investigating Body Report on the Issuance of Private Use Permits (SIIB), we have strong indication that 20 Private Use Permits could have been missed out from the process review (see Section 3.2.4).

MLME – Mining Sector

The Ministry of Lands, Mines and Energy did not provide us with:

- responses on the Materiality Report relating to Mineral Development Agreements. Consequently, we have not been able to gain adequate assurance that all contracts that should be reviewed have been included in the Materiality Report;
- the award documents for the Exploration License granted to Bea Mountain Mining Corporation (contract Ref. 55). Therefore, we were not able to review the award process for this license and ensure its compliance with the relevant regulation; and
- the award documents for the Mineral Development Agreement granted to AmLib (Klekle & Cestos) (contract Ref. 65). Therefore, we were not able to review the award process for this Agreement and ensure its compliance with the applicable regulation.

Findings

We set out in the tables below the status of compliance for each of the contracts reviewed.

Table 1 - Summary of compliance

Compliant	C
Partially compliant	PC
Non-compliant	NC
Limitation of scope	LoS

- A contract was judged as compliant where we did not note several instances of non-compliance;
- A contract was judged as partially compliant when the instances of non-compliance encountered were not material to the extent that the whole process was deficient;
- A contract was judged as non-compliant with applicable regulations where we noted major departures from relevant legislation; and
- A limitation of scope was emitted when we did not receive the documentation pertaining to the award process.

Ref n°	Sector/ Agency	Category	Company/Contract	Location/other Reference	Findings (*)	Overall Compliance with Regulation
1	Agriculture MOA	Concessions	Cavalla Rubber Corporation	Maryland	1, 3, 4, 5, 6, 9, 12	PC
2			Golden Veroleum (Liberia) Inc.	Multiple	1, 3, 4, 5, 6, 7, 9, 12, 21	NC
3			Maryland Palm Oil / Decoris	Maryland	3, 4, 5, 6, 8, 10, 11	PC
4			Sime Darby Plantation (Liberia) Inc	Multiple	2, 3, 4, 5, 6, 7, 9, 12, 21	PC
5	Oil NOCAL	Production Sharing Contracts	GOL, Anadarko Liberia	LB - 10	3, 4, 5, 6, 13, 14, 16	PC
6			GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	LB - 11	13, 14, 16	C
7			GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	LB - 12	13, 14, 16	C
8			GOL, Oranto Petroleum Ltd	LB - 14	3, 4, 5, 6, 13, 14, 15, 16	NC
9			GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	LB - 14	3, 4, 5, 6, 13, 14, 15, 16	NC (**)
10	Forestry FDA	Forest Management Contracts	Atlantic Resources Ltd.	A - P, Multiple	3, 5, 6, 9, 10, 11, 17, 18	NC
11			Euro Liberia Logging Co.	A - F, Multiple	3, 5, 6, 9, 10, 11, 17, 18, 19	NC
12			Geblo Inc	A - I, Multiple	3, 5, 6, 9, 10, 11, 17, 18	NC
13			International Consultant Capital (ICC)	A - K, Multiple	3, 5, 6, 9, 10, 11, 17, 18	NC
14		Timber Sale Contracts	Akewa Group of Companies	A - 3, Grand Bassa	3, 5, 6, 11, 17, 18, 39	NC

Ref n°	Sector/ Agency	Category	Company/Contract	Location/other Reference	Findings (*)	Overall Compliance with Regulation
15			Bassa Logging & Timber Corporation	A - 11, Cape Mount	3, 5, 6, 11, 17, 18, 39	NC
16			Sun Yeun Corp.	A-16, Cape Mount	3, 5, 6, 11, 17, 18, 39	NC
17			Sun Yeun Corp.	A-15, Cape Mount	3, 5, 6, 11, 17, 18, 39	NC
18			Thunderbird Intl. Lib	A - 8, Cape Mount	3, 5, 6, 11, 17, 18, 39	NC
19		Private Use Permits	People of Chedepo and Potupo Districts	River Gee	22, 23, 24, 28, 31, 32	NC
20			People of Campwood/Gheegbahn District	Grand Bassa	20, 22, 24, 28, 31, 32	NC
21			People of Cavalla District	Grand Gedeh	20, 22, 24, 28, 31, 32	NC
22			People of Doedian District	River Cess	20, 24, 28, 30, 31, 32	NC
23			People of Doe's Chiefdom	Nimba	24, 28, 30, 31, 32	NC
24			People of Dugbeh River District	Sinoe	20, 22, 23, 24, 25, 28, 29, 30, 31, 32	NC
25			People of Foya District	Gbarpolu	20, 24, 26, 28, 30, 31, 32	NC
26			People of Gbeapo, Potupo and Sarbo Dist	River Gee	22, 23, 24, 28, 31, 32	NC
27			People of Gbeapo-Thienpo District	River Gee	20, 24, 28, 31, 32	NC
28			People of Geetroh Comm. Forest Mgmt. Organization (GECFMO)	Sinoe Co	20, 23, 24, 28, 30, 31, 32	NC
29			People of Gibi District	Margibi	20, 24, 28, 30, 31, 32	NC
30			People of Jo-River District	River cess	20, 24, 28, 30, 31, 32	NC
31			People of Karluway District	Maryland	20, 23, 24, 28, 30, 31, 32	NC
32			People of Kokoyah District	Bong	22, 23, 24, 28, 30, 31, 32	NC
33			People of Kulu Shaw-Boe District	Sinoe	20, 22, 23, 24, 25, 27, 28, 30, 31, 32	NC
34			People of Lorla Clan	Bong	20, 22, 23, 24, 25, 28, 30, 31, 32	NC
35			People of Lower & Upper Jloh District	Grand Kru	20, 23, 24, 26, 28, 30, 31, 32	NC
36			People of Sam Gbalor District	River Cess	20, 23, 24, 25, 28, 30, 31, 32	NC
37			People of Tarsue District	Sinoe	20, 22, 23, 24, 25, 28, 30, 31, 32	NC

Ref n°	Sector/ Agency	Category	Company/Contract	Location/other Reference	Findings (*)	Overall Compliance with Regulation
38			People of Teemor Section	Grand Bassa	20, 24, 28, 30, 31, 32	NC
39			People of Zleh Town	Grand Gedeh	23, 24, 25, 28, 30, 31, 32	NC
40			People of Zodua Section	Grand Cape Mount	20, 24, 25, 28, 30, 31, 32	NC
41			People of Zulo Clan	Bong	20, 22, 23, 24, 25, 28, 30, 31, 32	NC
42	Mining MLME	Exploration Licences	African Gold Mining (Liberia) Ltd	MEL 11061	6, 33, 35, 40	PC
43			African Gold Mining (Liberia) Ltd	MEL 11062	6, 33, 35, 40	PC
44			Gryphon Minerals Limited	MEL 11059	6, 33, 35, 40	PC
45			Gryphon Minerals Limited	MEL 11060	6, 33, 35, 40	PC
46			Investment Development Corporation	MEL 11089	6, 33, 35, 40	PC
47			Investment Development Corporation	MEL 11075	6, 33, 35, 40	PC
48			Investment Development Corporation	MEL 11088	6, 33, 35, 40	PC
49			Middle Island Resources - Liberia Ltd	MEL 11076	6, 33, 35, 40	PC
50			Middle Island Resources - Liberia Ltd	MEL 11067	6, 33, 35, 40	PC
51			Middle Island Resources - Liberia Ltd	MEL 11066	6, 33, 35, 40	PC
52			Middle Island Resources - Liberia Ltd	MEL 11068	6, 33, 35, 40	PC
53			Middle Island Resources - Liberia Ltd	MEL 11069	6, 33, 35, 40	PC
54			Solomon Resource Corporation	MEL 11072	6, 33, 35, 40	PC
55			Bea Mountain Mining Corporation	-	-	LoS
56		Class B Mining Licences	Global Mineral Investment LLC	MBL-2011-0006	6, 33	PC
57			Global Mineral Investment LLC	MBL-2011-0005	6, 33	PC
58			Vandillay Industries Inc. (Daniel S. Burden)	MBL-2010-0009	6, 33	PC
59			West Africa Mines Ltd	MBL-2010-0011	6, 33	PC
60	Gold and Diamond Dealers	A.D.M.T (Liberia)	DD-2010-0007		C	
61		Afric Diam Company Inc.(Mustapha T)	DD-2011-0022		C	
62		West Africa Gold & Diamond Inc	DD-2011-0021		C	

Ref n°	Sector/ Agency	Category	Company/Contract	Location/other Reference	Findings (*)	Overall Compliance with Regulation
63			West Africa Gold & Diamond Inc	DD-2011-0012		C
64			Youssef Diamond Mining Company	DM-218-200-10	34	PC
65		Mineral Development Agreements	AmLib (Klekle & Cestos)	-	-	LoS
66			BHP Billiton	-	3, 4, 5, 6, 8, 12, 41	PC
67			Putu / Seversta	-	3, 4, 5, 6, 8, 12	PC
68			Western Cluster, SESA GOA Ltd., Bloom F	-	3, 4, 5, 6, 10, 12	PC

(*) The findings are presented in table 2 – Summary of findings

(**) The contract addendum was compliant itself but was judged noncompliant since the original contract was noncompliant.

We set out in the table below a summary of our findings with an indication of the contracts to which they relate:

Table 2 – Summary of findings

Finding n°	Title	Related contract ref. (*)	Priority (**)	Government Agency responsible
1	Cavalla Rubber Corporation and Golden Veroleum Agriculture Concessions awarded without going through competitive bidding process	1, 2	1	MOA and PPCC
2	Sime Darby Agriculture Concession awarded without going through the competitive bidding process	4	1	MOA and PPCC
3	Entity Concession Committees not appointed	1 to 5, 8 to 18 and 66 to 68	2	MOA, MLME, FDA and NOCAL
4	Certificate for Concession not sought or obtained	1 to 5, 8, 9 and 66 to 68	1	MOA, MLME and NOCAL
5	Lack of Concession Procurement Plans	1 to 5, 8 to 18 and 66 to 68	2	MOA, MLME, FDA, NOCAL, PPCC and IMCC
6	Lack of stakeholder forums	1 to 5, 8 to 18, 42 to 54, 56 to 59 and 66 to 68	2	MOA, MLME, FDA, NOCAL and IMCC
7	Agriculture Concession durations not compliant with the Public Lands Law	2, 4	3	MOA
8	Appointment of Inter-Ministerial Concession Committees not justified	3, 66, 67	2	IMCC, MOA and MLME
9	Concession Bid Evaluation Panels not constituted and works not substantiated	1, 2, 4 and 10 to 13	1	IMCC, MOA and FDA
10	Invitations to bid and bid documents not approved by the Inter-Ministerial Concessions Committee	3, 10 to 13 and 68	2	IMCC, MOA, ,FDA and MLME
11	Minutes of receipt and opening of the bids not prepared	3 and 10 to 18	1	MOA and FDA
12	Lack of Due Diligence Reports	1, 2, 4 and 66 to 68	1	IMCC, MOA and MLME
13	Ambiguity of the Public Procurement and Concessions Act in the Oil Sector	5 to 9	1	NOCAL, NIC and PPCC
14	Conflict of interest within NOCAL	5 to 9	1	NOCAL
15	Award of a Production Sharing Contract without going through a bidding process	8, 9	1	NOCAL and PPCC
16	Waiving of legal requirements of the New Petroleum Law of 2002	5 to 9	3	NOCAL and NIC
17	Communities not involved in the validation process	10 to 18	1	FDA
18	Original bids submitted not filed	10 to 18	1	FDA
19	Forest Management Contract Area F overlapping with private land	11	2	FDA

Finding n°	Title	Related contract ref. (*)	Priority (**)	Government Agency responsible
20	Legal requirements for Private Use Permit applications not met	20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 40, 41	1	FDA
21	Stability clauses exceeding the maximum 15 years	2, 4	3	IMCC and MOA
22	Inconsistencies and discrepancies between Private Use Permit documents	19, 20, 21, 24, 26, 32, 33, 34, 37, 41	1	FDA
23	Lack of social agreements between land owners and Private Use Permit operators	19, 24, 26, 28, 31 to 37, 39, 41	2	FDA
24	Lack of land validation for Private Use Permits	19 to 41 (all PUPs)	1	FDA
25	Lack of reliability of field visit memos	24, 33, 34, 36, 37, 39, 40, 41	1	FDA
26	Inconsistencies between FDA decisions and field visit recommendations	25, 35	1	FDA
27	Inadequate information in Private Use Permit contracts	33	1	FDA
28	Inconsistent Private Use Permit contract durations	19 to 41 (all PUPs)	2	FDA
29	Irregular Land Deed	24	1	FDA and MLME
30	Lack of/poor evidence of deed verification and authentication by MLME	22 to 25 and 28 to 41	1	FDA and MLME
31	Private Use Permits issued over Community Forest Lands	19 to 41 (all PUPs)	1	FDA
32	Private Use Permit basic requirements not respected	19 to 41 (all PUPs)	1	FDA
33	Lack of Cabinet determination and Public Procurement and Concessions Commission approval for exploration Licences and Class B Mining Licences.	42 to 54 and 56 to 59	1	MLME, IMCC and PPCC
34	Missing application for Dealer Licences	64	2	MLME
35	MLME controls not substantiated with regard to Exploration Licenses	42 to 54	1	MLME
36	Lack of punitive sanctions in the Public Procurement and Concessions Act	-	2	Legislature
37	Inadequate filing system	-	1	MOA, FDA, NOCAL, MLME and IMCC
38	Insufficient involvement of the Public Procurement and Concession Commission	-	2	PPCC
39	Timber Sale Contracts awarded without complying with the Public Procurement and Concessions Act	14 to 18	1	FDA and IMCC
40	Distortions in the legal framework with regard to the award of Exploration Licences	42 to 54	1	MLME
41	Concession Agreements containing invalid clauses	66	1	MLME, NIC, Legislature

(*) The related contract reference should be noted in connection with table 1 – Summary of compliance.

(**) Priority level of the recommendation (see Section 5).

Full detail of each finding is presented in Section 5 – Findings and Recommendations.

Distribution and Use

The LEITI Multi-stakeholder Steering Group has requested this report and it is intended solely for its information.

This report relates only to the review of the award of concessions, contracts, licenses, permits and other rights of exploitation of diamond, gold, oil, timber, and agricultural resources of Liberia from 13 July 2009 to 31 December 2011 as stated in our Terms of Reference and does not extend to a review of the entire process of the entities granting Concessions.



Tim Woodward
Partner
Moore Stephens LLP

150 Aldersgate Street
London EC1A 4AB

10 May 2013

2. CONTEXT OF THE MISSION

2.1 POLITICAL BACKGROUND

The Liberia Extractive Industries Transparency Initiative (LEITI) is an autonomous agency of the Government established by the LEITI Act of 2009.

The general objective of LEITI is to assist in ensuring that all benefits due to the Government and people of Liberia on account of the exploitation and/or extraction of the country's minerals and other resources are verifiably paid or provided, duly accounted for, and prudently utilized for the benefits of all Liberians and on the basis of equity and sustainability.

The extractive and other natural resources sectors covered by our Terms of Reference are the Mining Sector, the Oil and Natural Gas Sector, the Agriculture and Forestry Sectors.

LEITI comprises a broad coalition of stakeholders, and accordingly is managed as a multi-stakeholders body in keeping with the provisions of the LEITI Act 2009. The coalition of stakeholders includes government officials; members of Parliament, members of extractive companies; and civil society organizations including an association or union of workers in the extractive sectors.

The governing body of LEITI is the Multi-stakeholders Steering Group ("MSG"), under which authority and supervision, the management and the implementation of all activities and programmes of LEITI are carried out.

The MSG has established a Secretariat, which is responsible for carrying out and coordinating LEITI's day-to-day operations. It has been granted powers to adopt any rules necessary to ensure the smooth running of LEITI as an organisation and to take all necessary actions in order to achieve its mandate and objectives.

LEITI is financed through the national budget as well as donations and grants from Liberia's Development Partners and other international institutions.

The current assignment has been financed by the African Development Bank.

2.2 BACKGROUND TO THE AUDIT

The present audit was carried out in accordance with Section 4.1 of the LEITI Act 2009 which stipulates that LEITI is entitled to perform "appropriate audits and/or investigations of the process by which each material concession, contract, license, and other right is awarded by the Government in respect of forestry, mining, oil, agriculture and other designated resource sectors of Liberia in order to determine that each concession, contract, license, and similar right was awarded in compliance with applicable Liberian laws."

2.3 GOVERNMENT AGENCIES INVOLVED

Government Agencies responsible for the award processes are as follows:

Sector	Government Agency
Agriculture	Ministry of Agriculture
Forestry	Forestry Development Authority
Mining	Ministry of Lands, Mines and Energy
Oil	National Oil Company of Liberia

Other Government Agencies have also been identified as carrying out advisory or supervisory activities. These Government Agencies are: the National Investment Commission, the Public Procurement and Concessions Commission and the National Bureau of Concessions.

3. THE AUDIT

3.1 OBJECTIVES

The objective of our assignment was to conduct a post-award audit of the processes involved in awarding material public concessions, contracts, licenses, permits and other rights of exploitation of diamond, gold, oil, timber, and agricultural resources of Liberia from 13 July 2009 to 31 December 2011. We were required to ascertain that these processes were in compliance with applicable Liberian Laws at the time of award.

As part of the other objectives, we were also required to develop sector-specific compliance templates summarising all relevant laws and procedures applicable to the sectors covered under the LEITI programme. Such templates will serve LEITI as a guide in future for evaluating the process of the award of concessions, contracts, licenses, permits and any other rights.

3.2 SCOPE AND MATERIALITY

The audit involved each material concession, contract, license, and other rights (hereinafter Contracts) awarded during the period under review.

Concessions, as defined in section 73 of the Public Procurement and Concessions Act are “the grant of an interest in a public asset by the Government or its agency to a private sector entity for a specified period during which the asset may be operated, managed, utilized or improved by the private sector entity which pays fees or royalties under the condition that the Government retains its overall interest in the asset and that the asset will revert to the Government or agency at a determined time.”

In order to identify “material” contracts for the purpose of this audit, the LEITI Secretariat prepared a Materiality Report containing a list of all contracts which to its knowledge had been granted during the period under review and established a threshold above which contracts would be subject to the audit (see Annex 1 for further details). This materiality threshold was approved by the MSG.

We suggested some amendments to the materiality report as described further in this section.

3.2.1 Assumptions

Whilst setting the materiality threshold, the MSG made the following assumptions:

- the LEITI Act entered into force on 13 July 2009 and that date was set as the start date for the scope of our audit;
- the date on which concessions and other rights were printed into handbills was used to determine if they should form part of the process audit. However, where such information was unavailable, the Secretariat used the contract approval date by default; and
- the date of 31 December 2011 was set as a cut-off point as the LEITI Act makes provision for a compliance audit to take place every year. As a result, all contracts granted or amended after that date do not form part of the present audit as they will fall within the scope of the next compliance audit.

3.2.2 Methodology

The LEITI Secretariat gathered copies of contracts from Government Agencies but was not able to obtain a comprehensive listing of all companies to which these awards were made, along with relevant documents assigning rights for the project. The analysis and recommendations of the Materiality Report were based only on information gathered by the LEITI Secretariat.

Given the characteristics of each sector, the Secretariat used separate indicators for each sector in determining what were considered as material contracts.

The rationale used was such that by excluding an individual, a company or a group of companies whose rights were granted/amended between 13 July 2009 and 31 December 2011 from the review exercise, this should not significantly affect the outcome of our assignment.

In addition, a contract deemed immaterial with reference to the defined thresholds shall not prevent the MSG from seeking to singly or collectively review the award process if it so wished.

3.2.3 Review of materiality

According to our Terms of Reference, we have reviewed the Materiality Report in order to ensure the completeness of the contracts included. To do so, we sent notifications by formal letters to MLME, MOA, NOCAL and FDA. The purpose of these letters was to confirm the dates of signature of the contracts stipulated in the materiality report and request confirmation as to whether the list of these contracts was complete.

We present below an analysis of materiality as well as the contracts and companies selected for the audit.

3.2.3.1 Agriculture Sector

Agriculture concessions fall under the definition of Section 73-1-g of the Public Procurement and Concession Act (PPCA), according to which, the Government grants the right to develop and operate an agricultural plantation provided that the private entity is responsible for and bears the risks of the capital investment and operating costs of the project.

Fifteen concessions are identified in the Materiality Report, two contracts, and one Memorandum of Understanding (MOU).

The Materiality Report indicates that three companies were granted rights by the Government of Liberia during the period under review, (Cavalla Rubber Corporation, Maryland Oil Palm/Decoris and Golden Veroleum) and concluded that all three companies should be retained for the review.

We received confirmation from the MOA that a contract had been signed with Sime Darby during the period under review. We judged that the contract should form part of the review and informed the Secretariat accordingly. Therefore, the amended list of contracts retained for audit in the Agricultural Sector was as follows:

Company	Date approved	Date printed	Duration (years)	Location
Cavalla Rubber Corporation	02/08/2011	17/08/2011	50	Maryland
Golden Veroleum (Liberia) Inc.	01/09/2010	02/09/2010	65	Multiple
Maryland Palm Oil / Decoris	02/08/2011	17/08/2011	33	Maryland
Sime Darby Plantation (Liberia) Inc	23/07/2009	29/07/2009	63	Multiple

3.2.3.2 Oil Sector

Oil contracts granted by GOL are "Production Sharing Contracts (PSC)" that fall under the definition of Section 1.3.24 of the New Petroleum Law 2002 (NPL), according to which a PSC is "a petroleum contract which grants the contracting party a share of production". "It is a service contract whereby the holder is entitled to a portion of the production of hydrocarbons derived from the pertinent contract area."

The Materiality Report identified 9 existing Production Sharing Contracts (PSCs) in the oil sector, ranging from Blocks 8 to 17. Of these, 5 rights were awarded / amended during the period under review. In view of the investment size, the MSG agreed that all of these contracts should be audited.

We obtained confirmation from NOCAL of the contracts as stated in the Materiality Report.

The Materiality Report list was deemed acceptable and the contracts retained for the audit in the Oil Sector were as follows:

Company	Date approved	Date printed	Duration (Years)	Location
GOL, Anadarko Liberia	23/07/09	29/07/2009	7	LB - 10
GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	03/09/10	06/09/2010	9	LB - 11
GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	03/09/10	06/09/2010	9	LB - 12
GOL, Oranto Petroleum Ltd	23/07/09	29/07/2010	9	LB - 14
GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	03/09/10	06/09/2010	9	LB - 14

(*) Block 14 is stated twice as the contract was awarded and then amended during the period under review

3.2.3.3 Forestry Sector

Rights in the forestry sector are awarded in four categories, being: Forest Management Contract (FMC), Forest Use Permit (FUP), Private Use Permit (PUP), and Timber Sales Contract (TSC).

The LEITI Secretariat did not include FUPs in the Materiality Report. However, we note that FUPs are strictly reserved for specified classes of persons, such as subsistence farmers, forest-dependent communities, residents of a particular county or district, academic researchers, artisans, and persons undertaking tourism, eco-tourism, and similar conservation based activities. We further note that the area allocated to FUPs must be less than 1,000 hectares. We therefore concluded that the exclusion of FUPs from the Materiality Report was acceptable in view of their immateriality.

Materiality for FMCs and PUPs was based on the total area granted while that of TSCs was based on minimum investment size.

Forest Management Contracts

A Forest Management Contract is a long-term Forest Resources License issued by the Government under Section 5.3 of the National Forestry Reform Law that allows a Person to manage a tract of Forest Land and harvest or use Forest Products.

Per the Materiality Report, four companies were granted FMC rights during the period under review and all of them were retained for the audit.

We received confirmation from the FDA regarding the contracts awarded, which agreed with those listed in the LEITI Materiality Report.

LEITI's rationale for including all four contracts in the audit was accepted. Therefore, the final list of contracts retained for the audit of FMCs was as follows:

Company	Date approved	Date printed	Duration (Years)	Location	Total Area (hectare)
Atlantic Resources Ltd.	30/09/2009	01/10/2009	25	A - P, Multiple	119,344
Euro Liberia Logging Co.	30/09/2009	01/10/2009	25	A - F, Multiple	253,670
Geblo Inc	30/09/2009	01/10/2009	25	A - I, Multiple	131,466
International Consultant Capital (ICC)	30/09/2009	01/10/2009	25	A - K, Multiple	266,910

Timber Sale Contracts

A Timber Sale Contract is a short-term Forest Resources License issued by the Government under Section 5.4 of the National Forestry Reform Law that allows a Person to harvest Timber from a specified tract of Forest Land.

The Materiality Report included twelve TSCs issued by FDA, amongst which five were awarded during the period under review. Based on the minimum investment required, the Materiality Report recommends that each of the five companies' rights should form part of the audit.

We received a confirmation from the FDA regarding TSC contracts awarded which agreed with the list in the Materiality Report.

LEITI's rationale for including all five contracts in the audit was accepted. Therefore, the list of contracts retained for the audit of TSCs was as follows:

Company	Date approved	Duration (Years)	Location	Total Area (hectare)
Akewa Group of Companies	21/07/2010	3	A - 3, Grand Bassa	5,000
Bassa Logging & Timber Corporation	21/07/2010	3	A - 11, Cape Mount	5,000
Sun Yeun Corp.	21/07/2010	3	A -16, Cape Mount	5,000
Sun Yeun Corp.	21/07/2010	3	A - 15, Cape Mount	5,000
Thunderbird Intl. Lib	01/10/2010	2	A - 8, Cape Mount	5,000

Private Use Permits

A Private Use Permit is a Forest Resources License issued by the Government under Section 5.6 of the National Forestry Reform Law to allow Commercial Use of Forest Resources on private land.

The Materiality Report identified fifty-two PUPs issued by the Forestry Development Authority (FDA), thirty of which were issued during the period under review.

Five of these companies involved rights over a land area constituting less than one percent of the total land area occupied by PUPs. The Materiality Report recommended that these companies were to be excluded from the process audit, and that the remaining twenty-five companies with a land area equal to or greater than one percent were to be included in the process audit.

The examination of the list and its check against the contracts showed that two PUPs had been counted twice, thus reducing the LEITI Secretariat list to 23 permits. The PUPs counted twice were:

- People of Chedepo & Potupo District; and
- People of Gbeapo and Potupo District.

We did not receive any confirmation from FDA regarding the Materiality Report for PUPs. In addition, following our examination of the Special Independent Investigating Body Report on the Issuance of Private Use Permits (SIIB), we note that the SIIB Report identified 63 permits of which 62 had been issued during the period under review instead of the 52 mentioned above in the Materiality Report.

The same materiality threshold used in the Materiality Report (permits with more than 1% of the total area) was applied to the SIIB list, which showed that 43 PUPs should be subject to the audit. As a consequence, there is a strong indication that 20 PUPs could have been missed out from the process review.

In view of the lack of information we encountered with regards to PUPs, the list which was subject to our audit involved only the 23 contracts included in the Materiality Report, as follows:

Land owner	Operator (*)	Date Approved	Duration (Years)	Location	License Surface (hectare)
People of Chedepo and Potupo Districts	DC. Wilson Inc	04/05/2010	25	River Gee	51,262
People of Campwood/Gheegbahn District	Unknown	16/03/2011	25	Grand Bassa	51,472
People of Cavalla District	Cavalla Forest Company	15/06/2011	23	Grand Gedeh	38,956
People of Doedian District	Tropical Timber Incorporated	15/06/2011	30	River cess	49,394
People of Doe's Chiefdom	Unknown	17/01/2011	25	Nimba	79,263
People of Dugbeh River District	Atlantic Resources/Forest Venture/South Eastern Timber Company	06/10/2011	25	Sinoe	52,858
People of Foya District	People of Foya District	19/12/2011	25	Gbarpolu	121,834
People of Gbeapo, Potupo and Sarbo Dist	D.C Wilson Inc	04/05/2010	23	River Gee	45,873
People of Gbeapo-Thienpo District	Tropical Timber Incorporated	15/06/2011	25	River Gee	63,287
People of Geetroh Comm. Forest Mgmt. Organization (GECFMO)	Univeral Forestry Corporation	23/04/2010	11	Sinoe Co	22,831
People of Gibi District	Akewa Group	19/01/2011	13	Margibi	22,163
People of Jo-River District	EJ & J Investment Logging Company	06/10/2011	3	River cess	30,765
People of Karluway District	Atlantic Resources	31/08/2010	17	Maryland	28,847
People of Kokoyah District	Group of Forestry Experts Company (GOFEC)	23/05/2011	13	Bong	21,549
People of Kulu Shaw-Boe District	Atlantic Resources	12/08/2011	12	Sinoe	20,193
People of Lorla Clan	Unknown	04/01/2011	8	Bong	13,636
People of Lower & Upper Jloh District	Atlantic Resources	01/09/2010	22	Grand Kru	36,509
People of Sam Gbalor District	Forest Venture	12/08/2011	14	River Cess	23,432
People of Tarsue District	Forest Venture	12/08/2011	25	Sinoe	63,002
People of Teemor Section	Lone Star Global Trade & Investment Inc	23/05/2011	11	Grand Bassa	18,779
People of Zleh Town	Frankbrook Liberia Inc	03/06/2011	17	Grand Gedeh	28,143
People of Zodua Section	Redwood Inc	10/01/2011	7	Grand Cape Mount	11,324
People of Zulo Clan	People of Zulo Clan	04/01/2011	14	Bong	23,306

(*) indicative: the actual operator may have changed after the issuance of the PUP

The list of the permits that could have been missed from the materiality report and from the process audit is presented in Annex 2.

3.2.3.4 Mining Sector

Mining rights are grouped into the following categories with annual renewal required for continued operations:

1. Prospecting (\$125);
2. Class C (\$150);
3. Class B (\$10,000);
4. Gold Brokers (\$1,500);
5. Diamond Brokers (\$1,500);
6. Gold Dealers (\$5,000);
7. Diamond Dealers (\$25,000);
8. Reconnaissance (\$15,000);
9. Exploration (\$5,000 plus surface rental);
10. Mineral Development Agreement (MDA); and
11. Class A (\$50,000).

Prospecting, Class C, Gold Brokers and Diamond Brokers were considered immaterial based on the cost of obtaining rights and were therefore excluded from the Materiality Report.

Exploration Licences

An Exploration License is a contract between a licensee and the GOL granting to the licensee for the License term the exclusive right to explore in a License Area. Exploration Licences are granted in compliance with Section 5.3 of the New Minerals and Mining Law.

For firms holding Exploration rights, the cost of acquiring a license is US\$ 5,000 plus a surface rental which is an area-based fee. It means that the total amount paid for exploration rights takes into account the total land area, so that companies with a larger land surface would pay more to maintain or obtain rights from the GOL.

The Materiality Report recommends that all companies holding at least 4% of land surface should be subject to the process audit. Seven companies were found to meet that condition.

The confirmation we received from MLME showed that one license on the list, granted to “Youssef Diamond Mining Company” was in fact a Class B Mining License. Therefore, the aforementioned license was removed from the exploration list and was added to the Class B mining Licences list.

In addition, MLME confirmation showed that several licences had been issued under the same licensee name which brought the number of licences granted during the period under review to 14 licences as presented below:

Licensee	Number of Licences
African Gold Mining (Liberia) Ltd	2
Bea Mountain Mining Corporation	1
Gryphon Minerals Limited	2
Investment Development Corporation	3
Middle Island Resources Liberia Ltd	5
Solomon Resource Corporation	1
Total Licences	14

Class B Mining Licences

A Class B Mining License is a mining right granted under Section 6.4 of the NMML. It covers an area of not more than one hundred (100) acres, no portion of which is within five hundred (500) meters of any portion of another Mining License held by the same Licensee and is exclusively for the exploitation of secondary mineral deposits.

Class B mining Licences are subject to payment of fixed amounts. The Materiality Report recommends random sampling to determine which companies formed part of the review process.

From a list of 8 companies we selected 3 as a sample for the process audit.

MLME confirmation showed no discrepancies with the Secretariat's list. However, it showed that one licensee had been issued with two licences which brought the total number of licences to 4. These licensees are presented below:

Licensee	Number of Licences
Global Mineral Investment LLC	2
Vandillay Industries Inc. (Daniel S. Burden)	1
West Africa Mines Ltd	1
Total Licences	4

Diamond Dealers and Gold Dealers

Diamond and Gold Dealers are charged fixed amounts for their respective categories. The Materiality Report recommends random sampling be applied to determine which companies form part of the review process.

From the Materiality Report list of 15 Diamond Dealers and 24 Gold Dealers, we selected only 4 for the process audit, in view of their relative immateriality.

MLME confirmation showed no discrepancies with the Materiality Report list. However, it showed that one licensee had been issued with two licences which brought the total number of licences to 5 as presented below:

Licensee	Number of Licences
A.D.M.T (Liberia)	1
Afric Diam Company Inc.(Mustapha t)	1
West Africa Gold & Diamond Inc.	2
Youssef Diamond Mining Company	1
Total Licences	5

Mineral Development Agreements (MDA)

MDAs are mineral rights granted under section 6.6 of the NMML.

Seven MDAs were noted as active within the Mining Sector, four of which had been issued rights during the period under review.

Based on the value of their individual investment, we selected all four companies in our sample.

We did not receive any confirmation from MLME following our letter to them to confirm the completeness of this list. This lack of information left us unable to corroborate the recommendation of the Materiality Report. The companies which formed part of the audit were:

- AmLib (Klekle & Cestos);
- BHP Billiton;
- Putu / Seversta; and
- Western Cluster, SESA GOA Ltd., Bloom F.

3.2.4 Limitations of Scope

We were not provided with the following documents and information from the following Government Agencies:

FDA – Forestry Sector

FDA did not provide us with a response on the Materiality Report with regards to PUPs. As a result, we have not been able to gain adequate assurance that all contracts which should be reviewed have been included in the Materiality Report. Based on the SIIB report we received, we have strong indication that 20 PUPs could have been excluded from the process audit (see above analysis of PUP materiality).

MLME – Mining Sector

The Ministry of Lands, Mines and Energy did not provide us with:

- a response on the Materiality Report relating to Mineral Development Agreements. Consequently, we have not been able to gain adequate assurance that all contracts that should be reviewed have been included in the Materiality Report;
- the award documents for the Exploration License granted to Bea Mountain Mining Corporation (Contract n° 55). Therefore, we were not able to review the award process for this license and ensure its compliance with the relevant regulation; and
- the award documents for the Mineral Development Agreement granted to AmLib (Klekle & Cestos) (Contract n° 65). Therefore, we were not able to review the award process for this Agreement and ensure its compliance with the applicable regulation.

3.3 PROCESS AND METHODOLOGY

3.3.1 Process

We started the assignment on 13 November 2012 in Monrovia, where we met with the LEITI Secretariat team and discussed the audit scope, the timeframes for the fieldwork, the documents to be collected and the meetings we intended to carry out.

The audit was carried out during three missions as set out below:

3.3.1.1 First Mission

We carried out a first mission between 13 and 30 November 2012 during which we:

- reviewed the Materiality Report, prepared by the LEITI Secretariat and approved by the MSG, in order to ensure the completeness of the contracts, licences and agreements signed or approved between 13 July 2009 and 31 December 2011;
- sent notifications by formal letters to MLME, MOA, NOCAL and FDA on 19 November 2012. The purpose of these letters was to obtain confirmation of the dates of signature of the contracts, licences and agreements stipulated in the Materiality Report and request confirmation of the completeness of these contracts. The deadline for the reply was set at 26 November 2012.
- reviewed the regulations applicable for the award of contracts, licences and agreements in the mining, agricultural, forestry and oil sector. These regulations had been confirmed with each Government Agency.

- reviewed a number of previous studies, surveys or investigation reports involving issues to be covered by our audit, especially:
 - the Special Independent Investigating Body (SIIB) Report on the Issuance of Private Use Permits (PUPS), December 2012;
 - ‘So who owns the forest’: An investigation into forest ownership and customary land rights in Liberia, Sustainable Development Institute / FERN, November 2007;
 - Study on Assessing the Potential Role of Land Title Registration in Liberia - Report to the Land Commission, Mark Marquardt & MacArthur Pay-Bayee, February 2011;
 - Global Witness, CENTAL, LDI, LMI, SDI, “Curse or cure? How oil can boost or break Liberia’s post-war recovery”, September 2011; and
 - National Energy Policy and Agenda for Action and Economic and Social Development, Ministry of Lands, Mines and Energy, January 2009.
- examined the complaints relating to the bidding process which were filed by bidders with the Public Procurement and Concessions Commission (PPCC Website).
- held meetings with Government Agencies in order to explain the subject of the audit, develop an understanding of the award procedures used, the persons/entities involved in the process and discuss the availability of the award documents. During our first mission, we met with the following Government Agencies:
 - National Oil Company of Liberia (NOCAL);
 - National Investment Committee;
 - National Bureau of Concessions;
 - Public Procurement and Concessions Commission;
 - Publish what you Pay – NGO;
 - Ministry of Lands, Mines and Energy; and
 - Ministry of Agriculture.

Following these meetings, we agreed that Focal Points would be nominated in order to address our queries. Further meetings were set up to allow Key Government Agencies time for the nomination of focal points. These meetings were postponed or cancelled by the Government Agencies on several occasions.

At the end of the first mission and despite several reminders, we did not receive any response regarding the letters sent on 19 November 2012 and were not able to meet with any of the focal points at MLME, FDA and NOCAL.

We also encountered difficulties in obtaining the documentation to perform the award review in the absence of focal points. We prepared a list of all award documentation that Key Government Agencies had to keep according to PPCA and sent formal request letters listing these documents on 3 December 2012, allowing the heads of Key Government Agencies 2 weeks for the preparation of these documents.

The first part of the fieldwork ended on 30 November 2012 and an aide memoire was sent to the LEITI Secretariat detailing any lack of cooperation we had faced, the necessary steps to be taken before resuming the assignment and a schedule of the expected activities to be undertaken to complete the audit.

We had anticipated resuming the assignment on 17 December 2012, on the assumption that all documents requested would have been received and the meetings arranged by the LEITI Secretariat would be confirmed by that date. The expected duration of fieldwork for this second mission was 2 weeks, following which a draft report would be submitted on 18 January 2013.

3.3.1.2 Second Mission

Before resuming the fieldwork, we obtained assurances from the FDA that a focal point had been nominated and that they were in the process of preparing the documents for the audit. We also obtained assurances from the NIC that most of the documents were ready. After contacting the LEITI Secretariat, we agreed to resume the fieldwork on 17 December 2012 as planned and managed to obtain some of the documents requested and arranged for the remaining meetings to be held once on site.

We carried out the following tasks:

- meetings with the NIC and the focal points at the MLME, FDA and NOCAL;
- follow-up of responses to the materiality letters from the FDA, MOA and MLME;
- preparation of audit programmes by award category/sector detailing the list of steps to be observed in the award process;
- review of the award documentation relating to the agricultural sector;
- review of the award documents relating to exploration licences (mining sector); and
- collection of all agreements which went through the IMCC from the NIC.

We faced significant delays in the planning of the meetings. The meeting with NOCAL took place at the end of the first week while the meeting with the MLME took place a day before the end of the second mission.

The focal points we met had not prepared any of the documents we had requested and we had to systematically set a new deadline for obtaining the documents. Except for the MOA, none of the Key Government Agencies adhered to the new deadlines set. We spent considerable time chasing Key Government Agencies by email, telephone calls and further meetings.

At the end of the second mission (28 December 2012), we were unable to obtain the following documentation:

- FDA: responses on materiality with regard to PUP contracts and all award documentation. In addition, we had been informed that the FDA focal point had been replaced and a new meeting had to be agreed with the new focal point in order to receive the documents requested;
- MLME: responses on materiality with regard to MDA agreements and award documentation relating to dealers' licences, class B mining licences and MDA agreements. MLME did not nominate a focal point for MDA;
- NOCAL: feedback received since the formal letters were sent out. The NOCAL focal point failed to agree a date for the submission of the documents.

The aforementioned difficulties in obtaining the documentation resulted in the postponement of the reporting deadline set for 18 January 2013.

3.3.1.3 Third Mission

Our local audit team continued chasing the documents during the period from 2 January to 8 March 2013, the works being supervised by the Team Leader remotely.

During this period the audit team carried out the following tasks:

- meeting with the FDA focal point, the MLME Assistant Minister and the NOCAL CEO to highlight the challenges we had been facing in obtaining the documentation and to request better cooperation;
- obtain and review the documentation submitted by NOCAL, FDA and MLME;
- follow-up of the responses to the materiality letters from FDA and MLME with regards to PUPs and MDAs respectively.

Some documents remained missing and we therefore sent final reminders on 21 February and set the deadline for responses at 1 March 2013, after which date, no documents were accepted.

The documents that were not submitted at the end of the fieldwork have been listed in Section 3.2.4 – Limitation of Scope.

3.3.2 Methodology

We present in this section a summary of the tasks undertaken during the process audit:

- held meetings with all Government Agencies involved in the process as well as Civil Society Groups. The meetings were split in two phases: preliminary meetings with the heads of organisations, followed by technical meetings with the focal points;
- described the award process within each Government Agency and for each category of contract;
- checked the Materiality Report prepared by the LEITI Secretariat and approved by the MSG in order to ensure the completeness of the contracts and to make sure that no material contract had been excluded;
- collected and analysed the laws and regulations applicable to each sector;
- developed audit programmes for the audit of the award process. These audit programmes had been tailored for each sector and contract category;
- performed thorough testing of the documentation submitted and followed up all missing documents by formal communications, emails and all other means of communications available;
- performed a review of the contracts in order to ensure their compliance with the applicable laws and regulations; and
- developed sector-specific compliance templates summarising all relevant laws and procedures applicable to the sectors/contracts covered under the LEITI programme. Such templates will serve as a guide to LEITI in evaluating the process of the award of concessions, contracts, licenses, permits and any other rights in the future.

3.3.3 Reporting

We prepared an Aide-Memoire following the first mission where we listed the challenges that we had encountered and we set out the planning for the second mission. This Aide Memoire was sent to the LEITI Secretariat on 13 December 2012.

We prepared an Inception Report following our second round of fieldwork which laid out the work we had carried out at that point in time, the difficulties encountered as well as the course of action to be taken in order to complete the post award process audit. This report was sent to the LEITI Secretariat on 17 January 2013.

Finally, we prepared this report which sets out in detail the findings, an analysis of the documentation collected as well as practical recommendations for the future.

4. APPLICABLE REGULATIONS AND AWARD PROCESS

The award process for concessions is governed by a mix of sector-specific regulations with some laws that apply equally to all sectors. We also identified several regulations which are not specific to the award process but which contain some relevant rulings on the award process, which could therefore not be ignored.

The laws that apply to all sectors are:

- Public Procurement and Concessions Act 2005 (PPCA 2005);
- Amended and Restated Public Procurement and Concessions Act 2010 (PPCA);
- Regulations Accompanying the Public Procurement and Concessions Commission Act 2005;
- National Bureau of Concessions Act 2011;
- National Investment Commission Act 2010;
- Investment Incentives Act 1973;
- Investment Act 2010;
- Liberia Revenue Code 2000 as amended by the subsequent laws;
- General Business Law 1978 as amended in 2002;
- Environment Protection and Management Law 2002;
- Public Lands Law - Title 34 - Liberian Code of Laws Revised; and
- LEITI Act 2009.

The Public Procurement and Concessions Act is the main regulation describing the process to be observed by all sectors.

On the other hand, the Amended and Restated Public Procurement and Concessions Act (PPCA) was enforced on 16 September 2010, which means that either the PPCA 2005 or the PPCA 2010 could be applicable, given that the period covered by the audit is from 13 July 2009 to 31 December 2011.

The rationale we used, as stated in Section 142-3 of the PPCA was: "If requests for expressions of interest for a Concession were issued prior to the effective date of this Act, the Concession process will continue to be governed by the original Act except that the Procuring Entity shall comply with requirements in this Act rather than the original Act for any approvals or notices applicable to actions not yet completed when this Act becomes effective".

The specific laws were applied as per the following sections describing the award process for each sector.

4.1 AGRICULTURAL SECTOR

The Agricultural sector does not have any specific regulation. Therefore the main regulation that applies is the Public Procurement and Concessions Act.

The Ministry of Agriculture does not have any written procedures for the award of concessions.

PPCA sets out the different steps for the award of an agricultural concession, which can be summarised as follows:

Phases	Legal reference	Steps
Case of Sole Source award	Section 101 PPCA	Follow the procedure stated in Section 101 of the PPCA, and obtain the approval of the PPCC
Certificate for Concession	Section 89 PPCA	Request and obtain a Certificate for concession from the Minister of Planning and Economic Affairs
Entity Concession Committee	Section 77 PPCA	Designation of an Entity Concession Committee (ECC) by the Minister of Agriculture
Preparation phase	Section 83 PPCA	Written request by the Minister of Agriculture to the President of GOL in order to constitute the Inter-Ministerial Concessions Committee (IMCC)
	Section 83 PPCA	Nomination of the IMCC members by the President of GOL
	Section 79 PPCA	Preparation of a Concession Procurement Plan (CPP) by the ECC
	Section 79 PPCA	Filing of the CPP with the Public Procurement Concession Commission (PPCC) and IMCC
	Section 79 PPCA	Approval of CPP by IMCC
	Section 91 PPCA	Publication of a notice of the stakeholder forum not less than 14 days prior to the Forum by the MOA (stating the time and place)
	Section 90 PPCA	Holding of Public Stakeholder Consultations by the MOA
	Section 106 PPCA	Publication of a General Notice of Investment Opportunity by the MOA
Expressions of Interest or pre-qualifications (if Eol used)	Section 77 PPCA	Preparation of pre-qualification instructions for bidders if pre-qualification is to be used
	Section 104 PPCA	Submission of the Expression of Interest (Eol) Form to the IMCC for Review and approval
	Section 102 PPCA	Review and approval of the Eol Form and of the pre-qualification criteria by the IMCC
	Section 106 PPCA	Publication of a request for Eol with a minimum deadline of 4 weeks
	Section 110 PPCA	Receipt of the Eol by the ECC
	Section 110 PPCA	Opening of the Eol by the ECC
	Section 111 PPCA	Appointment of a Concession Bid Evaluation Panel (CBEP) by the IMCC
	Section 111 PPCA	Evaluation of submissions by CBEP and preparation of a report on the evaluation
	Section 102 PPCA	Approval of the results by IMCC
Invitations to bid	Section 77 PPCA	Preparation of all documentation to be included in any invitation to bid by ECC
	Section 82 PPCA	Submission of the Invitation to Bid Form and the invitation to bid documents to IMCC for review and approval
	Section 82 PPCA	Review and approval of the invitation to bid form and the invitation to bid documents by the IMCC
	Section 117 PPCA	Submission of the Invitation to Bid Form and the invitation to bid documents to the Ministry of Justice for review of legal aspects
	Section 106 PPCA	Publication of an invitation to bid with a minimum deadline of 6 weeks

Phases	Legal reference	Steps
Reception, opening and evaluation of bids	Section 110 PPCA	Receipt of the Bids by ECC
	Section 110 PPCA	Opening of the Bids by ECC
	Sections 78 and 116 PPCA	Appointment of an independent organisation to carry out the due diligence
	Sections 115 and 116 PPCA	Conduct of a due diligence review of all responsive bidders (the evaluation report should be accompanied by a summary of the results of the due diligence performed)
	Section 118 PPCA	Preparation and submission of the evaluation report by CBEP on the post-qualification to IMCC
	Section 118 PPCA	Review and approval of the evaluation report by IMCC
	Section 118 PPCA	Notification to the PPCC and the President of GOL of the actions taken following the CBEP evaluation report
Contract Negotiation	Section 118 PPCA	Appointment of a negotiation team by the President of GOL to carry out the contract negotiations
	Section 118 PPCA	Conduct of contract negotiations and choice of the contractor
Contract signature	Section 117 PPCA	Signature of the Agreement by the President
	Section 6.2.4 GBL	Ratification of the contract by Legislature
Further communications	Section 92 PPCA	Documents stated in Section 92 of the PPCA Act are sent to the National Bureau of Concessions by ECC and IMCC

The examination of the documentation submitted by the MOA showed that the Ministry did not:

- request or obtain a Certificate for concession for any of the concessions awarded (Finding n° 4);
- designate any Entity Concession Committee (Finding n° 3);
- prepare any Concession Procurement Plan (Finding n° 5);
- provide any proof that Public Stakeholder Consultations took place (Finding n° 6); or
- prepare minutes for receipt and opening of the bids in case of competitive bidding (Finding n° 11).

We also noted that:

- Concessions awarded to Cavalla Rubber Corporation, Golden Veroleum and Sime Darby did not follow the correct legal procedure and did not go through a competitive bidding process (Finding n° 1 and 2);
- Agriculture Concessions durations were not consistent with the Public Lands Law (Finding n° 7);
- The appointment of IMCCs was not justified (Finding n° 8);
- Concession Bid Evaluation Panels were not formed and the extent of their duties was not documented (Finding n° 9);
- Invitations to bid and bid documents were not approved by the IMCC (Finding n° 10);
- due diligence reviews were not carried out (Finding n° 12); and

- The durations of stability clauses were not consistent with the Liberia Revenue Code (Finding n° 21).

These shortcomings are discussed in detail in Section 5 - Findings and recommendations.

4.2 OIL SECTOR

Apart from the PPCA, specific regulations that apply to the Oil Sector are:

- National Oil Company of Liberia Act 2000; and
- New Petroleum Law of 2002 (NPL).

We found fundamental contradictions between the PPCA and the New Petroleum Law 2002. The contradiction concerns the supreme entity which has the power to supervise the overall award process. These contradictions were reflected in the process used by NOCAL for awarding Production Sharing Contracts.

Section 2.1 of the NPL states that “In collaboration with the Hydrocarbon Technical Committee, all petroleum contracts shall be negotiated by the National Oil Company of Liberia pursuant to the Act establishing the National Oil Company of Liberia.”

The Hydrocarbon Technical Committee was established by Section 4.4 of the NPL which states that: “For the purpose of collaboration and cooperation, there is hereby established an ad-hoc National Hydrocarbon Technical Committee (HTC) under the chairmanship, supervision, and direction of the National Oil Company of Liberia.”

The powers of HTC are defined in Section 4.5 of the NPL which states that “the Hydrocarbon Technical Committee shall have the power, under the chairmanship and direction of the President/CEO of NOCAL, or his/her designee, to negotiate and conclude agreements with all applicants for hydrocarbon development and exploitation rights and such related permits.”

However, we note that NPL requirements regarding the award of concessions were repealed by the PPCA 2005 Act which states in Section 75 - Scope, Application and General Principles - that:

“This part (Part VI – Specific Procedures for Processing Concession Agreements) shall apply to all activities relating to Concessions and shall in particular apply to the following:

(a) The implementation of Concessions, including but not limited to:

- i. Identification and certification for Concessions;
- ii. Planning of the process for Concession agreements;
- iii. Preparation of Concession bid documents;
- iv. Invitation and evaluation of bids, negotiations and signing of Concession agreements; and
- v. Implementation, supervision and monitoring of Concession agreements.

(b) The grant of Concessions of whatever form in all sectors, including but not limited to Oil exploration and extraction.”

PPCA 2005 states further in Section 144 that “Upon the coming into force of this Act, it shall supersede any other law, regulations, guidelines, directives and such other instruments guiding public procurement and concessions and any such law, regulations, guidelines or instrument of any form found to be inconsistent with any provision of this Act shall, to the extent of the inconsistency be void.”

The foregoing therefore supersedes the NPL unequivocally and renders the PPCA the new legislation to be followed with regard to the supervision of the overall award process in the oil sector.

We also found that NOCAL has no written procedures for the award of PSCs. Yet, from the award documents examined, we found that the whole award process was managed by HTC instead of IMCC as stipulated in Section 82 of the PPCA. We also note that HTC and IMCC quorums are different. IMCC must be chaired by the National Investment Commission and includes 9 Ministers while the HTC is chaired by the NOCAL CEO and should include 7 representatives who are not necessarily ministers.

These grey areas made it inevitable that interpretation gaps appeared enabling NOCAL to interpret the rules as it sees fit. As an example, due diligence reviews are included in the NOCAL process as stated in the PPCA and not in the NPL.

The award process for the Oil Sector should be similar to that of the Agricultural Sector (see Section 4.1). Nevertheless, from the examination of the documents and based on our correspondence with NOCAL, we note that several steps were not complied with as follows:

- the obtention of a Certificate for Concession (Finding n° 4);
- the designation of an Entity Concession Committee (Finding n° 3);
- the preparation of a Concession Procurement Plan (Finding n° 5);
- the holding of Public Stakeholder Consultations (Finding n° 6); and

NOCAL explained that these requirements are not applicable to the Oil Sector and that only the NPL should prevail.

In addition, we noted that there was an inherent conflict of interest in NOCAL's dual commercial and regulatory roles which create potential risks to the award process. (Finding n° 14)

We also noted that:

- several NPL dispositions have been waived in the PSCs (Finding n° 16); and
- Block 14 has been awarded to Oranto Petroleum Ltd on a sole-Source basis without following the legal process (Finding n° 15).

4.3 FORESTRY SECTOR

Apart from the PPCA, specific regulations that apply to the Forestry Sector are:

- Act Creating the Forestry Development Authority (FDA) of 1976;
- National Forestry Reform Law of 2006 (NFRL);
- Forestry Core Regulations - FDA Ten Core Regulations (effective September 2007);
- Act to Establish the Community Rights Law with respect to Forest Lands of 2009;
- FDA Regulations to the Community Rights Law with Respect to Forest Lands, July 2011;

- Guidelines for Forest Management Planning in Liberia; and
- National Forest Management Strategy, 2007.

4.3.1 FMC

The procedure to be followed for FMCs is the same as the one applicable to the Agriculture Sector (see Section 4.1) with some minor differences as follows:

- the land area subject to the FMC must be 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. We set out in the table below the main steps to be followed in the validation process which should take place before any other step in the award procedure.

Phases	Legal reference	Steps
Validation	Section 5.3 NFRL and NFMS	The contract must be consistent with the National Forest Management Strategy
	Section 4.5 NFRL & Section 22 of Regulation 104-07	Identification of affected communities by FDA
	Section 4.5 NFRL & Section 22 of Regulation 104-07	FDA gives notice of its intent to conduct consultations with representatives of Affected Communities by publication of a notice in a newspaper of the area; publication of a notice in a newspaper in Monrovia; announcement on national radio stations with coverage in the area; and sending written notices on any Forest Management Stakeholder's list
	Section 4.5 NFRL & Section 62 of Regulation 102-07	FDA convenes one or more local public meetings for communities located within and immediately adjacent to the Forest Land that will be affected by the Forest Land Use Action
	Section 4.5 NFRL & Section 62 of Regulation 102-07	FDA must record all public comments so that they are fully considered and must prepare a report summarising the substance of all public comments
	Section 4.5 NFRL & Section 62 of Regulation 102-07	FDA prepares a Justification Document
	Section 4.5 NFRL & Section 62 of Regulation 102-07	FDA presents the Justification Document for comment at local public meetings
	Section 4.5 NFRL & Section 62 of Regulation 102-07	The Justification Document is approved by the FDA Board

Like Agricultural Concessions, FMCs must be signed by the President of Liberia and ratified by Legislature.

The examination of the documentation submitted by the FDA with regard to FMCs showed several instances of non-compliance:

- Entity Concession Committees were not appointed (Finding n° 3);
- Concession Procurement Plans were not prepared (Finding n° 5);
- Stakeholder Forums were not held (Finding n° 6);
- Concession Bid Evaluation Panels were not appointed and their works were not substantiated (Finding n° 9);
- Invitations to bid and bid documents were not approved by IMCC (Finding n° 10);
- Communities were not involved in the Validation Process (Finding n° 17);
- Original bids submitted were not kept on file (Finding n° 18); and
- FMC Areas overlapped with private land (Finding n° 19).

4.3.2 TSC

The award process is identical to the one applicable to FMCs, with the following differences:

- the basic term of the contract must not be more than three years;
- the land area subject to the contract must be no more than 5,000 hectares;
- bid documents must systematically mention that qualified bidders should demonstrate at least 51% ownership by Liberian citizens; and
- the contract is only signed by FDA and the holder, and is not subject to Legislature ratification.

The examination of TSCs' award process raised the following findings:

- Entity Concession Committees were not appointed (Finding n° 3);
- Certificates for Concessions were not obtained (Finding n° 4);
- Concession Procurement Plans were not prepared (Finding n° 5);
- Stakeholder Forums were not held (Finding n° 6);
- Communities were not involved in the Validation Process (Finding n° 17);
- Original bids submitted were not kept on file (Finding n° 18); and
- Award procedure was not compliant with the PPCA (Finding n° 39)

4.3.3 PUP

The FDA did not issue any regulation relating to PUPs. FDA Core Regulations are mainly applicable to FMCs and TSCs, and only few clauses relate to PUPs.

The procedure for granting PUPs as described by FDA, includes the following steps:

- 1 the owner submits a written application to the FDA along with supporting documentation such as the title deeds and other legal documents requesting the issuance of a Private Use Permit;
- 2 The FDA sends the title deeds to the MLME for verification and authentication purposes;
- 3 based on the positive response from the MLME, technicians from the FDA are sent to field visits in order to verify the deed by taking coordinates and subsequent interpretations;
- 4 if the coordinates taken do not overlap with another person's land or fall short of the area identified by the owner based on the interpretation, FDA grants the Private Use Permit license;
- 5 if the executor of the PUP is different from the owner, the person (executor) must have in his/her possession a valid certificate and a written permission from the owner along with a valid copy of the PUP Issued;
- 6 the executor must have a valid Annual Harvesting Certificate issued by the Authority upon completion of the technical requirements for implementation which includes:
 - i. Submitting a Letter of Intent along with the Articles of Incorporation and the Business Registration Certificate;
 - ii. Possession of a valid certificate;
 - iii. Submitting a valid performance bond;
 - iv. Submitting a Management Plan;
 - v. Submitting an Annual Operational Plan;
 - vi. Completing and signing an attested Social Agreement;
 - vii. Submitting an Environmental Impact Assessment Clearance from the Environmental Protection Agency;
 - viii. Receipt of payment of the Annual Administration fees; and
 - ix. Clearance of concession demarcation.
- 7 PUPs must be signed by the FDA and the land owner or his proxy, and are not subject to Legislature ratification.

Our examination of the award process for PUPs raised a number of findings as summarised below:

- several PUP applications did not meet the legal requirements or were missing (Finding n° 20);
- instances of contradictions between PUP documents and dates (Finding n° 22);
- several instances of Social Agreements between land owners and PUP operators were missing (Finding n° 23);
- the lands subject to a PUP have not been validated according to legal requirements (Finding n° 24);
- several field visit memos were not reliable or lacked important information (Finding n° 25);
- instances of inconsistencies between FDA decisions and field visit recommendations (Finding n° 26);
- one instance where the information contained in the contract was poor (Finding n° 27);

- inconsistencies in the determination of PUP durations (Finding n° 28);
- one instance where we had serious doubts regarding the authenticity of a land deed (Finding n° 29);
- lack of or poor evidence of deed verification and authentication by MLME (Finding n° 30);
- all PUPs were issued over Community Forest Lands (Finding n° 31); and
- all PUPs basic requirements were not observed (Finding n° 32).

4.4 MINING SECTOR

In addition to PPCA, specific regulations that apply to the Mining Sector are:

- New Minerals and Mining Law of 2000;
- Regulation N°002 - Regulation on Interim Procedures for Issuing Exploration Licenses (effective August 2007);
- Exploration Regulations - Regulations Governing Exploration Under a Mineral Exploration License of the Republic of Liberia (effective March 2010); and
- Mineral Policy of Liberia, effective March 2010.

Contracts in the Mining sector which were subject to our review were:

- Mineral Development Contracts (MDA);
- Exploration Licences;
- Class B Mining Licences; and
- Gold and Diamond Dealers.

Each of these categories has its own rules.

4.4.1 Exploration Licences

For the award of exploration Licences, a concept was consecrated by the Mineral Policy of Liberia, the PPCA and the Regulation 002. This concept assumes the following:

- in case of known mineral deposits, the procedure to be followed should be in compliance with the PPCA; and
- in case the mineral assets are unknown, the Ministry of Lands, Mines and Energy (MLME) should use the procedure of first-come-first served (known also as First-in-First-Assessed (FIFA)).

A combination of Sections 75-3, 82, 95 and 101 of the PPCA shows that in order for MLME to grant an exploration license without going through the bidding procedure, the following conditions should be met:

- The Liberia Geological Survey (LGS) must issue a recommendation stating that the available information on the existence of such Minerals in such areas indicates that there are insufficient quantities and/or qualities of such Minerals in such areas to support meaningful bidding for the granting of Exploration Licenses for such Minerals in such areas.
- following the foregoing, the Minister of Lands and Mines must issue a determination stating that the area has been declared as a non-bidding area for such minerals;
- the Minister determination must be reviewed and approved by the IMCC; and
- prior express approval must be obtained from the PPCC regarding the procedure to be employed.

Such determination should be renewed every two years; otherwise the area automatically ceases to be a non-bidding area.

All exploration licenses reviewed have been awarded according to the FIFA.

The procedure for granting Exploration Licenses as described by the MLME is as follows:

- filing of an application by the Investor accompanied by relevant documents with the Minister of Lands and Mines;
- the application is stamped and dated by the Minister who sends it to the Mining Cadastre;
- the Cadastre proceeds with the registration and vetting of the application and the coordinates;
- if the land is available, the documents are sent to the Assistant Minister for exploration who sends them to the Liberian Geological Survey (LGS);
- LGS vets the application with regard to technical and financial capacities;
- if the application is satisfactory the documents are sent to the Assistant Minister who sends them back to the Cadastre;
- the Cadastre prepares a payment form which it delivers to the Investor;
- the investor proceeds with the payment of the fees at the Ministry of Finance and brings back the Flag Receipt to the Cadastre;
- the Cadastre prepares the license and sends it to the Assistant Minister for Exploration; and
- the License is signed by the Assistant Minister for Exploration and approved by the Minister.

The review of the award process showed that:

- Stakeholder Forums were not held (Finding n° 6);
- with regard to the application of the FIFA procedure, we did not obtain any document or proof showing that the derogation process had been complied with (Finding n° 33);
- MLME controls were not substantiated (Finding n° 35); and
- distortions in the legal framework with regard to the award of Exploration Licences have been noted (Finding n° 40).

4.4.2 Class B Mining Licences

All Class B Mining Licenses reviewed were granted according to FIFA.

The procedure as described by the MLME is as follows:

- filing of an application by the Investor accompanied by the relevant documents with the Minister of Lands and Mines;
- the application is stamped and dated by the Minister who sends it to the Mining Cadastre;
- the Cadastre proceeds with the registration and vetting of the application and the coordinates;
- if the land is available, the documents are sent to the Assistant Minister for Mines/Director of Mines who vets the documents, verifies the Liberian participation and proceeds with the survey of the area and the preparation of the maps;
- if all the checks are satisfactory, the documents are returned to the Mining Cadastre;
- the Cadastre prepares a payment form and delivers it to the Investor;
- the investor proceeds with the payment of the fees at the Ministry of Finance and brings the Flag Receipt to the Cadastre;
- the Cadastre prepares the license and sends it to the Assistant Minister for Mines/Director of Mines; and
- the License is signed by the Director of Mines and the Assistant Minister for Mines.

The review of the award process showed that:

- Stakeholders' Forums were not held (Finding n° 6); and
- with regard to the application of the FIFA procedure, we did not obtain any document or proof showing that the derogation process had been complied with (Finding n° 33).

4.4.3 Gold and Diamond Dealers

The procedure for Gold and Diamonds is the same as Class B Mining Licences. However Dealership does not require competitive bidding.

The review of the award process showed that a single application was not found on file (Finding n° 34).

4.4.4 Mineral Development Agreements

The general principle applied for MDAs during the period under review was as follows:

- If the area has already been issued with an exploration License based on FIFA, no competitive bidding is required. However all other PPCA dispositions will apply from the preparation of the procurement plan until negotiations; and
- In case of known mineral deposits in areas that were not granted an exploration License, the PPCA will be applicable in its entirety.

In the second case, the procedure is the same as for Agricultural Concessions. In the first case, the procedure is the same except that requirements relating to competitive bidding are not applicable.

The examination of the documentation submitted by the MOA showed that the Ministry did not:

- request or obtain a Certificate for concession for any of the concessions awarded (Finding n° 4);
- appoint any Entity Concession Committee (Finding n° 3);
- prepare any Concession Procurement Plan (Finding n° 5); or
- provide any proof that Public Stakeholder Consultations took place (Finding n° 6).

We also note that:

- the appointment of IMCCs was not substantiated (Finding n° 8);
- invitations to bid and bid documents were not approved by the IMCC (Finding n° 10);
- due diligence reviews were not carried out (Finding n° 12); and
- Concession Agreements containing invalid clauses.

5. FINDINGS AND RECOMMENDATIONS

We set out in this Section our findings along with proposed recommendations:

Priority levels for ranking recommendations

Priority 1 - Urgent remedial action is required. Key internal controls are absent or are not complied with on a regular basis. There is a fundamental weakness or deficiency in an internal control or in a series of internal controls which involves a substantial risk of either material error, or irregularity or fraud with regard to the procedures applied. There is a substantial risk of failure to achieve the control objectives for the award process which concern effectiveness and efficiency of operations and compliance with applicable laws and regulations. Such risks could lead to the non-compliance of the award process. Remedial action should be taken urgently.

Priority 2 - Prompt specific action is required. There is a weakness or deficiency in an internal control or in a series of internal controls which, although not fundamental, relates to shortcomings which expose specific internal control areas to a less immediate level of risk of either error, or irregularity or fraud. Such a risk could impact on the effectiveness of the internal controls and on the internal control objectives and should be of concern to the Government Agency's management. Prompt specific action should be taken.

Priority 3 - Specific remedial action is desirable. There is a weakness or deficiency in internal control which individually has no major impact but where the award process would benefit from improved internal controls and/or where the Government Agency would have the opportunity to achieve greater effectiveness and/or efficiency. There is a possibility of undesirable effects at the process level, which, combined with other weaknesses, could give cause for concern.

Finding n°: 1	Title: Cavalla Rubber Corporation and Golden Veroleum Agriculture Concessions awarded without going through competitive bidding process
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Contracts involved: 1, 2

Government Agency responsible: MOA and PPCC

Description of the finding:

Section 95 of the PPCA 2005 states that "Concessions bidding proceedings shall be on the basis of open competitive bidding unless otherwise stipulated under this Act."

PPCA further states in Section 101 that "subject to the approval of the Commission (PPCC) a concessionaire may be sole sourced if one or more of the following conditions prevail:

- (a) the Concession requires specialised expertise that is available only to one specific bidder;
- (b) the Concession involves an innovation the patent for which is held by one particular bidder;
- (c) the Concession requires specialised research or experiment that only one person is prepared to undertake; and
- (d) the Concession is in respect of strategic national interest or national defense and security and it is not in the national interest to have more than one bidder.

Section 102 also states that "in all instances other than National Competitive Bidding and International Competitive Bidding, the method to be used shall receive the express prior approval of the Commission (PPCC)."

We noted that the Agriculture Concessions granted to Cavalla Rubber Corporation and to Golden Veroleum (Liberia) Inc were carried out without following any competitive bidding.

We examined the documents submitted to us but they did not give us any assurance that the conditions for sole-source award, as stated in Section 101 of the PPCA 2005, had been met, neither did we receive any document showing that PPCC approval required by virtue of Section 102 of the PPCA 2005 had been sought or obtained.

The issues described above portray a lack of competitiveness and transparency, are contrary to the principle of equal access to all investors and leads us to conclude that these two companies could have been favoured.

Recommendation:

We recommend that open competitive bidding is enforced as required by the PPCA 2005. Any exception to the above process must be duly justified and substantiated.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

NIC:

Cavalla Rubber Corporation and Golden Veroleum Agriculture Concessions were negotiated under the auspices of the IMCC with the sector Ministry as MOA. In the instance of Cavalla

Rubber Corporation, the company had a land lease under which it had operated since 1987. The Concession Agreement was only a conversion. It is inconceivable that an open competitive tender should be done in that instance.

It is important to note that internationally accepted standards and process in natural resource law have been applied to the granting of concessions in Liberia specifically with relation to the FIFA principle which clearly supports and respects the investments made by investors in mining and agriculture. It is inconceivable, that the conversion of land leases into Concession Agreements lack competitiveness of transparency as noted by the auditors. Both companies had signed agreements with the Government of Liberia which were still in force; hence there was no need for competitive bidding or tendering. The Government of Liberia respects the sanctity and probity of contract. The PPCA must be amended to reflect the realities of the differences which exist between the procurement of goods and services and the concession and negotiation processes.

NBC:

The finding points out that Cavalla Rubber Corporation and Golden Veroleum Agriculture Concessions were “awarded without going through the (legally required) competitive bidding process.” The NBC concurs with this assertion especially as it relates to Golden Veroleum Liberia Limited (GVL) because it is the NBC’s view that the GVL project procedure amounted to a sole sourcing (single sourcing) concession award process and not the competitive bid process and procedures as mandated by the Public Procurement and Concession Act. A single source transaction of that nature required the approbation and concurrence of the Public Procurement and Concessions Commission (PPCC).

However in the case of the Cavalla Rubber Corporation, the NBC is of a different opinion than the one contained in the audit finding for reasons being: Cavalla Rubber Corporation, originally owned by the Firestone Rubber Corporation, was later transferred to the Government by Firestone. Through other transactions in the Mid-to-late 1980s, Cavalla Rubber Corporation later became a 50% - 50% concern jointly owned and held between the Government of Liberia and a Private European company. The Government interest was subsequently leveraged for debt settlement in favor of a then Government owned Liberian Oil Palm Corporation. Accordingly, the company became 100% privately owned by the end of the 1980s. Government however retained an “equity buyback” option. A privately owned CRC could therefore not have been put up by the Government for open competitive bidding.

Further comments of the Auditor:

Sections 101 and 102 of the PPCA state clearly the cases where the concession could be awarded without competitive bidding.

For Cavalla Rubber Corporation, we understand that competitive bidding, might have been impractical but the PPCA provides a possibility of derogation, which is the sole-source award. However, the IMCC and the MOA should not act independently (without consulting the PPCC) when it comes to derogation to the competitive bidding principle. It was statutory to opt for one of the conditions stated in Section 101 of the PPCA and obtain the approval of the PPCC according to Section 102 of the same Act. It appeared that the derogation steps have been overlooked, thus we maintain our finding for Cavalla Rubber Corporation.

For Golden Veroleum, the NIC did not provide any additional information as to why the competitive bidding process was not applied, neither did they explain how the derogation steps have been undertaken. Therefore we maintain our finding for Golden Veroleum.

In relation to NIC’s assertion that: “The PPCA must be amended to reflect the realities of the differences which exist between the procurement of goods and services and the concession and negotiation processes”, we stress that the PPCA clearly makes a distinction between the procurement of goods and services and the concession processes. It is true however that the

PPCA needs amendments to clarify some other grey areas as explained in the following findings.

Finally, we remind the NIC that according to both international and domestic recognised standards in the natural resource field, the First-In-First-assessed (FIFA) principle is not relevant to the agricultural sector in Liberia but only applies to the mining sector (see Section 4.4 of this report).

Finding n°: 2**Title:** Sime Darby Agriculture Concession awarded without going through the competitive bidding process**Contracts involved:** 4**Implementing Agencies:** MOA and PPCC**Description of the finding:**

The land subject to this Concession had been first awarded in 1954. It has, since been passed from one owner to another until it was purchased by Sime Darby in November 2007.

GOL signed a new Contract in July 2009, according to which Sime Darby was allocated 220,000 hectares of land for the cultivation and production of palm oil and rubber and the duration of the Concession was set at 63 years.

Of the total surface area allocated under the new contract, 120,000 hectares were originally from the terms of the Original Concession Agreement (1954 contract) and a further 100,000 hectares were added under the new contract (2009).

We note that MOA did not carry out a competitive bidding process for this additional 100,000 hectares as it was treated as an addendum of the old contract.

This has resulted in almost doubling the surface area of the land being exploited without any competitive bidding. We consider this to be material to the 2009 Contract and that the Concession, or at least the new area, should have been granted following a competitive bidding process. In addition, the Concession does not meet any of the conditions pertaining to the sole-source award, neither did it follow the procedures as stated in Sections 101 and 102 of the PPCA 2005.

This issue demonstrates a lack of transparency in the award process and hinders efforts to reduce monopolies over Government lands.

Recommendation:

We recommend that, prior to signing new addenda, a thorough examination of the new conditions should be performed in order to ensure the contractual conditions have not changed substantially and, on that basis, assess whether a new bidding process is more appropriate for compliance with the requirements of PPCA.

In addition, we noted that both the PPCA and its predecessor (PPCA 2005) were silent with regard to variations in concession terms and conditions. Therefore, we recommend that this point is taken into consideration for the next amendment of the PPCA. Meanwhile, PPCC should issue a regulation addressing this issue.

Recommendation priority: Priority 1 - Urgent remedial action is required**Government Agencies' comments:**NIC:

Sime Darby occurred as a result of the transfer of ownership rights in the Concession Agreement which was originally signed in 1954. There is no provision in any law for the tendering of assets transferred between buyers and sellers.

Investment in agricultural concessions and development work plans are dependent upon the acreage and the yield per acre and the development of a processing facility, among other factors. In the case of Sime Darby, the additional acreage was given based upon the aforementioned production necessary to support the construction of a vegetable oil manufacturing plant in the Concession area that would run at full capacity.

NBC:

For Sime Darby Concession, the NBC also holds an opinion different from the conclusion reached in the Draft Audit report. Our disagreement is a matter of historical clarity of ownership interest in the plantation. Sime Darby Corporation concession area was acquired from B. F. Goodrich in the early 1980s by Sime Darby's predecessor from whom it was later acquired by Sime Darby. The Draft Audit Report's suggestion that a competitive tender should have been carried out for the incremental 100,000 acres of land added to the original concession area (220,000) is noted. However, the opportunity cost of ring-fencing and tendering the additional 100,000 acres of land separately may not have justified a new competitive tender.

Further comments of the Auditor:

The finding does not discuss the terms of the old contract or the ownership transfer between a seller and a buyer but the terms of the new contract signed in July 2009, under which, an additional land area of 100,000 hectares has been granted for 63 years without competitive bidding.

We believe that even though investment yields and cost opportunity are paramount in concessions, this should not, in any case, justify overlooking the applicable regulation. We highlight that the IMCC and the MOA should not act independently (without consulting the PPCC) and interpret the law as they see fit. In fact, although, according to our understanding, none of the conditions stated in Section 101 of the PPCA were met, the IMCC and the MOA could still have sought the approval of the PPCC for derogation to the procedure if they deemed this appropriate in the circumstances. The PPCC is the sole Government Agency authorised to judge whether the competitive bidding process is not relevant. We found that the PPCC approval was not sought or obtained as required by Section 102 of the PPCA.

It would appear that, in this case, the interests of Sime Darby have been favoured over those of GOL by the NIC.

Based on the foregoing explanations, we maintain our finding.

Finding n°: 3**Title:** Entity Concession Committees not appointed

Contracts involved: 1 to 5, 8 to 18 and 66 to 68

Implementing Agencies: MOA, MLME, FDA and NOCAL

Description of the finding:

Section 77 of the PPCA states that "If a Concession Entity proposes to grant a Concession, the Head of the Entity shall designate an Entity Concession Committee" (ECC).

The review of the contracts for all sectors showed that none of the implementing agencies involved, being: MOA, FDA, MLME or NOCAL, had appointed such a committee.

The non-compliance with Section 77 is unconstitutional as it restricts certain important steps of the procurement process, especially with regard to making collective decisions.

Recommendation:

We recommend that Entity Concessions Committees should be systematically appointed by the Heads of the Concession Entities to carry out the duties assigned to them in accordance with the PPCA. These duties include, inter alia:

- seeking the Concession Certificate;
- preparation of the Concession Procurement Plan; and
- dealing with all aspects relating to the bidding process at the Concession Entity level.

The composition of the ECC should be in compliance with Section 77-3 of the PPCA, which stipulates that the "Entity Concession Committee shall have at least three (3) and not more than seven (7) members, one of whom shall be designated by the Minister of Finance at the request of the Head of the Entity."

From a practical point of view, in order for the Concessions' Entities to comply with this requirement, we recommend that adequately qualified staff are recruited and an adequate capacity building programme is undertaken.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:MOA:

The Entity Concession Committees are now being appointed and will become operational shortly now that the Concession Monitoring Bureau has been established and is operational.

FDA:

Entity Concession Committees were not appointed.

NIC:

The IMTC by its nature and its mandates operates as the Concession Committees. It is made up

of the technical members from the Line Ministries as well as from NIC, MOJ, MOL, MOS, etc.

This is further support for the amendment of the PPCA as this is certainly a bureaucratic bottleneck which will be created.

Further comments of the Auditor:

We note that while the MOA and FDA acknowledged that Entity Concession Committees were not created, the NIC stated that the Inter-ministerial Technical Committee (IMTC) was acting as the Entity Concession Committee which demonstrates the lack of familiarity with the PPCA dispositions.

The IMTC is not a statutory body and neither the original PPCA (2005) nor the restated PPCA (2010) provides for the creation of such a committee. In addition, we did not find in any Liberian Law a definition of the nature or mandate of the “IMTC” as referred to in the NIC comment.

The Entity Concession Committee should be created within the Concession Entity as described by Section 77-3 of the PPCA. In addition, the PPCA amendment proposed by the NIC to remove Entity Concession Committees is not acceptable in our opinion as it will centralise the process with the IMCC and its technical arm the IMTC which, in turn, will weaken the transparency in the award process.

Pending any amendment of the law, the PPCA is binding on all Government Agencies and must not be overlooked.

Based on the above explanations, we maintain our finding.

Finding n°: 4**Title: Certificate for Concession not sought or obtained**

Contracts involved: 1 to 5, 8, 9 and 66 to 68

Implementing Agencies: MOA, MLME and NOCAL

Description of the finding:

Section 88 of the PPCA is one of important principle, according to which, there is "no Concession without Certificate". In fact, "every Concession implementation process shall commence with the issue of a Certificate for Concession and no Concession shall be implemented unless the proposed project has been issued with a Certificate for Concession."

The Certificate for Concession should be sought from the Ministry of Planning and Economic Affairs (MPEA).

We noted that none of the Agriculture, Mining or Oil Concessions had been issued with a Certificate for Concession.

This non-compliance with the Certificate for Concession requirement is illegal and prevents MPEA from carrying out several important tasks necessary for the successful implementation of the Concession. The issuance of the Certificate for Concession is an essential step in the award process. In the main, it allows the MPEA to ensure that the proposed Concessions are in line with the national economic objectives and to address any barriers or bottlenecks which could impede the procurement process.

Recommendation:

We recommend that a control or check is created in the Process in order to ensure that such Certificates are issued before beginning the procurement process. IMCC could be made responsible for this role by requesting this document when bid documents are first presented for approval.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:MOA:

Certificates for Concession are awarded as part of the outcome documents in those cases where a bidding exercise for them is carried out. In those cases where activities of an on-going concession were interrupted the country's long period of civil unrest, and the same developers/investors returned and indicated their desire to operate in the same area, the negotiation process would not include bidding and thus, no certificates would have been available. This is true especially for the rubber concessions (LAC, Cavalla, and to an extent, Sime Darby which is a rubber/oil palm concession). In their case, the developers/investors first expressed interest in reopening the rubber plantation that they operated for many years. At a later stage when Government's outreach for investors to come to Liberia and oil palm was mentioned under areas of interest for the agriculture sector, they responded to the call and proposed a rubber/oil palm investment that would start with reopening of the rubber plantation. In their case, the concessions were not awarded through a bidding process.

NIC:

The Change in the PPCA is warranted and necessary at this time.

Further comments of the Auditor:

Section 88 of the PPCA states that there is "no concession without certificate".

The principle instituted by the above section is of general application. In fact, the general rules of interpretation provide that where the legislator did not distinguish, the interpreter of the law shall not distinguish either. Therefore, there are no grounds for the MOA to make the above interpretation and limit the certificate for concession requirement to concessions awarded through a bidding process.

In addition, Section 101 of the PPCA relating to sole source and unsolicited bids makes it compulsory to follow all steps pertaining to the award of concessions beginning with the development of a Concession Procurement Plan through to basic due diligence except for those provisions that cannot rationally be applied in the absence of multiple bidders.

Therefore, we conclude that the certificate for concession is still required even in cases of sole source or unsolicited bids. As a consequence, we maintain our finding.

Finding n°: 5**Title: Lack of Concession Procurement Plans**

Contracts involved: 1 to 5, 8 to 18 and 66 to 68

Implementing Agencies: MOA, MLME, FDA, NOCAL, PPCC and IMCC

Description of the finding:

Section 77 of the PPCA renders compulsory the preparation of a Concession Procurement Plan (CPP) by the Concession Entity.

However, from the review of the award process, we note that none of the Concession Entities had prepared a CPP.

This situation constitutes a lack of compliance with the PPCA and does not allow for proper planning of the award process, thus hampering the execution of the award process.

Recommendation:

The CPP is an important document not only for the award process but also for the implementation of the Agreement.

Concession Entities should urgently prepare CPPs. In accordance with Section 79 of the PPCA, the CPP should contain the following information:

- an outline of the structure of the proposed concession;
- an allocation of responsibilities and deadlines for pre-implementation of the process;
- arrangements to ensure coordination with other institutions;
- the choice between national competitive bidding and international competitive bidding;
- a proposed due diligence plan; and
- the proposed dates for the general notice of investment opportunity, request for Expression of Interest, invitation to bid, due date for bids, evaluation, negotiation and all processes leading to the concession agreement.

We recommend that the CPP is filed with PPCC and IMCC in order to ensure that the award process does not move forward without PPCC and IMCC approvals.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:MOA:

The rules of concessions procurements are clearly stated in the PPCA and are adhered to by the NIC and the IMCC as they relate to the processes leading to concession agreement including their complete compliance according to the Liberian Laws.

FDA:

Concession Procurement Plans were not prepared but the FDA will follow the recommendation.

NIC:

Concessions unlike the procurement of goods and services typically tend to be a result of expressions of interest. In the mining sector, applications for MDA originate when a company has performed sufficient exploration and has determined that it has made a commercial discovery. The GOL cannot create a concession procurement plan based upon assumptions, and projections that they have no control over.

The finding implies that the processes of concession is on an ad hoc or willy nilly basis which is not true. Due to the nature of the mining and extractive industry, companies must apply for MDA's therefore the Line Ministry must wait on the application. In Oil and Gas, NOCAL plans its bid rounds. A review of the processes and the laws governing as well as the PPCA needs to be reviewed.

Further comments of the Auditor:

The MOA and the NIC did not provide us with any procurement plan as required by Section 77 of the PPCA and the FDA stated that no procurement plans were prepared or submitted to the IMCC and the PPCC for approval. Therefore, it appears that the concession award process was conducted without compliance with this requirement. As a consequence, we maintain our finding.

Finding n°: 6**Title: Lack of stakeholder forums**

Contracts involved: 1 to 5, 8 to 18, 42 to 54, 56 to 59 and 66 to 68

Implementing Agencies: MOA, MLME, FDA, NOCAL and IMCC

Description of the finding:

Section 90 of the PPCA states that "a Concession Entity shall undertake public stakeholder consultations with respect to each proposed Concession prior to the finalisation of the bid documents to be included in the invitation to bid."

Section 91 of the PPCA details the rules of publication which must be observed ahead of the forum.

Section 90 also sets out the rules to prove that such consultations have actually taken place. In fact, the bid documents that should be submitted to IMCC for approval "must be accompanied by a list of individuals and organisations attending the stakeholder forum held pursuant to subsection (1) of this Section, a copy of the notice of such forum published pursuant to such subsection, a summary of the information or positions presented at the forum and a description of actions taken by the Entity Concession Committee to reflect in the proposed bid documents the concerns of those attending the forum."

Following our review of the award process, we were unable to obtain any proof showing that such consultations had taken place or were announced.

The lack of stakeholders' consultations constitutes a significant disregard of the PPCA. Additionally, it could also lead to major risks in the long run which could jeopardize the implementation of the Concession. These risks could include: unstable environment, conflicts between investors and community dwellers, higher security risks to investors and environmental degradation.

Recommendation:

We recommend that the utmost importance is given to stakeholders' consultations as they are a key step in the award process and could hold the key to improve the perennity of concessions being awarded.

We also recommend that IMCC ensures that Concessions Entities produce the documentation showing that the forums have effectively taken place as required by Sections 90 and 91 of the PPCA.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:MOA:

There may have been insufficient Stakeholders' consultations but it is untrue that there was a lack of these were carried out during the award process or else as mentioned in the audit there would have been major risks that would jeopardize the implementation of the concession.

FDA:

Stakeholder forums were not held.

MLME:

The precursor to holding such a forum as required by this finding is the activity of a bid process. Since there was not such a process, such a forum was not necessary.

Further comments of the Auditor:

With regard to MOA concessions, we stress that the documentation pertaining to stakeholder forums should be kept in writing as required by Section 90-2 of the PPCA. Since no documentation was provided either by the MOA or the IMCC -which should review such documentation- we do not have assurance that such activities actually took place.

With regard to MLME, we disagree with their rationale as it goes against the spirit of the PPCA and the Liberian and international law as a whole. In fact, it is not conceivable, for the same exploration licence, to require a stakeholder forum in the case of auction and bypass it in the case of a FIFA procedure.

We believe that stakeholder forums instituted by the PPCA are compulsory notwithstanding the process award. The obligation originates from the broader principle of the right to Free, Prior and Informed Consent supported by the GOL in several dispositions being:

- the constitution of the Republic and especially Section n° 7 which instituted that right;
 - the NMML and especially section 11-4 which states that “The legal owner or lawful occupant of property on which minerals are discovered shall be entitled to a right of first refusal in any application for obtaining class A or Class B mining licences as against any third party or parties”.
 - the Act adopting the Environment Protection and Management Law of the republic of Liberia, and especially Section 11 which requires holding public meetings to consult the District communities on their opinion on the project;
 - the Mineral Policy of Liberia and especially Sections 2, 7, 9 and 12 which support the principle of consultation of all stakeholders and protection of affected people, developing with Broad Participation of communities and Environmental Stewardship and Social Responsibility; and
 - International Laws supported or adhered to by the GOL which make statutory such dispositions and especially:
 - United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and especially Article n° 32;
 - Treaty of the Economic Community of West African States (ECOWAS) and especially Articles n° 4, 29 and 31; and
 - International Labour Organisation Convention (C 169) on Indigenous and Tribal Peoples, (not ratified by Liberia).
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We note that all the aforementioned regulations do not make any distinction between the award process (FIFA or auction).

Based on the foregoing explanations, the MLME should uphold and respect the rights of populations to control and make decisions concerning the development or use of their lands and resources through the conduct of stakeholder forums irrespective of the process award applied in accordance with the Constitution, domestic regulation and international conventions, protocols, and treaties.

As a consequence, we maintain our finding.

Finding n°: 7	Title: Agriculture Concession durations not compliant with the Public Lands Law
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Contracts involved: 2, 4

Government Agency responsible: MOA

Description of the finding:

Section 70 of the Public Lands Law (Title 34 of the Liberian Code of Laws Revised) states with regard to leases to foreigners that "The President is hereby authorised to lease any portion of public lands not appropriated for other purposes to any foreign individuals, corporations, or companies for engaging in agricultural, mercantile, or mining operations in Liberia. The term of any such lease shall not exceed fifty years, but the lessee may renew the lease for another term of fifty years upon such terms as the contracting parties may agree."

We note that the Agriculture Concessions of Golden Veroleum (Liberia) Inc and Sime Darby Plantation (Liberia) Inc have been granted for 65 years and 63 years respectively. These constitute clear circumventions of applicable laws.

Recommendation:

Although we recognise that both Agriculture Concessions have been ratified by legislature, we recommend that the laws are observed to avoid any contradiction between the legislative framework and Concession Agreements.

Recommendation priority: Priority 3 - Specific remedial action is desirable

Government Agencies' comments:

MOA:

Agriculture concessions durations were consistent with the public lands laws and vary depending on the crop. Currently, the longest least period is applied for oil palm, which was considered a new tree crop for which the investment was tied to a value addition operation and not to one that will produce raw material for export. It should be noted that the Agriculture concession agreements were ratified by the legislature. There is no contradiction between the legislative framework and the concession agreements.

NIC:

The Public Lands Law is dated and the GOL is in the process of review and update of its entire land use policy.

Further comments of the Auditor:

We refer the MOA and the NIC to Section 70 of the Public Lands Law. We still consider that there is a contradiction between the legal framework and the concession agreements. In addition, we believe that in compliance with good governance principles, no Government Agency is allowed to interpret, on its own, that a law is outdated and act to the contrary.

Therefore, we consider that, in the absence of any amendment of the Public Lands Law, the latter is binding. As a consequence, we maintain our finding.

Finding n°: 8	Title: Appointment of Inter-Ministerial Concession Committees not justified
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Contracts involved: 3, 66, 67

Implementing Agencies: IMCC, MOA, MLME

Description of the finding:

Section 80 of the PPCA establishes the IMCC as the supreme Committee in charge of supervision of the entire process at all levels. IMCCs should be nominated for each Concession in accordance with Sections 81 and 82 of the PPCA.

With regard to the Contracts stated above, we did not obtain any proof relating to the nomination of an IMCC.

This therefore raises questions as to how the Contracts have been awarded in the absence of such a Committee. Even if we assume that committees were actually formed, albeit informally, there are then still major doubts regarding the appointment of the members and the decision-making process.

This lack of formality does not provide comfort and transparency as to how these IMCCs have taken their decisions, nominated the Concession Bid Evaluation Panel and gave their approval at the different levels of the award process.

Recommendation:

We recommend that IMCCs are nominated in compliance with Sections 81 and 82 of the PPCA and that the decision of appointment is made formally and kept on file within the IMCC Secretariat. For each Concession, a specific IMCC should be appointed.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:

MOA:

The IMCC members are appointed in compliance with applicable Liberian Laws that set statutory membership, which makes the committee legitimate.

NIC:

It is the role of the IMCC and the specific role of the NIC under both the 1979 and 2010 Acts to evaluate and negotiate on behalf of the people of Liberia.

IMCCs are created by the President and do not spring up by themselves after the line Ministry has informed the NIC of the need to evaluate and negotiate a concession agreement.

Further comments of the Auditor:

Neither line Ministries nor NIC could provide us with any written document proving that IMCCs have been appointed in accordance with Sections 80, 81 and 82 of the PPCA. Therefore, we maintain our finding.

Finding n°: 9**Title:** Concession Bid Evaluation Panels not constituted and works not substantiated**Contracts involved:** 1, 2, 4 and 10 to 13**Government Agency responsible:** IMCC, MOA and FDA**Description of the finding:**

According to Sections 82 and 111 of the PPCA, a Concession Bid Evaluation Panel (CBEP) must be constituted by IMCC for each concession.

The CBEPs must be constituted whether the award follows the competitive basis or if it is an unsolicited bid or sole sourced.

The most important role of the CBEP is to evaluate the bids submitted and to provide IMCC with an evaluation report for consideration and approval as required by Section 118 of the PPCA.

With regard to the Contracts stated above, we did not obtain any evidence relating to the nomination of such CBEPs. In fact, we did not find any evaluation report prepared for these contracts or any alternative evidence that such reports had been approved by IMCC.

This issue constitutes a clear breach of law. In fact, we could not verify whether any evaluation had been carried out or, if it had been, whether it was performed in full compliance with transparency rules.

Recommendation:

We recommend that, for each concession, IMCC constitutes a CBEP. Its members and governing rules should be well defined in accordance with Section 111 of the PPCA. The CBEP should fulfil its role as the sole evaluator of the bids and submit its evaluation report to IMCC for approval. We highlight that such reports should always be in writing as stipulated by Section 94 of the PPCA.

Recommendation priority: Priority 1 - Urgent remedial action is required**Government Agencies' comments:**MOA:

For transparency and full disclosure, by design, there are no Concession Bid Evaluation Panels. All bids are submitted fully sealed and are only opened in the presence of the full IMCC membership, the head or representative of the sector ministry/agency and the bidders.

NIC:

The agricultural concessions in question were concessions of land leases turned into concession agreements and not bidder. As such, there was no need for a Bid Evaluation Panel.

FDA:

The Concession Bid Evaluation Panel was appointed for all concessions awarded but not on individual concession.

Further comments of the Auditor:

With regard to Agricultural concessions, the lack of CBEPs is a major disregard of the PPCA as the IMCC is not allowed to carry out any evaluation.

In addition, according to Section 101 of the PPCA, CBEPs must be constituted and evaluation reports prepared even in case of sole source award or unsolicited bids, in order to pronounce on the existence of the investor claimed technical and financial capacity.

With regard, to the Forestry Sector, we have not been provided with the decision of nomination of such CBEP or the evaluation reports prepared by them.

As a consequence, we maintain our finding.

Finding n°: 10	Title: Invitations to bid and bid documents not approved by the Inter-Ministerial Concessions Committee
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Contracts involved: 3, 10 to 13 and 68

Government Agency responsible: IMCC, MOA, FDA and MLME

Description of the finding:

In accordance with Section 82 of the PPCA, the IMCC should "review and approve prior to their issuance all documents to be included in a request for Expressions of Interest or an Invitation to Bid."

For the Contracts stated above, we did not obtain any evidence suggesting that the foregoing documents had been submitted for approval or definitely approved by the IMCC.

We note that with regard to the FMC and TSC contracts, we found approvals by the FDA Board but not by the IMCC. This situation is in contravention with the stipulations of the PPCA and hinders the promotion of transparency.

Recommendation:

Bid documents are key elements of the award process as they constitute the evaluation methodology. We therefore recommend that these documents should be approved by the IMCC prior to any publication.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:

MOA:

The NIC has the knowledge and was expected to do a written correspondence in this respect.

FDA:

Invitation to bid and bid document recommendation is noted and accepted.

NIC:

The IMCC cannot act as judge and juror. Any bidding process begins with the line ministry.

This is not within the purview of the IMCC. To insure independence and transparency, the bidding must be done at the line Ministry level.

Further comments of the Auditor:

The finding does not recommend that the bidding process is done by the IMCC but requires, in accordance with Section 82 of the PPCA, that the IMCC should "review and approve prior to their issuance all documents to be included in a request for Expressions of Interest or an Invitation to Bid."

On the other hand, we note that the NIC stated in one instance (see NIC comments on Finding N° 3) that the IMTC, which is the technical arm of the IMCC, operates, as the Concession Committee

which, in turn, would be responsible for the bidding process. It is however stated above that the bidding must be done at the line Ministry level. We believe these two assertions are contradictory.

In view of the contradictory statements provided and the lack of additional information, we maintain our finding.

Finding n°: 11**Title: Minutes of receipt and opening of the bids not prepared**

Contracts involved: 3 and 10 to 18

Government Agency responsible: MOA and FDA

Description of the finding:

According to Section 110 of the PPCA, the bid submission and bid opening procedures shall observe the rules of bid submission and opening as stipulated in Sections 59, 61, 62 and 63 of the same Act.

Section 61 of the PPCA states that "bidders or their representatives may attend the bid opening, where the name of the bidder, the total amount of each bid, any discounts or alternatives offered, and the presence or absence of any bid security, if required, and essential supporting documents shall be read out loud and recorded, and a copy of the record shall be made available to any bidder on request; and any documents containing details of the financial offer must be signed by each member of the bid opening team."

With regard to the contracts we audited, there were no minutes relating to the receipt of bids, bid openings or details of the financial offers as required by Section 61 of the PPCA.

As a result, we cannot be sure that the bid openings were carried out in accordance with the requirements of the PPCA.

Recommendation:

We recommend that all records relating to the opening of bids are recorded in minutes signed by the bid opening team. Such minutes should be signed by the team members and systematically filed.

We further recommend for the future that all bids received are recorded in bid registers in order to ensure that there is complete traceability of all bids submitted.

Recommendation priority: Priority 1 - Urgent remedial action is required

Finding n°: 12	Title: Lack of Due Diligence Reports
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Contracts involved: 1, 2, 4, 66, 67, 68

Implementing Agencies: MOA, IMCC and MLME

Description of the finding:

Due diligence is an important step of the process and is a requirement of Section 116 of the PPCA. It should be undertaken by competent persons for all concessions awarded whether on a competitive basis, sole-sourced or unsolicited.

Due diligence reports are important as they allow IMCC to judge the technical and financial capacities of the bidders and to ensure that all legal matters relating to the bid have been complied with and that these are in accordance with the checklist included in Section 116 of the PPCA.

With regard to the contracts we audited, we were not provided with any due diligence reports. As a result, we were not able to conclude whether due diligence reviews had been carried out, and if so, whether the IMCC implemented the due diligence recommendations.

Recommendation:

We recommend that a due diligence review is undertaken for each Concession awarded. They should be carried out by competent persons appointed in accordance with Section 78 of the PPCA. Due diligence reports should address all the points stated in Section 116 of the PPCA.

We further recommend that any recommendations from due diligence reports should be factored into the decision-making process of the IMCC.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

MOA:

Due diligence reviews were not carried out by MOA as they accrue at the IMCC level. The IMCC with over sight responsibilities followed this important step of the process for awarding contracts as required by the Liberian Laws.

NIC:

The IMTC which is the technical arm of the IMCC performs due diligence on the investors.

Further comments of the Auditor:

The NIC comments state that the IMTC performs due diligence on the investors. However, it also operates as the Entity Concession Committee (see NIC comments on Finding N° 3).

Section 116 of the PPCA states that "Due diligence should be performed by independent organisations that had no involvement in preparing any bid relating to the proposed Concession."

Sections 68 and 78 of the PPCA provide for the rules to be followed in engaging experts to carry

out due diligence exercises.

Section 78 states that “A Concession Entity, an Entity Concession Committee, a Concession Bid Evaluation Panel and/or an Inter-Ministerial Concessions Committee may, where it is conducive to the national interest, engage or co-opt expert non-governmental entities or individuals to advice on any of the processes of Concessions.”

We note that the appointment of IMTCs to carry out due diligence exercises is not compliant with the PPCA as the IMTC is a government body. In addition we have not been provided with any due diligence reports prepared by the IMTC. We note finally, that to the contrary of NIC statement, due diligence exercises for FMCs were not carried out by the IMTC but by independent auditing firms.

In view of the above, we maintain our finding.

Finding n°: 13**Title:** Ambiguity of the Public Procurement and Concessions Act in the Oil Sector**Contracts involved:** 5 to 9**Implementing Agencies:** NOCAL, NIC and PPCC**Description of the finding:**

There are fundamental contradictions between the PPCA and the New Petroleum Law 2002 (NPL). The main contradiction concerns which of the two entities - HTC or IMCC - has overall supervision of the award process. These contradictions were reflected in the process used by NOCAL for awarding Production Sharing Contracts.

Section 2.1 of the NPL states that "In collaboration with the Hydrocarbon Technical Committee, all petroleum contracts shall be negotiated by the National Oil Company of Liberia, pursuant to the Act establishing the National Oil Company of Liberia."

The Hydrocarbon Technical Committee was established by Section 4.4 of NPL which states that: "For the purpose of collaboration and cooperation, there is hereby established an ad-hoc National Hydrocarbon Technical Committee (HTC) under the chairmanship, supervision, and direction of the National Oil Company of Liberia."

The powers of HTC are defined in Section 4.5 of NPL which stipulates that "the Hydrocarbon Technical Committee shall have the power, under the chairmanship and direction of the President/CEO of NOCAL, or his/her designee, to negotiate and conclude agreements with all applicants for hydrocarbon development and exploitation rights and such related permits."

However, we note that the NPL requirements regarding the award of concessions were repealed by the PPCA 2005 Act which states in its Section 75 - Scope, Application and General Principles - that :

"This part (Part VI – Specific Procedures for Processing Concession Agreements) shall apply to all activities relating to Concessions and shall in particular apply to the following:

(a) The implementation of Concessions, including but not limited to:

- i. Identification and certification for Concessions;
- ii. Planning of the process for Concession agreements;
- iii. Preparation of Concession bid documents;
- iv. Invitation and evaluation of bids, negotiations and signing of Concession agreements; and
- v. Implementation, supervision and monitoring of Concession agreements.

(b) The grant of Concessions of whatever form in all sectors, including but not limited to Oil exploration and extraction."

PPCA 2005 states further in Section 144 that "Upon the coming into force of this Act, it shall supersede any other law, regulations, guidelines, directives and such other instruments guiding public procurement and concessions and any such law, regulations, guidelines or instrument of any form found to be inconsistent with any provision of this Act shall, to the extent of the inconsistency be void."

The foregoing therefore supersedes NPL unequivocally and renders PPCA 2005 (and subsequently PPCA) the new legislation to be followed with regard to supervision of the overall award process in the oil sector.

We also note that NOCAL has no written procedures for the award of PSCs. Yet, from the award documents examined, we found that the entire award process was managed by HTC instead of IMCC as stipulated in Section 82 of PPCA. We also note that HTC and IMCC quorums are different. IMCC must be chaired by the National Investment Commission and includes 9 Ministers while HTC is chaired by the NOCAL CEO and should include 7 representatives who are not necessarily ministers.

Such ambiguities led to interpretation gaps appeared enabling NOCAL to interpret the rules as it sees fit. As an example, due diligence reviews are included in the NOCAL process as stated in PPCA and not in NPL.

This situation represents a breach of law and the prescribed award system as stipulated by PPCA.

This non-compliance with the applicable regulation is coupled with continued passivity from IMCC and other HTC members who did not fulfil their respective roles as required by law.

Recommendation:

The Award process for the oil sector should be in accordance with the PPCA. This should cover all the award steps involving mainly:

- the identification and certification of concessions;
- the planning of the process for concession agreements;
- the preparation of concession bid documents;
- the invitation and evaluation of bids negotiations; and
- signature of concession agreements.

Any ambiguities or contradictions should be addressed accordingly and, if the oil sector is to be excluded from the PPCA field, it should be ratified by a new law. In the meantime, we highly recommend that PPCC, in consultation with NOCAL, enforces a regulation clarifying this issue.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

NOCAL:

We acknowledged the conflicts between the PPCA and the New Petroleum Law of 2002. Notwithstanding, we disagree with the auditor statement that "NOCAL has no written procedures for the award of PSCs". The award procedures are defined in the New Petroleum Law of 2002.

The situation of conflicts presented by the two legislative acts (the NPL and PPCA), are presently the subject of review and reform of the Petroleum sector currently in progress.

NIC:

The petroleum sector was governed by the Petroleum Law and the Energy Law. There is a fundamental difference between the provision of goods and services and the concession process.

Changes to the PPCA to separate the procurement of goods and services from the concession process are warranted by the GOL. This is to eliminate the ambiguities within the various laws.

Further comments of the Auditor:

In view of NOCAL's comment, we maintain our finding.

Finding n°: 14	Title: Conflict of interest within NOCAL
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Contracts involved: 5 to 9

Government Agency responsible: NOCAL

Description of the finding:

According to Section 3.3 of the NPL, "the State, through its National Oil Company (NOCAL), reserves the right to undertake petroleum or hydrocarbon operations on its own account or in conjunction with any party of its choice."

In addition, Section 2.1 of the NPL states that "all petroleum contracts shall be negotiated by the National Oil Company of Liberia" and Section 2.4.7 states that "No person or company may hold a hydrocarbon exploitation license or a service contract without demonstrating the technical and financial capabilities required to successfully carry out the petroleum operations".

Furthermore, Section 3.1.i states that "No person or company including landowners may undertake any petroleum or hydrocarbon operation without receiving prior written authorisation from the State through NOCAL".

The combination of the above sections raises the following question: If NOCAL decides to enter into Petroleum Contracts itself, to which authority should it demonstrate its technical and financial capabilities and who will grant NOCAL itself the relevant authorisation? also in the case of a bidding process how will the evaluations will be carried out? Based on the current regulations, the answers to these questions is NOCAL itself.

This situation constitutes a major conflict of interest. In deed, the ramifications surrounding this conflict are quite broad given that NOCAL has been assigned two conflicting roles: a commercial role as a private company and a regulatory role (involving the bidding process and the award of contracts through HTC).

It is to note that the conflict is still dormant as NOCAL has yet to enter into any commercial activity itself, but the issue needs to be addressed proactively. The types of issues that could occur are preferential treatment of NOCAL's own operations/contracts and preferential allocation of exploration acreage and development approvals which could result in a lack of competition in the oil sector.

Recommendation:

We recommend that this conflict of interest is resolved by transferring the regulatory role of NOCAL to another Government Agency leaving NOCAL with a purely commercial role. This step cannot be undertaken without developing adequate technical capacities within the "new proposed" Government Agency.

If, for any reason, a complete segregation of NOCAL's roles is not immediately feasible, at the very least NOCAL should be required to internally ringfence commercial and regulatory functions by placing them under two different and independent departments. This should then be accompanied by a full separation at the budgetary and accounting levels to ensure that the operations do not interfere with each other.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

NOCAL:

The issue of dual role played by NOCAL as both regulatory and commercial entity has been addressed in the just completed National Petroleum policy of 2012.

NIC:

As a result of the recognition by the GOL of the inherent conflicts that would exist if the oil company were to be both regulator and commercial operator, the GOL has embarked upon an extensive oil sector policy review process.

NBC:

The award of Production Sharing Contracts (PSCs), or oil concessions and composition and functions of the Hydrocarbon Technical Committee and NOCAL's role as a commercial entity and a regulator is another area reviewed by the NBC. Presently, there is an on-going reform exercise in the oil sector that will significantly affect the NOCAL Act and the National Petroleum Law of Liberia currently in vogue. What has not been satisfactorily discussed from the NBC's stand point during the many hearings of the reform process are as follows:

- 1- the composition of the new regulatory body, i.e. if it is to be drawn from ministries and agencies or not; and
- 2- the composition of each Joint Operation Committee (JOC) under each PSC. Presently, only NOCAL and the contractors are members of the JOC. The NBC thinks that the JOC is essentially a monitoring team and it should therefore be headed by the NBC that was created by law to perform this role. Or, better still, the NBC must be a member of the JOC.

Section 5.1 of The Act creating the NBC dated September 23, 2011 states: "The National Bureau of Concessions shall provide technical assistance to ministries and other agencies, departments or bureaux of the Government responsible for planning, bidding, negotiating and administering concession agreements. Such assistance shall be provided when and in the manner provided for in the Public Procurement and Concessions Act or in other applicable laws; and may also be provided with respect to any aspect of the creation or administration of concessions when called for by any agency of the Government having jurisdiction."

In view of the foregoing, it is the view of the NBC that the Bureau's mandate as regard to its role in the exercise of concession processes in keeping with the Act that created it and the PPCA is either been ignored or willfully being set aside.

The NBC also wishes to note that Section (4) (a) of the Act creating the NBC empowers the NBC "to monitor and evaluate compliance with concession agreements in collaboration with concession entities." However, in the Oil Sector, compliance with the above section 4(a) of the Act by NOCAL and various PSC holders for the ten (10) blocks under concession has not been fully realized.

Concerning the composition and functions of the Hydrocarbon Technical Committee (HTC), Section 4.4 of the National Petroleum Law which establishes the HTC states as follows: "For the purpose of collaboration and cooperation, there is hereby established an ad-hoc National Hydrocarbon Committee (HTC) under the chairmanship, supervision, and direction of the National Oil company of Liberia." The NBC views this not only as problematic but constitutes a major conflict of interest. NOCAL cannot be both a referee and a player at the same time. It is simultaneously a commercial entity and a regulator at the same time. The NBC view is that this provision of the NPL be amended or re-crafted in a language that will resolve this apparent conflict of interest. Following that, the HTC needs to be reconfigured to reflect not only balance among the key stakeholders but ensure transparency.

Further comments of the Auditor:

The NBC role in the concessions covered by the audit was not highlighted because all concessions have been ratified before the NBC act entered into force in September 2011. However, for future concessions, the NBC should be an active player and we took that into consideration in the sector specific compliance templates (see Annex n° 9).

Finding n°: 15**Title:** Award of a Production Sharing Contract without going through a bidding process

Contracts involved: 8, 9

Government Agency responsible: NOCAL and PPCC

Description of the finding:

We note that NOCAL awarded the Block 14 area to Oranto Petroleum Ltd in July 2010 without going through a bidding process. According to explanations provided by NOCAL officials, it was sole-sourced.

Section 2.4.13 of the NPL states that "no production Sharing Contract or rights to any block of Hydrocarbon Deposits shall be valid if it is awarded prior to, or in the lack of, competitive bid."

However, Section 101 of the PPCA cites some exceptions. It states that "subject to the approval of the Commission (PPCC) a concessionaire may be sole-sourced if one or more of the following conditions prevail:

- (a) The Concession requires specialised expertise that is available only to one specific bidder.
- (b) The Concession involves an innovation for a patent which is held by one particular bidder.
- (c) The Concession requires specialised research, or experiment that only one person is prepared to undertake.
- (d) The Concession is in respect of strategic national interest or national defense and security and it is not in the national interest to have more than one bidder.

We note that none of the conditions stated in Section 101 of the PPCA were met with regard to the above contract. In addition, NOCAL informed us that it received PPCC approval but correspondence evidencing this approval was not made available to us.

We believe this case constitutes a breach of the regulation governing the award of concessions and hinders both transparency in the sector and the promotion of good management of government resources.

From a financial point of view, the contract is less advantageous to GOL when compared with another contract awarded by competitive bidding during the same period. In fact, we note that the Block 14 contract was less profitable to GOL with regard to surface rental rates, withholding tax rates to non-residents, income tax rates, cost oil recovery cap and allocation of excess cost oil compared with other competitively awarded contracts in the period. The Block 14 contract also provides that Production Bonuses could be recovered from the cost oil rather than being totally incurred by the investor. (see also Finding n° 16 relating to procedures to be followed in order to grant fiscal incentives).

Recommendation:

We recommend that open competitive bidding is enforced as required by the PPCA. Any exception must be made with strict regard to Section 101 of the PPCA and be adequately justified and substantiated.

Recommendation priority: Priority 1 - Urgent remedial action is required

Finding n°: 16	Title: Waiving of legal requirements of the New Petroleum Law of 2002
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Contracts involved: 5 to 9

Implementing Agencies: NOCAL and NIC

Description of the finding:

Following the examination of PSCs awarded by NOCAL, we note that several NPL requirements had been waived.

Royalties

According to Section 3.7 of the NPL, royalty rates for liquid hydrocarbon exploited offshore should range between 12-15%.

However, we note that Royalties for the Block 10 Contract with Anadarko provided for an exemption from this tax while for the other contracts signed with Oranto (Oranto/Chevron), Royalties had been reduced to 5%.

Government Equity

According to Section 3.3 of the NPL, "the National Oil Company, in addition to other rights, interests and benefits it is entitled to receive under any and all Production Sharing Agreements, it shall also receive, free of charge, equity interest in all production operations and exploitation of hydrocarbon deposits in the Republic of Liberia. The value of such equity interest shall be twenty (20%) percent of the authorized, issued and outstanding capital shares existing at any time, without dilution."

However, we note that the Government equity in the Block 10 contract with Anadarko provides for an exemption from this requirement (GOL equity = 0%) while for the other contracts signed with Oranto (Oranto/Chevron) this had been reduced to 10%.

Stock purchase by Liberian Citizens

Section 3.3 of the NPL also stipulates that "the holder of rights to hydrocarbon deposits shall notify the National Oil Company of Liberia that shares equivalent to 10% of its stock are available for purchase by Liberians and/or any such interested citizens."

For all the contracts reviewed, we note the Investors had been exempted from such obligation and Liberian citizen participation can only be done on the stock market following the listing of the company.

Although these different waivers have been ratified by Legislature, some rules need to be observed as follows:

Section 2.8 of the NPL states that NOCAL should consider such incentives in collaboration with NIC. Section 116 of the PPCA recommends that due diligence reports should address such fiscal incentives by performing computations of the individual and aggregate impact of those adjustments on the revenue of the Government over 25 years and, if longer, over the estimated life of the Concession. Additionally, Section 119 of the PPCA, stipulates that, the Minister of Finance should be involved in the course of negotiations. The latter should "deliver to the President and the Legislature (where approval by the Legislature is required) high and low estimates of the impact of those adjustments on the revenue of the Government over the initial twenty five (25) years of the operations of the Concession holder, together with high and low

estimates of the net royalties and tax revenues likely to be receivable from the bidder for the same period, accompanied by sufficient narrative to make clear the assumptions surrounding each estimate."

We have not been provided with any evidence indicating that these steps were complied with. Neither did we find any part in due diligence report reviews dealing with such aspects. Therefore, we cannot verify whether the incentives granted have been fully compliant with the applicable regulations.

Recommendation:

Although we recognise the supremacy of the Legislature with regard to contract awards, we recommend that the process of granting incentives complies with the requirements of Sections 116 and 119 of the PPCA.

Recommendation priority: Priority 3 - Specific remedial action is desirable

Government Agencies' comments:

NIC:

Negotiations are supposed to ensure mutually acceptable terms for both parties and inherent in the process is the fact that concessions of terms will be made.

Further comments of the Auditor:

If incentives are to be made, the process of granting them should comply with the requirements of Sections 116 and 119 of the PPCA as described above.

Since no additional clarifications have been provided, we maintain our finding.

Finding n°: 17	Title: Communities not involved in the Validation Process
Contracts involved: 10 to 18	
Government Agency responsible: FDA	
Description of the finding:	
<p>In accordance with Section 4.5 of the National Forestry Reform Law (NFRL), "before committing an area identified in 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."</p> <p>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 has obtained free prior informed consent, in writing, from Community Forestry Development Committees representing all Affected Communities identified under this Section, to negotiate in good faith a social agreement with the winning bidder and subject themselves to independent arbitration should those negotiations not reach a satisfactory conclusion".</p> <p>Involvement of local communities should follow a standard process including:</p> <ul style="list-style-type: none"> - giving notice of FDA's intent to conduct such consultations by publications in the newspapers, on the radio and by written notices; - holding public meetings with the communities affected; - recording of all public comments and preparation of a report summarising the substance of such comments; and - preparation of a justification document and its submission for comments to local communities in public meetings. <p>With regard to FMCs and TSCs, we did not obtain any document proving that consultations with local communities took place or any records of meetings, comments or any documents showing that the communities were involved in the process or gave their consent in writing.</p> <p>We therefore cannot confirm that local communities were consulted in the validation process which constitutes a breach of the NFRL and FDA Core Regulations.</p>	
Recommendation:	
<p>We recommend that the validation process takes account of local communities according to the applicable regulation (Section 4.5 of the NFRL and Regulation n° 104-07) in order to avoid any future social conflicts in the licensed area.</p>	
Recommendation priority: Priority 1 - Urgent remedial action is required	
Government Agencies' comments:	
<p><u>FDA:</u></p> <p>Communities were involved by way of participation but not in writing, however we accept the recommendation.</p>	

Finding n°: 18**Title:** Original bids submitted not filed

Contracts involved: 10 to 18

Government Agency responsible: FDA

Description of the finding:

With regard to the contracts we have audited, we note that FDA did not keep the original bids submitted along with the external envelopes. FDA explained that these documents were lost during their relocation.

In addition, for FMCs (contracts 10 to 13) there were no minutes of bids received or opening of the bids.

We were therefore unable to ascertain whether the bids were received within the specified deadline.

Recommendation:

In order to promote transparency in the bidding process and in line with good public procurement principles, we recommend that FDA keeps all the original bids received along with the external envelopes for future checks, audits or inspections. Such documents should be kept for a minimum period of 6 years in accordance with Section 43 of the PPCA.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:FDA:

Original bid documents were filed but got mixed up with other documents during relocation which made it difficult to find. However, the recommendation is noted and measures are being put in place to adhere to the recommendation.

Finding n°: 19	Title: Forest Management Contract Area F overlapping with private land
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Contracts involved: 11

Government Agency responsible: FDA

Description of the finding:

According to Section 5.3 of the NFRL, FMC areas should not include any private land.

In the course of our audit of the Private Use Permits, it came to our attention that FDA awarded a total acreage of 253,670 hectares to Euro Liberia Logging Co (FMC Area F). This area overlapped with private land owned by Thienpo Chiefdom by an area of 103,022 hectares. This finding was raised during a field visit memo relating to PUPs granted in the aforementioned region, yet the FMC was issued by the FDA despite having raised this finding.

This situation constitutes a deliberate circumvention of the applicable law as it would appear that FDA had acted in full knowledge of the facts.

Recommendation:

We recommend that private land is not included within FMCs and TCSs according to Sections 5.3 and 5.4 of the NFRL. Accordingly, this area of 103,022 hectares of land should be returned to Thienpo Chiefdom.

Recommendation priority: Priority 2 - Prompt specific action is required

Government Agencies' comments:

FDA:

FMC areas do not overlap with private land. Land deed was not made available when request for submission was made, therefore, land cannot be returned to Thienpo Chiefdom.

NBC:

The concern raised in the report about Euro-Liberia Logging concession area of 253,670 hectares overlapping with private land owned by Thienpo Chiefdom covering an area of 103,022 hectares which was granted under PUP arrangement is noted. It is the NBC's view that such claim of ownership of the land must be fully investigated so as to legally establish that the people of Thienpo are the owners of the land, as claimed. The FMC area was demarcated and issued in favor of Euro-Liberia before a PUP area was set aside within said area.

Further comments of the Auditor:

The FDA's statement that the FMC area does not overlap with private land is somewhat surprising. We refer them to the field visit memo prepared by the FDA itself which raised this issue.

We therefore maintain our finding.

Finding n°: 20**Title:** Legal requirements for Private Use Permit applications not met

Contracts involved: 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 40, 41

Government Agency responsible: FDA

Description of the finding:

Section 5.6 of the NFRL stipulates that "the Authority shall attest to a Private Use Permit only if all of the following conditions are satisfied: (i) The applicant is the land owner or the applicant has written permission from the land owner to undertake commercial use.."

We note several instances where this requirement was not met for PUPs as follows:

- lack of applications;
- applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities; and
- applications filed by operators without any written permission from land owners.

Details of these inconsistencies are presented in Annex 3 of this report.

This situation constitutes a clear breach of NFRL regulations. As far as the PUP award process is concerned, it is questionable whether any verification was actually carried out by FDA. In fact, the applications which were not introduced by the land owners and which were not accompanied by written permissions or powers of attorney should not have been accepted and processed.

Recommendation:

We recommend that all PUP applications are signed by land owners. In case the application is signed by their representatives, they must produce a power of attorney along with the application. If the application is signed by the operator, the latter must produce a written permission from the land owner. Applications, written permissions and powers of attorney must be included in PUP contracts.

As the application is a key document, without which the PUP award process is unable to start, and in view of the material breaches noted in this area, we recommend that further investigations are launched to identify any potential collusion between the persons who signed the applications without producing any written permission or power of attorney and FDA officials in charge of the process who have agreed to process such PUP applications, in the absence of such vital documents.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 21**Title: Stability clauses exceeding the maximum 15 years**

Contracts involved: 2, 4

Implementing Agencies: IMCC and MOA

Description of the finding:

In accordance with Section 17 of the Revenue Code of 2000, "when entering into an agreement with a Chapter 6 contractor (Agriculture Concession), or a Chapter 7 producer (mining and petroleum concession), the Government of Liberia is permitted to accept a clause stabilising the following aspects of taxation to the terms under Code provisions for a period not to exceed 15 years from the effective date of the agreement: (1) The income tax rate; (2) The rate of royalty".

We noted several instances where the stability clause set out in the contract exceeded 15 years:

- Sime Darby: The stability clause for income tax was 25 years while that of the withholding tax payments was 63 years.

- Golden Veroleum: The stability clause for income tax was 40 years while that of the withholding tax payments was 65 years.

This situation constitutes a contradiction with the revenue code and undermines GOL's regulatory powers over a long period.

Recommendation:

We recommend that stability clauses do not exceed the 15-year period as stipulated in Section 17 of the Revenue Code.

Recommendation priority: Priority 3 - Specific remedial action is desirable

Government Agencies' comments:NIC:

Negotiated agreements stability clauses based upon the crop growth cycle. Additionally, there are 5 year review clauses in the agreements which lend themselves to affecting changes within the Agreement.

Contrary to the assertion that the long stabilization clauses undermine GOL's regulatory powers, there are built in safe guards and 5 year review clauses which allow for the renegotiation of certain provisions of the Agreement.

Further comments of the Auditor:

We did not find any clause in the above concession agreements permitting a 5 year review as stated by the NIC. Therefore, we maintain our finding.

Finding n°: 22

Title: Inconsistencies and discrepancies between Private Use Permit documents

Contracts involved: 19, 20, 21, 24, 26, 32, 33, 34, 37, 41

Government Agency responsible: FDA

Description of the finding:

We noted several inconsistencies and discrepancies between the different award documents submitted for PUP applications. These include:

- contracts dated before the application was submitted;
- field visits or MLME surveys carried out before the applications were introduced;
- field visit memos produced before the field visits were performed; and
- social agreements signed before the applications were introduced.

Details of these inconsistencies have been provided in Annex 4 of this report.

These inconsistencies led us to question the authenticity of the documents and cast doubts over these PUP applications and their legitimacy in terms of the process applied.

Recommendation:

We recommend that FDA carries out a thorough investigation in order to obtain plausible explanations for these discrepancies. Should these inconsistencies remain unexplained or unfounded, FDA should consider revoking the relevant permits.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 23**Title:** Lack of social agreements between land owners and Private Use Permit operators**Contracts involved:** 19, 24, 26, 28, 31, 32, 33, 34, 35, 36, 37, 39, 41**Government Agency responsible:** FDA**Description of the finding:**

Section 5.6 of the NFRL stipulates that "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".

We note several instances where no Social Agreements have been signed between land owners and the operators prior to the issuance of the PUP. The list of PUPs lacking Social Agreements is provided in Annex 5.

This situation is in contradiction with the NFRL award rules for PUPs and undermines community rights which could lead to future social conflicts.

Recommendation:

We recommend that Social Agreements are systematically signed prior to the issuance of the PUP and are attached to the contracts. In cases where these are missing, the FDA should ensure that such agreements are put in place as a matter of priority.

Recommendation priority: Priority 2 - Prompt specific action is required**Government Agencies' comments:**FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 24**Title:** Lack of land validation for Private Use Permits**Contracts involved:** 19 to 41 (all PUPs)**Government Agency responsible:** FDA**Description of the finding:**

In accordance with Section 5.6 of the NFRL, "the Authority (FDA) shall attest to a Private Use Permit only if all of the following conditions are satisfied: "..(ii) the commercial use is consistent with the classification of the land in the strategy adopted under Section 4.4 of this Law, and the Authority has validated the classification locally under Section 4.5 of this Law."

Section 4.5 of the NFRL states:

"c - to validate the suitability of an area, the Authority shall establish and follow a standard process that includes collection and analysis of local forestry, ecological, and socio-economic data, and preparation of a written report on the suitability of the area for the proposed use.

d- FDA management shall offer the public and the Forestry Management Advisory Committee the opportunity to comment on a full draft of the report before submitting it to the Board of Directors.

e- The Board of Directors may either approve FDA management's report or return it to the management with instructions for revision or additional vetting under Subsection (d) of this Section.

f- If the report is approved by the Board of Directors, the Managing Director shall undertake the necessary steps to implement the recommendations contained in the report through use of one or more appropriate land management tools."

We note that the documents relating to all PUPs awarded refer to a field visit memo as the validation report. However that memo does not contain any information on local communities' involvement nor does it contain any comment or any information showing that it was subject to public comment. Finally the memos were not approved by the FDA's Board (see also Finding n° 25).

Given this situation, we cannot confirm that the lands allocated further to PUP applications were subject to proper validation processes. This constitutes a breach of the NFRL and could invalidate the PUPs in question.

Recommendation:

We recommend that all such instances are fully investigated by the FDA and appropriate corrective actions are taken, wherever this is feasible.

We also recommend that all future PUPs are subject to the validation process as prescribed by Section 5.6 of the NFRL, failing which, they will be considered invalid.

Recommendation priority: Priority 1 - Urgent remedial action is required**Government Agencies' comments:**FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 25**Title: Lack of reliability of field visit memos**

Contracts involved: 24, 33, 34, 36, 37, 39, 40, 41

Government Agency responsible: FDA

Description of the finding:

Field visit memos were used by the FDA to justify the allocation of land for commercial use under PUPs (see Finding n° 24). Even though these memos do not comply with Section 4.5 of the NFRL due to the lack of information on local communities, we have examined them to check their reliability.

We noted several instances where the field visit memos contained insufficient information about the area surveyed. The shortcomings included:

- lack of the land metes and bounds descriptions;
- lack of description of the ecological and environmental aspects of the land; and
- lack of information regarding the exact area proposed for commercial use.

In addition, we have identified one instance where the conclusions were not consistent with the core of the memo with regard to the acreage proposed for commercial use. Finally, we noted a case where the official field visit team included a manager from the operator, which constitutes a conflict of interest as this person could influence the field visit conclusions.

This situation renders the field visit memos unreliable, especially with the lack of description of the land metes and bounds, which casts serious doubt on the reality of the field visits.

Details of these instances are provided in Annex 6 of this report.

Recommendation:

In order for field visit memos to be used as reliable justification documents they should address all the points relating to the validation process as described in Section 5.6 of the NFRL and in FDA Core Regulation n° 104-07.

We therefore recommend that the field visits listed in Annex 6 are subject to further investigation to ensure that they actually took place, failing which, these PUPs should be revoked.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 26	Title: Inconsistencies between FDA decisions and field visit recommendations
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Contracts involved: 25, 35

Government Agency responsible: FDA

Description of the finding:

We noted several instances where the PUP field memo conclusions and recommendations were overlooked by FDA despite critical issues arising therein. We set out the main issues that came to our attention below.

With regard to PUP Ref. 25 relating to the People of Foya District in Gbarpolu, the field visit memorandum stated that the District deeds fall within the Foya proposed protected area but on the other hand recommended to grant the entire surface area for commercial use. FDA complied with the memorandum, whilst ignoring the more important issues surrounding the protected areas.

With regard to PUP Ref. 35 relating to People of Lower & Upper Jloh District in Grand Kru, the memo stated that the Upper and Lower Jloh deeded land fell directly within the Grand Kru protected area. Nevertheless, FDA did not take any measures in this respect and allocated the entire area for commercial use.

Section 61 of FDA Core Regulation N° 102-07 stipulates that "The Authority (FDA) shall not propose a Forest Land Use Action that would allow Commercial Use unless each of the following conditions is satisfied: (1) The area to be committed to Commercial Use does not include any part of a Protected Area or Proposed Protected Area, deeded or tribal land, or an area known to contain mineral deposits of substantial commercial value."

Both PUPs mentioned above fall within either a protected area or a proposed protected area which is contradictory with Section 61 of FDA Core Regulation N° 102-07.

This situation constitutes an evident disregard to the applicable regulation in the Forestry Sector and raises serious concerns about the procedures for award of PUPs by the FDA.

Recommendation:

We recommend that the requirements of Section 61 of FDA Core Regulation N° 102-07, are strictly adhered to and that no PUP or any type of commercial use is awarded where protected areas or proposed protected areas are involved.

We further recommend that these two cases are fully investigated in order to identify at what level of the FDA the field visit memo recommendations have been overlooked. Depending on the results of the investigation, GOL should consider returning these lands to the respective communities.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 27**Title: Inadequate information in Private Use Permit contracts**

Contracts involved: 33

Government Agency responsible: FDA

Description of the finding:

We note that with regard to PUP Ref. 33 relating to "People of Kulu Shaw-Boe District" in Sinoe, the contract did not state either the metes and bounds of the area or the nature of the land and its origins. We further note that there were no site plans attached unlike in all other contracts.

This situation raises the question of how the land had been identified prior to FDA granting the PUP. Furthermore, in the event of land disputes, the conflict would be difficult to resolve, given the lack of such vital information.

Recommendation:

We recommend that the FDA does not issue a PUP contract over a land not precisely identified. The contract should systematically contain the land area metes and bounds, an identification of the deed and a site plan.

We further recommend that an investigation is carried out regarding this particular PUP in order to find out on what basis the contract was approved, given the lack of vital information held on file.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 28**Title:** Inconsistent Private Use Permit contract durations**Contracts involved:** 19 to 41 (all PUPs)**Government Agency responsible:** FDA**Description of the finding:**

Section 5.6 of the NFRL relating to the award conditions for PUPs stipulates that "the Authority shall limit the term to the time necessary to carry out the activities described in the management plan, and in no case longer than the expected rotation age of the forest."

We note that the duration of the PUP contracts awarded does not follow any logical rule. In fact for the 23 contracts reviewed, the duration ranged from 3 to 30 years.

In addition, according to Section 7.4 of the Guidelines for Forest Management Planning, "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."

However, according to the justification document of PUP N° 21 relating to "People of Cavalla District" in Grand Gedeh the area is an FMC, however it was granted for 23 years.

In addition, for PUP Ref. 22 relating to "People of Doedian District" in River Cess, the contract was granted for 30 years thus exceeding the maximum allowed by the above Guidelines. We did not find any justification for such a long period on file.

This situation is unclear and does not help define or check contract durations retrospectively.

Recommendation:

We recommend that the FDA clarifies the regulations with regard to contract durations in order to avoid any ambiguity when applying the guidelines for any contract reviews.

Recommendation priority: Priority 2 - Prompt specific action is required**Government Agencies' comments:**FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 29	Title: Irregular Land Deed
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Contracts involved: 24

Implementing Agencies: FDA and MLME

Description of the finding:

We note that with regard to PUP Ref. 24 relating to "People of Dugbeh River District" in Sinoe, the deed submitted was signed by the President of GOL on 10/03/1952 while it was subject to court probate and registration on 15/06/1950. The Probate is a court procedure leading to validation of a deed, which can only take place after Presidential signature in accordance with Liberian land law.

The present procedure as described in the Public Lands Law (Vol. V, Title 34, Liberian Codes Revised), Section 30 relating to the Procedure for the Sale of Public Lands states the following "A deed shall thereafter be drawn up in the office of the Land Commissioner, authenticated by him, and given to the purchaser, who shall submit it with all the accompanying certificates to the President for signature. The deed shall then be probated."

On the basis of the foregoing, we consider that there are strong grounds for presuming that the Land Deed was not genuine.

In addition, we note that the Land deed surface was 29,396 hectares while the surface granted under the permit was 52,858 hectares.

It is worth noting that the land deed and the acreage were authenticated by MLME without any reservation.

Recommendation:

We recommend that further investigations are carried out to ensure the genuineness of the above Land Deed.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 30**Title:** Lack of/poor evidence of deed verification and authentication by MLME**Contracts involved:** 22 to 25 and 28 to 41**Implementing Agencies:** FDA and MLME

Description of the finding:

According to the procedure for award of PUPs, the FDA should systematically send the Land deeds to the MLME for authentication before moving forward in the process.

With regard to MLME reports, we note the following instances of non compliance:

- In most reports, survey reports were not included and no references to surveys were made. MLME reports do not contain any description of the deeds but only the name of the district and the county. We also note a lack of information regarding site verifications carried out.
- Whenever survey reports were attached, we noted several instances where the information was inadequate: There were no maps or site plans attached, no description of the metes and bounds and no indication of the total area of the land surveyed.
- In other cases, the Land deed was completely illegible in several parts of the document. This did not prevent the MLME from issuing its report without reservation and always in generic terms. In one instance there was no land deed, yet there was an MLME report issued without reservation.
- In one instance, we noted that the Resident County Surveyor, who was attached to MLME, recommended in his survey report to grant the Permit to the Akewa Group (which was beyond his authorisation) and also addressed a memo to the Permit Holder (the Akewa Group) where he gathered signatures supporting the granting of the permit to the company. Such actions are unethical and unjustifiable when carried out by a senior government official.

Details of the shortcomings in MLME reports are presented in Annex 7.

Based on the above facts, we have no comfort that any verification and authentication work was carried out by the MLME.

Recommendation:

We recommend for the future that MLME reports are compiled with accurate and justifiable information on land, which should state the dates the field visits were carried out. In addition, land survey reports should be systematically attached to MLME reports as proof of authentication and that the surveys have been carried out.

These land survey reports should as a minimum state the following information:

- information about the deed and its origin;
 - the date of the field visit;
 - a map of the land being surveyed;
 - a description of the boundaries with the bearings and distances;
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- a description of the bounds and metes if not detailed in the township plat;
- the names of adjacent owners;
- the total area surveyed; and
- the title block showing the name of the owner, location of the land, name of the surveyor and date of the survey.

The inclusion of this information would vastly improve the quality of MLME reports, which are key in the PUP award process.

We also recommend that an investigation is carried out to determine why:

- MLME reports were issued without land surveyors' reports;
- reports were issued without land deeds; and
- reports were issued based on illegible land deeds.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 31	Title: Private Use Permits issued over Community Forest Lands
Contracts involved: 19 to 41 (all PUPs)	
Government Agency responsible: FDA	
<p>Description of the finding:</p> <p>Section 1.3 of the NFRL defines a Private Use Permit as "A Forest Resources License issued by the Government under Section 5.6 of this Law to allow Commercial Use of Forest Resources on private land."</p> <p>Based on the foregoing, the private character of the land constitutes a sine qua non condition for issuing a PUP.</p> <p>Section 2.3 of the Community Rights Law 2009 (CRL) relating to forest land classifies Community Forest Land under 4 categories. Accordingly, "Forest land holders with Aborigines Grant Deeds, Public Land Deeds, Public Land Sale Deeds, Tribal Land Deed Certificates and Warranty Deeds shall be classified as Community Forest Land."</p> <p>We note that all the PUPs under review were lands falling under one of the above categories. The nature of each land deed is presented in Annex 8.</p> <p>The categorisation of the land as private land or as Community Forest Land has major implications on the legality of the PUPs issued as Community Forest Land falls into a different legal framework.</p> <p>According to Section 9.1 of the CRL, "where there are conflicts of laws existing between the National Forest Reform Law 2006 and the Community Rights Law 2008 with respect to Forest Lands, the Community Forest Law takes precedence and becomes binding."</p> <p>As a result, all the Community Forest Land issued with a PUP was incorrectly categorised as private land. As such, none of these PUPs are legally valid.</p> <p>According to Section 6.1 of the NFRL, "The Authority (FDA) may terminate Forest Resources Licenses on any of the following grounds:</p> <ul style="list-style-type: none"> - failure to comply with any provision of this Law or of any Regulation promulgated under this Law; - any material breach of a Forest Management Contract or Timber Sale Contract; or - any failure to satisfy the conditions of a Forest Use Permit or Private Use Permit." <p>It would therefore appear that should the above areas of land be categorised as Community Forest Land, this would lead to the termination of the contracts given that the "private" element of the land is absent.</p> <p>We further note that all PUPs were issued after the CRL came into force, i.e. since 2009. Additionally, FDA has issued a regulation dealing with CRL aspects in 2011. This therefore implies that the FDA has knowingly ignored the Community Rights Law.</p> <p>Recommendation:</p> <p>We recommend that all PUPs stated in Annex 8 are made null and void in view of the lack of the</p>	

private character of these areas of land. We also recommend that further investigations are undertaken at all levels of the chain of authority leading to the issuance of the PUPs.

We further recommend that legal and disciplinary actions are taken against the offenders in order to deter any future offences and promote the rule of law in the award process.

In view of the limitations in our audit scope (see Section 3.2.4), we were unable to review all active PUPs. We therefore recommend that the review is extended to all PUPs to uncover any other similar breaches.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 32**Title:** Private Use Permit basic requirements not respected

Contracts involved: 19 to 41 (all PUPs)

Government Agency responsible: FDA

Description of the finding:

According to Section 5.6 of the NFRL, "the Authority shall attest to a Private Use Permit only if all of the following conditions are satisfied:

"..(iv) The applicant presents the Authority (FDA) with a business plan and demonstrates to the Authority's satisfaction that the applicant has the technical and financial capacity to manage the forest sustainably.

(v) The applicant has prepared a five-year land management plan satisfactory to the Authority and has complied with all legal requirements for environmental impact assessment."

The examination of the PUP documents submitted showed that none of these requirements was complied with. In fact, we did not find any business or management plan, the Environmental assessment was not done and there were no pre-qualification certificates in the files.

In addition, no evaluation documents showing technical and financial capacities were made available to us.

Section 5.2 of the NFRL states that "The Authority shall establish standard qualifications for Persons wishing to obtain permission to conduct commercial forest Operations" and "..(iii) For Private Use Permits under Section 5.6 of this Law, the Authority shall specify the standard qualifications by Regulation." We noted that the FDA has issued regulations for FMCs and TSCs but not for PUPs, leaving this category without detailed rules.

As a result, have no assurance that PUPs were issued in observance of the laws cited above.

Recommendation:

We recommend that FDA issues a special regulation to deal with all existing PUPs. No new PUPs should be issued until such regulation is published and a full investigation of the process is concluded.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:FDA:

All findings raised concerning PUP operations could be true and recommendations made to further investigate are well noted.

Finding n°: 33**Title:** Lack of Cabinet determination and Public Procurement and Concessions Commission approval for exploration Licences and Class B Mining Licences**Contracts involved:** 42 to 54 and 56 to 59**Implementing Agencies:** MLME, IMCC and PPCC**Description of the finding:**

A combination of Sections 75, 82, 95 and 101 of the PPCA provides that in order for the MLME to grant an exploration license without going through the bidding procedure, the following conditions should be met:

- the Liberia Geological Survey must make a recommendation to the effect that the existence of certain minerals in certain areas indicates that there are insufficient quantities and/or quality of these minerals in a particular area to support meaningful bidding for the granting of Exploration Licenses for such Minerals in such area;
- following the foregoing, the Minister of Lands and Mines must declare which areas are non-bidding areas;
- the Minister's determination should be reviewed and approved by the IMCC; and
- prior express approval should be obtained from the PPCC with regards to the procedures in place.

Such determination should be renewed each two years, failing which the area ceases systematically to be a non-bidding area.

We did not obtain any evidence demonstrating that this procedure had actually been complied with. We note that Regulation 002 (issued by the PPCC) has approved the First-in-First-Assessed (FIFA) principle. Nevertheless, PPCC approval is limited by the necessity to declare non-bidding areas (for certain minerals) every two years.

We therefore cannot confirm that the proper procedures for the derogation to the auction principle were carried out in accordance with the abovementioned laws.

Recommendation:

We recommend that the FIFA principle is applied with full regard to the PPCA. Areas should therefore be declared as non-bidding areas every two years by the Minister of Lands, Mines and Energy. This decision should be approved by the IMCC and PPCC.

Recommendation priority: Priority 1 - Urgent remedial action is required**Government Agencies' comments:**MLME:

The MLME humbly commits to curing defects of such a finding but notes that this needs to be accomplished through a "scientific process" and not an "event" to be able to designate an area as bidding. The LGS needs adequate scientific data to designate an area as "bidding area". The LGS lacks this capacity; hence, it has undertaken an exercise to arrive at this status through a geologic

mapping program in the 2011, 2012 and 2013 budget (see national budget) to enable it properly execute its role. Thus, it is very difficult if not impossible to implement the principles of this finding in the absence of relevant scientific data.

NIC:

Cabinet does not need to approve the issuance of exploration and class B licenses. These are routine daily operations within the MLME.

Further comments of the Auditor:

We highlight that areas are, by default, designated as “bidding areas” and the MLME does not give them this classification. However, they should be designated as “non-bidding areas” in case of poor geological data, in which case the steps described above should be followed to declare such areas as “non-bidding areas” (see also Finding N° 40).

For better understanding, we refer the NIC to Section 4.4 of this report describing the award process for exploration and class B mining licenses.

Finding n°: 34

Title: Missing application for dealer licences

Contracts involved: 64

Government Agency responsible: MLME

Description of the finding:

In accordance with MLME internal procedures for Diamond and Gold Dealers Licences, the whole process can only begin with filing an application with the MLME.

For the Diamond Dealer licence granted to Youssef Diamond Mining Company (Licence dated 26 March 2011 with ID n° DM-218-200-10), we found that the application was missing from the files.

In this case, we cannot confirm when the application was filed and whether any checks were performed.

Consequently, the lack of such application does not give us comfort as regards the transparency of the process applied.

Recommendation:

We recommend that applications and all other relevant documents are kept on file for any further controls, inspections or audits.

Recommendation priority: Priority 2 - Prompt specific action is required

Finding n°: 35**Title:** MLME controls not substantiated with regard to Exploration Licenses**Contracts involved:** 42 to 54**Government Agency responsible:** MLME**Description of the finding:**

As part of the procedure to issue Exploration Licences, applications need to be vetted by the Mining Cadastre, the Liberia Geological Survey (LGS) and the Assistant Minister for Exploration.

For exploration Licences we noted that none of the applications had been vetted by the above mentioned authorities. The controls performed by LGS are vital for the successful award of Licenses. LGS checks the technical and financial capacities of the applicant prior to issuing the license.

Given that these checks have not been substantiated, there is a possibility that they might not have been performed in the first place.

Recommendation:

We recommend that all controls leading to the issuance of Exploration Licences are performed and substantiated.

Recommendation priority: Priority 1 - Urgent remedial action is required**Government Agencies' comments:**MLME:

The Ministry takes note of the findings and recommendations. The MLME is committed to building the human, technical and institutional capacity to more effectively carry out its regulatory oversight and compliance with the legal framework.

Finding n°: 36

Title: Lack of punitive sanctions in the Public Procurement and Concessions Act

Contracts involved: -

Government Agency responsible: Legislature

Description of the finding:

We note that the PPCA does not contain any penal sanctions with regard to Concession award offences, nor does it contain special punitive clauses as a deterrent in the event of non-compliance with relevant regulations.

We note, on the other hand, that the NFRL and the NMML have such provisions but these are limited to the forestry and mining sectors.

Accordingly, there is an inadequate deterrent against deliberate breaches of the law in the concession award process.

Recommendation:

We recommend that the PPCA is updated to include disciplinary and punitive sanctions in order to promote better enforcement of the law.

Recommendation priority: Priority 2 - Prompt specific action is required

Finding n°: 37**Title: Inadequate filing system**

Contracts involved: -

Implementing Agencies: MOA, FDA, NOCAL, MLME and IMCC

Description of the finding:

In accordance with Section 94 of the PPCA, several documents should be kept on file including at least the following:

- general notice of investment opportunity;
- request for expression of interest (pre-qualification of bidders);
- evaluation of bidder pre-qualification submission documents;
- invitations to bid;
- Concession Bid Evaluation Panel evaluation report; and
- action(s) taken following decisions of the Inter-Ministerial Concessions Committee provided for in the PPCA Act.

We note that, for all Government Agencies involved in the process, the filing system was inadequate. In fact, the audit started in November 2012 and we had to wait until March 2013 for most of the documents. However, several documents remained unavailable and were never submitted to us. These included documents such as evaluation reports, original bids submitted along with external envelopes and due diligence reports amongst others, as mentioned in the previous findings.

It is particularly worrying that NIC failed to locate a single document from the request of documents we submitted since December 2012, except for the concession agreements which were already available from the LEITI Website.

This situation is indicative of a lack of transparency in the award process within Government Agencies.

Recommendation:

We recommend for the future that in order to keep track of all award process documents, a proper and reliable filing system is put in place at all Government Agencies.

Furthermore, in accordance with Section 92 of the PPCA, Concession Entities and the IMCC should send the complete set of documents (listed in Section 92) to the National Bureau of Concessions so that the latter can perform the necessary compliance controls.

Recommendation priority: Priority 1 - Urgent remedial action is required

Finding n°: 38**Title:** Insufficient involvement of the Public Procurement and Concession Commission**Contracts involved:** -**Government Agency responsible:** PPCC**Description of the finding:**

According to the PPCA, the PPCC should carry out the following tasks:

- approve the Concession Procurement Plan in accordance with Section 79 PPCA;
- carry out inspections of the documents in accordance with Section 93 PPCA;
- give prior express approvals in case of derogations to competitive bidding procedures in accordance with Section 95;
- give prior express approval for sole-sourced concessions in accordance with Section 101; and
- implement regulations for unsolicited bids in accordance with Section 101.

We held several meetings with the PPCC and noted that they did not carry out any of the tasks listed above. PPCC officials mentioned that they were not made aware of any of the award steps to be performed and that they had minor interaction with Concession Entities and the IMCC.

This passive attitude from the PPCC is a major weakness and severely undermines the governance process.

Recommendation:

We recommend that the PPCC participates more actively in the award process. A new task force should be set up charged with bringing up Government Agencies up to standard so that they are able to carry out their primary roles and duties. We suggest that activities include seminars and training workshops.

Recommendation priority: Priority 2 - Prompt specific action is required**Government Agencies' comments:**NIC:

The PPCA needs to be amended to separate public procurement of goods and services from the concession process which are inherently different.

The PPCA was intended to assist with the procurement process and as such will continue to work with the line ministries in the procurement, bidding and award processes. However, the negotiation process which is inherently different is performed within international natural resource policies and standards that transcend the procurement process. That is even more justification for the amendment of the PPCA to remove the elements of concession from the elements of procurement of public sector goods and services.

PPCC:

PPCC was cited as an implementing Agency for several contracts that were audited. The Commission is a regulator of both concessions processes, and as such, cannot form a part of the implementation of a concession award.

The Commission takes note of findings and recommendations from the report and will communicate with relevant Government Agencies as appropriate

Further comments of the Auditor:

The intention was not to identify PPCC as an implementing Agency but as a Government Agency carrying out advisory and supervisory activities (see Section 2.3 of this report). Its tasks are described above in this finding.

We have updated the headings of each finding to read “Government Agency responsible” rather than “Implementing Agency” to further clarify this.

The PPCA contains a clear separation between the procurement of goods/services and the concession processes and the procedures are fundamentally different. The dispositions pertaining to the concession award are contained in Part VI of the PPCA – Specific procedures for processing concession agreements.

Finding n°: 39	Title: Timber Sale Contracts awarded without complying with the Public Procurement and Concessions Act
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Contracts involved: 14 to 18

Implementing Agencies: FDA and IMCC

Description of the finding:

The examination of the concession award framework for TSCs brought to our attention several legal uncertainties.

1- According to Section 3.3 of the NFRL, "in granting Forest Management Contracts and Timber Sale Contracts, the Authority (FDA) shall follow the requirements of the Public Procurement and Concessions Act and other applicable laws."

Based on the above, TSC contracts are subject to all obligations prescribed by the PPCA. Section 117-2 of the PPCA states that "the Concession Agreement shall be approved by the Minister of Justice as complying with the requirements of this Act and any other applicable law before submission to the President and Cabinet for approval." On the other hand, Section 5.4 of the NFRL states that "No Timber Sale Contract is effective until it is signed by the Authority".

The two clauses cited above are contradictory: PPCA requires approval by the Minister of Justice and the President while according to the NFRL, FDA approval is sufficient to render the contract effective.

Legally speaking, where there is contradiction or ambiguity between special law and general law, the provisions of the special law prevail. This therefore means that under the circumstances, one should opt for the adoption of the NFRL clause. However, Section 143 of the PPCA states expressly that "Upon the coming into force of this Act, it shall supersede any other law, regulations, guidelines, directives and such other instruments guiding public procurement and Concessions, and any such law, regulations, guidelines or instrument of any form found to be inconsistent with any provision of this Act shall, to the extent of the inconsistency, be void."

It is therefore clear that the PPCA requirement should apply in this case.

However, in practice, all TSCs were only signed by the authority (FDA) and were not submitted to the President or the Minister of Justice.

We further note that TSCs relate to land areas of less than 5,000 hectares which renders them not material enough to be signed by the President, but here also the PPCA is silent with regard to the area involved.

2- We faced other practical difficulties from this contradiction. In fact, when NFRL imposes the application of the PPCA to TSCs and then requires the sole signature of FDA to make the contract effective, it is implicitly eliminating the first obligation to act on its own and none of the TSCs went through the IMCC. The Concession Bid Evaluation Panels were appointed by the FDA instead of the IMCC and the negotiations were also carried out by FDA. The IMCC was not involved at all and they did not even hold copies of TSC contracts.

The contradictions arising in Paragraph 1 above only relate to the final signatories of the contract and do not put into question the applicability of the PPCA. However, the contradiction gave the FDA the perfect opportunity to act on its own and circumvent the PPCA.

Consequently, the award process for TSC is deemed non-compliant with the applicable regulations.

Recommendation:

We recommend that Timber Sale Contracts are awarded according to the PPCA as required by the NFRL and the PPCA. If TSCs are to be excluded from the ambit of the PPCA due to their immateriality, this should be clearly stated in the PPCA, NFRL and FDA Core Regulations.

Recommendation priority: Priority 1 - Urgent remedial action is required

Government Agencies' comments:

FDA:

The PPCA and the NFRL will be harmonised for an appropriate redress of subject matter.

NIC (General comment):

It is important that audits occur within both the ambit of the law as well as within the context of the law on operations. We have noted that the PPCA while the most appropriate law for the procurement of goods and services, the processes for the award of concession agreements are inherently different and as such will always contravene the processes as set forth in the PPCA. It is imperative that the GOL embark upon a process to amend the PPCA removing the concession aspects and strengthening the Concessions Act to be all inclusive and eliminate the inconsistencies between the prevailing laws.

Finding n°: 40	Title: Distortions in the legal framework with regard to the award of Exploration Licences
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Contracts involved: 42 to 54

Government Agency responsible: MLME

Description of the finding:

Section 75-2-e of the PPCA makes the Act not applicable to “the future grant of a Prospecting License or an Exploration License on a first-to-file basis over land included in a Non-Bidding Area, the declaration for which remains in effect and covering only Minerals specified in the declaration of such area as a Non-Bidding Area.”

When the area is not declared as a Non-Bidding Area, FIFA will not be applied and the licence will be awarded through auctions. In this case, the PPCA will be applicable in its entirety.

Obviously, whether FIFA or auctions are applicable, the process is substantially different. The principle of award is the auction and FIFA is an alternative way to award exploration licences due to the lack of valuable geological information. FIFA or auctions are just processes and both are valuable as long as they lead to only retain eligible persons. Therefore, both need to offer the same guarantees when it comes to the evaluation of technical and financial capacities.

In the case of an auction, the offer will be subject to an evaluation by a Concession Bid Evaluation Panel and technical and financial capacities will be assessed through due diligence carried out by an independent consultant, the outcome of these evaluations being reviewed by the IMCC.

However, in the case of FIFA, the process is totally managed by the MLME. There should be verification by the Liberia Geological Survey with regard to technical and financial capacities but according to the testing we carried out, we were unable to find a single case where this was performed. The approval of the license is not given by any committee but only by the Assistant Minister and the Minister who signs at the end.

Based on the above, we do not have enough assurance that the two systems offer the same guarantees.

Recommendation:

In accordance with generally accepted principles in the mining sector, both FIFA and Auctions should offer the same guarantees so that the award system is efficient. Therefore, we recommend that the MLME improves the FIFA award process. To start with, the verification of technical and financial capacities needs to be well substantiated and documented. The MLME could also create an ad-hoc commission to review the award process and give its approval prior to the final approval of the Minister.

Recommendation priority: Priority 1 - Urgent remedial action is required

Finding n°: 41**Title:** Concession Agreements containing invalid clauses

Contracts involved: 66

Government Agency responsible: MLME, NIC and Legislature

Description of the finding:

The review of contract n° 66 with BHP Billiton brought to our attention the inclusion of the following clause:

“By virtue of the procedures followed by the Government in connection with (i) the approval of this Agreement and (ii) the related grants of all concessions and licenses covered by the provisions of this Agreement, as of the Effective Date this Agreement and all concessions and licenses referred to herein have been validly entered into and/or granted, notwithstanding the provisions of any other Law, including The Act Creating the Public Procurement and Concessions Commission.”

If the intention in inserting such a clause was to avoid the need to follow the provisions of the PPCA, or to protect in some way against the possibility that the provisions had not been followed, knowingly or unknowingly, then it appears that the MLME acted ultra vires in signing an agreement containing such a clause. It should be noted that the PPCA 2005 came into force on 8 September 2005 whilst the concession agreement was printed later on 30 December 2010.

Recommendation:

No Concession Agreement should contain a clause seeking to override applicable law.

Recommendation priority: Priority 1 - Urgent remedial action is required

6. CONCLUSIONS

The review of the processes involved in awarding material public concessions, contracts, licenses, permits and other rights of exploitation of diamond, gold, oil, timber, and agricultural resources of Liberia from 13 July 2009 to 31 December 2011 brought the following results:

Sector/Agency	Category	Total Number of Contracts	Compliant Contracts	Partially compliant	Non-compliant	Limitation of Scope
Agriculture - MOA	Concessions	4	-	3	1	-
Number of Contracts in the Agriculture Sector		4	-	3	1	-
Oil - NOCAL	Production Sharing Contracts	5	2	1	2	-
Number of Contracts in the Oil Sector		5	2	1	2	-
Forestry - FDA	Forest Management Contracts	4	-	-	4	-
	Timber Sale Contracts	5	-	-	5	-
	Private Use Permits	23	-	-	23	-
Number of Contracts in the Forestry Sector		32	-	-	32	-
Mining - MLME	Exploration Licenses	14	-	13	-	1
	Class B Mining Licences	4	-	4	-	-
	Gold and Diamond Dealers	5	4	1	-	-
	Mineral Development Agreements	4	-	3	-	1
Number of Contracts in the Mining Sector		27	4	20	1	2
Total Number of Contracts		68	6	25	35	2

Out of a total number of 68 contracts:

- we did not receive the documentation relating to 2 contracts from the MLME. These contracts are:
 - Exploration License granted to Bea Mountain Mining Corporation (Contracts Ref. 55); and
 - Mineral Development Agreement granted to AmLib (Klekle & Cestos) (Contract Ref. 65).
- the award process for 35 contracts was deemed non-compliant with applicable regulations as we noted major departures from relevant legislation;
- the award process for 25 contracts was deemed partially compliant as the instances of non-compliance encountered were not material to the extent that the whole process was cast into doubt; and
- the award process for 6 contracts complied with the applicable regulation. These contracts were 4 Diamond Dealer licenses and 2 Production Sharing Contracts (PSCs). However, for PSCs the contracts were only addenda to existing contracts. We did not review the respective original contracts as they were out of our scope.

Overall, we encountered a significant lack of cooperation from Government Agencies involved in the award process and faced major delays in obtaining the documents, in particular, from the FDA, NOCAL and MLME. Where the documents were made available for a contract, we systematically found that they were not complete. Although several deadlines had been allowed or extended to obtain the documents, we did not obtain all the documentation relating to the award process. Had all documentation been submitted, the results of our review could have been different.

Several matters need to be addressed in order to improve the award process of concessions in Liberia, as follows:

- capacities within Government Agencies should be built. In fact, we found that several persons involved in the process do not have sufficient knowledge of the PPCA and other regulations applicable to concessions.
- the filing system within Government Agencies should be improved. The delays we encountered in obtaining the documents were partly due to the lack of organisation and the deficiency of the filing system which made it difficult or even impossible to locate some documents.
- an environment and culture of integrity and respect of the rule of law should be promoted. This could be achieved through several ways such as:
 - implementation of a code of ethics and commitment of GOL in conducting training workshops together with targeted advertisement campaigns through various media in order to disseminate information on the regulations; and
 - introducing disciplinary and penal sanctions under the PPCA to deter attempts to breach applicable law.
- the legal framework for some categories of concessions based on their contract value should be improved and clarified. In fact, PPCA does not contain any thresholds with regard to the procedures to be followed. As long as the right falls under the definition of a concession, all the procedures mentioned in the PPCA would be applicable notwithstanding the value of the concession.

We believe that instead of leaving the law ineffective as in the case of Timber Sale Contracts where the PPCA was not followed at all, it may be better to ease the procedures for some categories of contracts so that the law is capable of being enforced under certain circumstances (rather than being systematically breached). The alleviation could apply to Timber Sale Contracts and Class B Mining Licenses.

- the legal framework relating to the Oil Sector should be updated in order to clarify which regulation is applicable, i.e. The New Petroleum Law or the Public Procurement and Concessions Act.

ANNEXES

ANNEX 1: MATERIALITY REPORT

Establishing Material Threshold for Post Award Process Audit/Investigation

Background

Pursuant to the LEITI Act of 2009, the LEITI shall perform “appropriate audits/investigations of the process by which each material concession, contract, license, and other rights is awarded by the Government in respect of forestry, mining, oil, agriculture and other designated resource sectors of Liberia in order to determine that each concession, contract, license, and similar right was awarded in compliance with applicable Liberian laws”.

Accordingly, the LEITI lifted in its 2009/10 Work Plan, and the Multi-stakeholder Steering Group (MSG) approved, the conduct of process audit/investigation of all material concession, contract, license, and other rights awarded by the Government in respect of, mining, oil, forestry, and agriculture. The initial challenge to this task was securing funds amidst government’s own constraints in a post conflict environment. This was resolved when the African Development Bank, under its Fragile States Facility Program extended a grant of \$95k towards this exercise. Administrative changes at the Secretariat hindered tackling and completing this task. Subsequently, a grant extension was sought and received to allow the exercise to be carried out before December 2012.

With these hurdles being cleared, the MSG instructed the Secretariat to conduct a materiality assessment on all reported sectors to determine the basis on which individual/companies may be included in the process audit.

It is against this background that the LEITI Secretariat carried out this study with intent to provide analysis and recommendation for the establishment of material threshold(s) to be used in the LEITI Post Award Process Audit.

Definition

The MSG agreed that the effective date of the LEITI Act of 2009 serves as the initial basis on which materiality will be defined. In other words, all rights granted/amended by the Government before July 13, 2009 will not be included in this process audit/investigation.

The date on which concession and other rights were printed into handbill was used to determine if it should form part of the process audit, however, where that information was unavailable the Secretariat use the approval date as a default.

Realizing the LEITI Act of 2009 requires that the process audit/investigation is carried out annually, the Secretariat decided setting December 31, 2011 as a logical cutoff point. Rights granted/amended after this date will form part of the next process audit.

With this establishment, materiality is therefore defined such that by excluding an individual(s), company or group of companies whose rights were granted/amended effective July 13, 2009 through December 31, 2011 from the review exercise the outcome would not be significantly affected.

A firm considered immaterial for this study does not forbid the MSG from seeking to singly or collectively review the award process if it so desires.

Methodology

The Secretariat's attempt at data collection posed the heaviest challenge in this exercise. Except the National Oil Company of Liberia (NOCAL), supervising ministries and agencies could not provide copies of all concessions, contracts, licenses, etc. for individuals and companies under their supervision. The Secretariat used additional sources including National Bureau of Concession, Nation Investment Commission, Ministry of Foreign Affairs, etc. to secure data use in this report. Even with additional support from these agencies, the Secretariat could not obtain a comprehensive listing of all companies along with documents assigning rights for this project.

Given the unmatched characteristics of these sectors, it was logical to use separate indicators (i.e. investment amount, land area, etc.), where possible, to determine materiality.

The analysis and recommendation in this report is based only on information gathered and in the possession of the Secretariat.

A. Oil Sector

From data gathered there are nine (9) existing concession rights in the oil sector, ranging from Blocks 8 through 17. There is no evidence of existing concession rights awarded for Blocks 1 through 7. Evidence shows Blocks 11, 12 and 14 which were initially passed into law prior to July 13, 2009, and amended during the period under review.

Sector	Company	Origin	Type	Approved	Printed	Tenure	Location	Investment	Size	%age	Contract Available
Oil	GOL, Anadarko Liberia	Cayman Island	PSC	23-Jul-09	29-Jul-09	7 Years	LB - 10	\$ 33,000,000		28.4%	Y
Oil	GOL, Broadway Consolidated PLC	United Kingdom	PSC	16-Apr-07	22-May-07	9 Years	LB - 13	\$ 5,000,000		4.3%	Y
Oil	GOL, Hong Kong Tongtai Petroleum Intl Corp LTD			NODATE			LB - 6 & 7			0.0%	Not Signed
Oil	GOL, Oranto Petroleum Ltd w/ Addendum	Nigeria	PSC	16-Apr-07	22-May-07	8 Years	LB - 11	\$ 8,000,000		6.9%	Y
Oil	GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	British Virgin Is/ Bermuda	PSC	3-Sep-10	6-Sep-10	9 Years	LB - 11	\$ 4,500,000		3.9%	Y
Oil	GOL, Oranto Petroleum Ltd w/ Addendum	Nigeria	PSC	16-Apr-07	22-May-07	8 Years	LB - 12	\$ 8,000,000		6.9%	Y
Oil	GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	British Virgin Is/ Bermuda	PSC	3-Sep-10	6-Sep-10	9 Years	LB - 12	\$ 4,500,000		3.9%	Y
Oil	GOL, Oranto Petroleum Ltd	Nigeria	PSC	23-Jul-09	29-Jul-09	9 Years	LB - 14	\$ 10,000,000		8.6%	Y
Oil	GOL, Oranto & Chevron Liberia Ltd. (2nd Addendum)	British Virgin Is/ Bermuda	PSC	3-Sep-10	6-Sep-10	9 Years	LB - 14	\$ 10,000,000		8.6%	Y
Oil	GOL, Regal Liberia Ltd. & European Hydrocarbons Ltd.	England	PSC	11-Jun-08	23-Jun-08	4 Years	LB - 8	\$ 4,500,000		3.9%	Y
Oil	GOL, Regal Liberia Ltd. & European Hydrocarbons Ltd.	England	PSC	11-Jun-08	23-Jun-08	4 Years	LB - 9	\$ 4,500,000		3.9%	Y
Oil	GOL, Repsol Exploration SA	Spain	PSC	11-Jun-08	23-Jun-08	8 years	LB - 16	\$ 8,000,000		6.9%	Y
Oil	GOL, Repsol Exploration SA	Spain	PSC	11-Jun-08	23-Jun-08	8 years	LB - 17	\$ 8,000,000		6.9%	Y
Oil	GOL, Woodside West Africa PTY LTD	Australia	PSC	11-Jun-08	23-Jun-08	4 Years	LB - 15	\$ 8,400,000		7.2%	Y
Total								\$	116,400,000		

A review of the table shows 5 rights were awarded and or amended effective July 13, 2009. Excluding any of these would have a significant impact on our analysis based on the size of investment. Accordingly, the Secretariat recommends that the process by which each right was awarded be subject to process review to determine if it was done in keeping with applicable Liberian laws. The firms/blocks involved are:

1. GOL, Anardako, Block 10
2. GOL, Oranto & Chevron (2nd Addendum), Block 11
3. GOL, Oranto & Chevron, Block 12
4. GOL, Oranto, Block 14
5. GOL, Oranto & Chevron (2nd Addendum), Block 14

B. Agriculture

A review of the Agriculture sector shows 15 concessions, 2 contracts, and 1 Memorandum of Understanding (MOU) with a combined investment size of at least US\$2.9m, based on information available to the Secretariat.

Sector	Company	Type	Approved	Printed	Tenure	Location	Investment Size	% age	Contract Available
Agriculture	ADA/LAP Commercial Inc	Concessi	11-Jun-08	8-Jul-08	20 Years	Lofa	\$ 30,000,000	1.0%	Y
Agriculture	Buchanan Renewable Energies	Contract	14-Apr-08	14-Apr-08	3 Years	Bassa	\$ 150,000,000	5.1%	Y
Agriculture	Cavalla Rubber Corporation	Concession		16-Dec-10	50 Years	Maryland	\$ 78,000,000	2.7%	Y
Agriculture	Equitorial Palm Oil	Concession		2007		Bassa	\$ 100,000,000	3.4%	N
Agriculture	Firestone Rubber	Concession		31-Mar-08			N/A		Y
Agriculture	Golden Veroleum (Liberia) Inc.	Concessi	1-Sep-10	2-Sep-10	65 Years	Multiple	\$ 1,600,000,000	54.5%	Y
Agriculture	Lee Group of Companies	Contract	19-May-03				N/A		Y
Agriculture	Liberia Agriculture Company (LAC)	Concessi	12-May-05			Bassa	\$ 87,000,000	3.0%	Y
Agriculture	Liberia Cocoa Corporation	MOU	N/A	N/A		Lofa	\$ 12,000,000	0.4%	N
Agriculture	Liberia Company	Concessi	22-Dec-49	18-Jan-50			N/A		Y
Agriculture	Liberia Forests Products	Concessi	22-May-08	6-Aug-08			N/A		Y
Agriculture	Libinc Oil Palm Inc	Concessi	22-May-08	6-Aug-08	40 Years		N/A		Y
Agriculture	Maryland Palm Oil / Decoris	Concessi	2011	2011	33 Years	Maryland	\$ 64,000,000	2.2%	N
Agriculture	Morris American Rubber Company	Contract	10-Aug-07				N/A		Y
Agriculture	Novel Liberia Inc.	Concessi	22-Jun-08			Cape Mount	N/A		Y
Agriculture	Novel Rice	Concessi	11-Sep-08	23-Sep-08		Cape Mount	N/A		N
Agriculture	Salala Rubber / Cultuur Maatschappij	Concessi	1-Aug-59			Bong	N/A		Y
Agriculture	Sime Darby Plantation (Liberia) Inc	Concessi	30-Apr-09		63 Years	Multiple	\$ 800,000,000	27.2%	Y
Agriculture	Sinoe Rubber Corporation	Concessi	N/A	N/A			\$ 15,000,000	0.5%	N
Total							\$ 2,936,000,000		

A careful review of the sector shows that three companies were granted rights by the Government of Liberia during the period under review. Those companies are the Cavalla Rubber Corporation, Maryland Oil Palm/Decoris, and Golden Veroleum on September 2, 2010.

While the Cavalla Rubber Corporation accounts for only about 3% of total sector investment, the Secretariat recommends the company forms part of the process audit based on tenure (50 years) of the rights assigned. Golden Voreleum should also form part of the review based on size of investment and tenure.

C. Forestry

Rights in the forestry sector are awarded in three categories, namely: Forestry Management Contract (FMC), Private Use Permit (PUP), and Timber Sales Contract (TSC). Due to incomplete data on investment size for this sector, our attempt at defining materiality for FMCs and PUPs is based on total area which is measured in hectare. The analysis on TSC will base on minimum investment size.

Sector	Company	Type	Approved	Printed	Tenure	Location	Investment Size	Total Area (hectare)	%age	Contract Available
Forestry	Alpha Logging & Wood Processing Inc.	FMC	27-May-09	4-Jul-09	25 yrs	A - A, Lofa	\$ 24,500,000	119,240	12%	Y
Forestry	Atlantic Resources Ltd.	FMC	30-Sep-09	1-Oct-09	25 yrs	A - P, Multiple	\$ 22,200,000	119,344	12%	Y
Forestry	Eco Timber Liberia Ltd	FMC								0% N
Forestry	EJ & J Investment Corp.	FMC	27-May-09		25 yrs	A - B, Rivercess	\$ 1,000,000	57,262	6%	Y
Forestry	Euro Liberia Logging Co.	FMC	30-Sep-09	1-Oct-09	25yrs	A - F, Multiple	\$ 2,060,266	253,670	25%	Y
Forestry	Geblo Inc	FMC	17-Sep-09	1-Oct-09	25 yrs	A - J, Multiple	\$ 5,875,000	131,466	13%	Y
Forestry	International Consultant Capital (ICC)	FMC	30-Sep-09	1-Oct-09	25 yrs	A - K, Multiple	\$ 10,000,000	266,910	26%	Y
Forestry	Liberia Tree & Trading Co.	FMC	27-May-09	4-Jul-09	25yrs	A - C, Rivercess	\$ 2,000,000	59,374	6%	Y
Forestry	Mandra Forestry Liberia Limited	FMC								N
								1,007,266		
Forestry	Ecwood Incorporated/Texas International	PUP								0.0% N
Forestry	Monica Cooper/Marigibi County	PUP								0.0% N
Forestry	Nimley Equipment Logging Inc.	PUP								0.0% N
Forestry	People of Chedepo and Potupo Districts	PUP	28-Apr-11		25yrs	River Gee	\$ 50,000	51,262	4.9%	Y
Forestry	People of Bade Clan	PUP								0.0% N
Forestry	People of Bella Yellah District	PUP								0.0% N
Forestry	People of Bolloh, Dorbor and Fenetoe	PUP								0.0% N
Forestry	People of Bopolu District	PUP								0.0% N
Forestry	People of Campwood/Gheegbahn Dist.	PUP	16-Mar-11		25 yrs	Grand Bassa	\$ 50,000	51,472	5.0%	Y
Forestry	People of Cavalla Dist.	PUP	15-Jun-11		23 yrs	Grand Gedeh	\$ 50,000	38,956	3.7%	Y
Forestry	People of Chedepo & Potupo Dist.	PUP	28-Apr-11		23 yrs	River Gee	\$ 50,000	45,873	4.4%	Y
Forestry	People of Deegba Clan	PUP								0.0% N
Forestry	People of Deekpeh Section	PUP	3-May-11		27 yrs	Grand Bassa	\$ 25,000	4,503	0.4%	Y
Forestry	People of Dobil Clan	PUP	4-Jan-11		4 8 yrs	Bong	\$ 50,000	8,078	0.8%	Y
Forestry	People of Doedian District	PUP	15-Jun-11		30 yrs	Rivercess	\$ 50,000	49,394	4.8%	Y
Forestry	People of Doe's Chiefdom	PUP	17-Jan-11		25 yrs	Nimba	\$ 50,000	79,263	7.6%	Y
Forestry	People of Dugboh River District	PUP	6-Oct-11		25 yrs	Sinoe	\$ 50,000	52,858	5.1%	Y
Forestry	People of Foya Dist.	PUP	19-Dec-11		25 yrs	Gbarpolu	\$ 100,000	121,834	11.7%	Y
Forestry	People of Gbarma District	PUP								0.0% N
Forestry	People of Gbeapo, Potupo and Sarbo Dist	PUP	4-May-10		23 yrs	River Gee	\$ 50,000	45,873	4.4%	Y
Forestry	People of Gbeapo and Potupo Dist.	PUP	4-May-10		25 yrs	River Gee	\$ 50,000	51,262	4.9%	Y
Forestry	People of Gbeapo-Thienpo Dist.	PUP	15-Jun-11		25 yrs	River Gee	\$ 50,000	63,287	6.1%	Y
Forestry	People of Gbewor District	PUP								0.0% N
Forestry	People of Geetroh Comm. Forest Mgmt. O	PUP	23-Apr-10		11 yrs	Sinoe Co	\$ 50,000	22,831	2.2%	Y
Forestry	People of Gibi Dist.	PUP	19-Jan-11		13 yrs	Margibi	\$ 50,000	22,163	2.1%	Y
Forestry	People of Gola-Konneh District	PUP								0.0% N
Forestry	People of Jaadea District	PUP								0.0% N
Forestry	People of Jo-River District	PUP	6-Oct-11		3 yrs	Rivercess	\$ 50,000	30,765	3.0%	Y
Forestry	People of Karlaway Dist.	PUP	31-Aug-10		17 yrs	Maryland	\$ 50,000	28,847	2.8%	Y
Forestry	People of Kokoyah Dist.	PUP	23-May-11		13 yrs	Bong	\$ 50,000	21,549	2.1%	Y
Forestry	People of Kolahun Dist. (Mary Kpoto)	PUP	25-Nov-09		3 yrs	Lofa	\$ 50,000	4,058	0.4%	Y
Forestry	People of Kongba District	PUP								0.0% N
Forestry	People of Kulu Shaw-Boe Dist.	PUP	12-Aug-11		12yrs	Sinoe	\$ 50,000	20,193	1.9%	Y
Forestry	People of Lofa Clan	PUP	4-Jan-11		8 yrs	Bong	\$ 50,000	13,636	1.3%	Y
Forestry	People of Lower & Upper Jloh Dist.	PUP	1-Sep-10		22yrs	Grand Kru	\$ 50,000	36,509	3.5%	Y
Forestry	People of Marbo Clan	PUP								0.0% N
Forestry	People of Nitrian Community, Kpanyan Dis	PUP	16-Sep-11		15 yrs	Sinoe Co	\$ 50,000	947	0.1%	Y
Forestry	People of Sam Gbolor Dist	PUP	12-Aug-11		14 yrs	River Cess	\$ 50,000	23,432	2.3%	Y
Forestry	People of Seekon District	PUP								0.0% N
Forestry	People of Tarsue Dist.	PUP	12-Aug-11		25 yrs	Sinoe	\$ 50,000	63,002	6.1%	Y
Forestry	People of Teemor Section	PUP	23-May-11		11 yrs	Grand Bassa	\$ 50,000	18,779	1.8%	Y
Forestry	People of Thieme District/Tienpo Communi	PUP								0.0% N
Forestry	People of Vahun District	PUP								0.0% N
Forestry	People of Voiama District	PUP								0.0% N
Forestry	People of Zleh Town	PUP	3-Jun-11		17 yrs	Grand Gedeh	\$ 50,000	28,143	2.7%	Y
Forestry	People of Zozua Section	PUP	10-Jan-11		7 yrs	Grand Cape Mount	\$ 50,000	11,324	1.1%	Y
Forestry	People of Zorzor District	PUP								0.0% N
Forestry	People of Zota District	PUP								0.0% N
Forestry	People of Zoye Town, Doe Clan	PUP	17-Dec-10		2.5 yrs	Grand Bassa	\$ 50,000	5,564	0.5%	Y
Forestry	People of Zulo Clan	PUP	4-Jan-11		14 yrs	Bong	\$ 50,000	23,306	2.2%	Y
Forestry	Tartweh-Drapoh Management & Developm	PUP								0.0% N
Forestry	Universal Forestry Corporation	PUP								0.0% N
								1,038,963		
Forestry	Akewa Group of Companies	TSC	21-Jul-10		3 yrs	A - 3, Grand Bassa	\$ 250,000	5,000	13.9%	Y
Forestry	B & V Timber Co.	TSC	1-Jun-08		3 yrs	A - 9, Cape Mount	\$ 250,000	5,000	1.4%	Y
Forestry	B & V Timber Co.	TSC	1-Jun-08		3 yrs	A - 6, Multiple	\$ 250,000	5,000	1.4%	Y
Forestry	Bargor & Bargor Enterprise Inc.	TSC	1-Jun-08		3 yrs	A - 7, Gbarpolu	\$ 250,000	5,000	13.9%	Y
Forestry	Bassa Logging & Timber Corporation	TSC	21-Jul-10		3 yrs	A - 11, Cape Mount	\$ 250,000	5,000	13.9%	Y
Forestry	Bopolu Development/BODECO	TSC								0.0% N
Forestry	Global Logging Company	TSC								0.0% N
Forestry	New Liberia Resources International Inc.	TSC								0.0% N
Forestry	Sun Yuen Corp.	TSC	21-Jul-10		3 yrs	A-16, Cape Mount	\$ 250,000	5,000	13.9%	Y
Forestry	Sun Yuen Corp.	TSC	21-Jul-10		3 yrs	A-15, Cape Mount	\$ 250,000	5,000	13.9%	Y
Forestry	Tarpeh Timber Corp.	TSC	1-Jun-08		3 yrs	A - 2, Grand Bassa	\$ 250,000	5,000	13.9%	Y
Forestry	Thunderbird Intl. Ltd.	TSC	1-Oct-10		2 yrs	A - 8, Cape Mount	\$ 250,000	5,000	13.9%	Y
							\$ 1,800,000			

FMC

There are four companies granted FMCs rights between July 13, 2009 and December 31, 2011. They are Atlantic Resources, Euro Liberia Logging, Geblo Inc., and International Consultant Capital, with 12%, 25%, 13% and 26%, respectively, of total land area occupied by all FMCs.

Excluding any of these from the analysis would significantly alter the analysis based on land area. The Secretariat recommends that all four companies form part of the process review audit.

PUP

The Secretariat counted fifty-two PUPs issued by the Forestry Development Authority (FDA). Of this count, thirty were issued between July 13, 2009 and December 31, 2011. The Secretariat has all these contracts in its possession.

Five of these companies have rights over land area less than one percentage of the total land area occupied by PUPs. The Secretariat recommends that these companies be excluded from the process audit, and that the remaining twenty-five firms with land area equal to or greater than one percentage point are included in the process audit.

TSC

The Secretariat counted twelve TSCs issued by the Forestry Development Authority. Five (5) of these contracts were awarded between July 13, 2009 and December 31, 2011. Based on minimum investment required, each of the five firms account for roughly 14% of minimum investment for all companies in this sub-sector.

The Secretariat recommends that each of the five company's rights forms part of the process audit, given that by excluding anyone will materially affect the outcome of the audit.

D. Mining

Mining rights are grouped into the following categories with annual renewal required for continued operations.

1. Prospecting (\$125)
2. Class C (\$150)
3. Class B (\$10,000)
4. Gold Brokers (\$1,500)
5. Diamond Brokers (\$1,500)
6. Gold Dealers (\$5,000)
7. Diamond Dealers (\$25,000)
8. Reconnaissance (\$15,000)
9. Exploration (\$5,000 plus surface rental)
10. Mineral Development Agreement (MDA)
11. Class A (\$50,000)

Prospecting, Class C, Gold and Diamond Brokers are considered immaterial based on the cost of obtaining rights and are therefore excluded from these analyses.

Sector	Company	Type	Approved	Printed	Tenure	Location	Investment Size	%age	Contract Available
Mining	Global Mineral Investment LLC	Class B	2011				\$ 10,000	13%	MLME
Mining	Liberia Tailings Inc	Class B	2011				\$ 10,000	13%	MLME
Mining	Lichi INC	Class B	2011				\$ 10,000	13%	MLME
Mining	Londra Business INC.	Class B	2011				\$ 10,000	13%	MLME
Mining	Massa Investment Corporation	Class B	2011				\$ 10,000	13%	MLME
Mining	PEDRA MINING CORPORATION (CLARE	Class B	2011				\$ 10,000	13%	MLME
Mining	vandilay Industries Inc. (Daniel S. Burden)	Class B	2011				\$ 10,000	13%	MLME
Mining	West Africa Mines Ltd	Class B	2011				\$ 10,000	13%	MLME
							Total \$	80,000	MLME
Mining	A D M T (Liberia)	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	AFRIC DIAM COMPANY INC. (Mustapha T	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Brown Stone INC	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	CHARIS MINERALS, INC.	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Diamco INC.	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Konblo Bumi Inc (KBI) (CHOLOH)	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Massa Investment Corporation	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Royal Company	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	SPRI GROUP AFRICA LIMITED	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	Star Diamond Company	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	TASK INTERNATIONAL LTD	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	THACKETT MINING INC.	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	The Diamond Star Plus	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	TRECO MINING COMPANY	Diamond Dealer	2011				\$ 25,000	7%	MLME
Mining	WEST AFRICA GOLD & DIAMOND INC.	Diamond Dealer	2011				\$ 25,000	7%	MLME
							Total \$	375,000	MLME
Mining	African Gold Mining (Liberia) Ltd	Exploration	2011				\$ 55,000	5%	MLME
Mining	Afro Minerals Inc Akana Hills	Exploration	2011				\$ 6,276	1%	MLME
Mining	AmLib United Minerals, Inc.	Exploration	2011				\$ 5,000	0%	Y
Mining	AmLib United Minerals, Inc.(Klekle)	Exploration	2011				\$ 5,000	0%	Y
Mining	AmLib United Minerals, Inc.(Konobo/Grand	Exploration	2011				\$ 8,909	1%	Y
Mining	Archean Gold	Exploration	2011				\$ -	0%	MLME
Mining	Ascension Resources Corp.	Exploration	2011				\$ 24,000	2%	MLME
Mining	Bea Mountain Mining Corporation	Exploration	2011				\$ 200,448	16%	Y
Mining	Bukon Jedeh Resources Inc.	Exploration	2011				\$ 36,420	3%	Y
Mining	China Henan International Cooperation Gro	Exploration	2011				\$ 9,370	1%	MLME
Mining	Fine Minerals International	Exploration	2011				\$ 20,584	2%	MLME
Mining	G-4 WAO	Exploration	2011				\$ 6,800	1%	MLME
Mining	GLOBAL Mineral Investment LLC.	Exploration	2011				\$ 24,905	2%	MLME
Mining	Gryphon Minerals Limited	Exploration	2011				\$ 54,515	4%	MLME
Mining	Hummingbird Resources Inc.	Exploration	2011				\$ 12,880	1%	Y
Mining	International Business Exchange Inc.	Exploration	2011				\$ 40,947	3%	MLME
Mining	Investment Development Corporation	Exploration	2011				\$ 50,117	4%	MLME
Mining	Iron Resources Limited	Exploration	2011				\$ 35,000	3%	MLME
Mining	KONBLO BUMI INC.	Exploration	2011				\$ 13,661	1%	Y
Mining	KONBLO BUMI_Duqbe	Exploration	2011				\$ 17,350	1%	Y
Mining	KONBLO BUMI_Kakata	Exploration	2011				\$ 26,973	2%	Y
Mining	Massa Investment Corp. (Formerly Target F	Exploration	2011				\$ 14,500	1%	MLME
Mining	Middle Island Resources - Liberia Ltd_Au	Exploration	2011				\$ 47,317	4%	MLME
Mining	PEDRA MINING CORP.	Exploration	2011				\$ 25,000	2%	MLME
Mining	SALMEC Resource Limited (Formerly Bell	Exploration	2011				\$ 31,595	3%	MLME
Mining	SHANKIL RESOURCES (LIBERIA) INC.	Exploration	2011				\$ 18,500	2%	MLME
Mining	Sinoe Exploration limited	Exploration	2011				\$ 40,000	3%	MLME
Mining	Solomon Resource Corporation	Exploration	2011				\$ 53,309	4%	MLME
Mining	Southern Cross Investment Limited (Gbarp	Exploration	2011				\$ 20,400	2%	MLME
Mining	Southern Cross Investment Limited (Timbo	Exploration	2011				\$ 22,457	2%	MLME
Mining	Superior Mineral Resources Inc.	Exploration	2011				\$ 32,925	3%	MLME
Mining	Thackett Mining Inc	Exploration	2011				\$ 20,504	2%	MLME
Mining	Treco Mining Company	Exploration	2011				\$ 22,400	2%	MLME
Mining	VBC-VALE BSGR LIBERIA LIMITED	Exploration	2011				\$ 36,100	3%	MLME
Mining	Vella International Inc.	Exploration	2011				\$ 40,000	3%	MLME
Mining	West African Resources (Lib.) Corp. Limite	Exploration	2011				\$ 42,500	3%	MLME
Mining	West Peak Iron Ltd	Exploration	2011				\$ 33,664	3%	MLME
Mining	Winstock Dev Liberia Corp	Exploration	2011				\$ 8,419	1%	MLME
Mining	YOUSSEF DIAMOND MINING COMPANY	Exploration	2011				\$ 54,816	4%	MLME
							Total \$	1,220,660	

Mining	ALMETEV LIBERIA LIMITED	Gold Dealer	2011				5000	4% MLME	
Mining	Bailey Group of Companies	Gold Dealer	2011				5000	4% MLME	
Mining	Barclay Trading Enterprise	Gold Dealer	2011				5000	4% MLME	
Mining	BAU-TON INC.	Gold Dealer	2011				5000	4% MLME	
Mining	CAMPBELL ENTERPRISE	Gold Dealer	2011				5000	4% MLME	
Mining	CONSOR INTERNATIONAL (LIBERIA) INC	Gold Dealer	2011				5000	4% MLME	
Mining	Dapi Mining Company INC.	Gold Dealer	2011				5000	4% MLME	
Mining	FCE CORPORATION INTERNATIONAL	Gold Dealer	2011				5000	4% MLME	
Mining	Golden Mass Trading	Gold Dealer	2011				5000	4% MLME	
Mining	Golden Vision Trading (Mohammed Aidibi)	Gold Dealer	2011				5000	4% MLME	
Mining	H & W Trading Inc.	Gold Dealer	2011				5000	4% MLME	
Mining	Hamana International Mineral Business	Gold Dealer	2011				5000	4% MLME	
Mining	INDO-AFRICA TRADING COMPANY	Gold Dealer	2011				5000	4% MLME	
Mining	Korblo Bumi Inc.(KB)	Gold Dealer	2011				5000	4% MLME	
Mining	M & G INFINITY INC.	Gold Dealer	2011				5000	4% MLME	
Mining	MD-WEST DIAMOND & GOLD (LB) INC.	Gold Dealer	2011				5000	4% MLME	
Mining	NYAH BARTEE CORPORATION	Gold Dealer	2011				5000	4% MLME	
Mining	Pan Liberia Resource Development Corp	Gold Dealer	2011				5000	4% MLME	
Mining	Rod Trading INC	Gold Dealer	2011				5000	4% MLME	
Mining	Royal Company	Gold Dealer	2011				5000	4% MLME	
Mining	THACKETT MINING INC.	Gold Dealer	2011				5000	4% MLME	
Mining	THE LIBAM GROUP	Gold Dealer	2011				5000	4% MLME	
Mining	Trade Right International (LB)INC.	Gold Dealer	2011				5000	4% MLME	
Mining	TRECO MNING COMPANY	Gold Dealer	2011				5000	4% MLME	
							Total \$	120,000	
Mining	African Aura / Bea Mnth	MDA	28-Nov-01	25 years		\$	150,000,000	1.4% N	
Mining	AmLib (Klekle & Cestos)	MDA	2010			\$	150,000,000	1.4% Y	
Mining	BHP Billiton	MDA	2010	25 years	Multiple	\$	1,500,000,000	14.2% Y	
Mining	China Union(Hong Kong)Mining Co. & Chi	MDA	19-Jan-09	25 years	Bong	\$	2,600,000,000	24.5% Y	
Mining	Mittal Steel	MDA	28-Jun-05	25 years	Multiple	\$	1,600,000,000	15.1% Y	
Mining	Putu / Seversta	MDA	2010	25 years	Grand Gedeh	\$	2,000,000,000	18.9% N	
Mining	Western Cluster, SESA GOA Ltd., Bloom FMDA	MDA	22-Aug-11	22-Aug-11	25 years	Multiple	\$	2,600,000,000	24.5% Y
							Total \$	10,600,190,000	

Given rights granted under Class B, Diamond Dealers, and Gold Dealers all have fixed amounts respective to their categories, the Secretariat recommends random sampling be applied to determine which individuals/ companies form part of the review process.

For firms bearing Exploration rights, the cost for acquiring license is \$5k plus surface rental. Surface rental is levied at .50 per hectare. It means that the total amount paid for exploration rights takes into account the total land area, so that companies with bigger land mass will pay more to maintain or obtain rights from the Government of Liberia.

The Secretariat recommends that all companies having at least 4% be subject to the process audit. If this recommendation holds, seven companies from this category will form part of the audit process.

The table above shows seven MDAs currently active within the mining sector. Rights assigned to four companies (AmLib, BHP, Putu, and Western Cluster) were issued during the period under review. The Secretariat recommends that all of these companies based on the value of their individual investment forms part of the process audit.

E. Conclusion

It is important to note that materiality should not be viewed as a one size-fits-all. The fact that materiality was defined between July 13, 2009 and December 31, 2011 based on concessions, contracts, and licenses that are in possession of the LEITI Secretariat should not exempt those firms whose rights were not available to the Secretariat from the review process.

In fact, the LEITI Secretariat further recommends that these rights form part of the next process whenever they are available to the Secretariat. The Secretariat will continue to exert every effort to secure these documents.

ANNEX 2: LIST OF PUP CONTRACTS MISSED FROM MATERIALITY

Name(s)	Operator(s)	Location(s)	License Date	Duration (Years)	License Area (Hectares)
People of Bade Clan	Atlantic Resources	Gbarpolu	06/10/2011	25	83,709
People of Beawor District	Forest Ventures	Rivercess	06/10/2011	25	42,390
People of Bella Yellah District	Southeast Resources	Gbarpolu	06/10/2011	25	130,569
People of Boe Clan	Forest Ventures	Sinoe	06/10/2011	25	48,675
People of Bondi Madingo Chiefdom, Bopolu District	Tutex Wood Management	Gbarpolu	11/11/2011	25	88,540
People of District # 3	Nature Orient timber Corporation	Grand Bassa	06/10/2011	25	66,977
People of Gbarma District	Southeast Resources	Gbarpolu	06/10/2011	25	35,028
People of Gola-Kon-neh District	Southeast Resources	Grand Cape Mount	06/10/2011	25	67,240
People of Jeadea District	Atlantic Resources	Sinoe	06/10/2011	21	34,600
People of Kolahun District	Kolahun Development Forest Management Committee	Lofa	19/12/2011	19	32,578
People of Konado	Atlantic Resources	Grand Gedeh	18/07/2011	25	54,340
People of Kongba District	Southeast Resources	Gbarpolu	06/10/2011	25	122,972
People of Korninga Chiefdom	Bopolu Development Corporation (BODECO)	Gbarpolu	11/11/2011	25	90,527
People of Marblee Clan	Atlantic Resources	Grand Bassa	03/12/2010	21	35,685
People of Marbo Clan	Atlantic Resources	Grand Gedeh	06/10/2011	25	88,409
People of Seekon District	Atlantic Resources	Sinoe	06/10/2011	25	49,434
People of Teemor Section	Global Logging	Grand Bassa	18/07/2011	3	5,618
People of Voinjama District	Southeast Resources	Lofa	06/10/2011	25	72,360
People of Zorzor District	Southeast Resources	Lofa	06/10/2011	25	139,392
Tartweh-Drapoh Management & Development Committee (TDRMDC)	Atlantic Resources	Sinoe	19/08/2010	20	33,162

ANNEX 3: PUP APPLICATIONS NOT MEETING THE LEGAL REQUIREMENTS (FINDING N° 20)

Ref. n°	Land owner	Operator (*)	Location	PUP Application issue	Comments
20	People of Campwood/Gheegbahn District	Unknown	Grand Bassa	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.
21	People of Cavalla District	Cavalla Forest Company	Grand Gedeh	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	The applicant is different from the contract signatories. We cannot ascertain that the applicant has obtained the prior consent of the community.
22	People of Doedian District	Tropical Timber Incorporated	River ccess	Applications filed by the operators without bringing any written permission from the land owners	Application made by the operator. No written consent from the owner is available.
24	People of Dugbeh River District	Atlantic Resources/Forest Venture/South Eastern Timber Company	Sinoe	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District Forest Management Committee to the PUP signatories and the PUP applicants.
25	People of Foya District	People of Foya District	Gbarpolu	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	We did not find any articles of incorporation of the District Forest Management Committee showing that the applicant and the signatories of the PUP were appointed by the Committee or any power of attorney stating so.
27	People of Gbeapo-Thienpo District	Tropical Timber Incorporated	River Gee	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	We did not find any articles of incorporation of the District Forest Management Committee showing that the applicant and the signatories of the PUP were appointed by the Committee or any power of attorney stating so.
28	People of Geetroh Comm. Forest Mgmt. Organization (GECFMO)	Univeral Forestry Corporation	Sinoe Co	Lack of applications	No application found and the contract does not refer to any.
29	People of Gibi District	Akewa Group	Margibi	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.
30	People of Jo-River District	EJ & J Investment Logging Company	River ccess	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.
31	People of Karluway District	Atlantic Resources	Maryland	Lack of applications	No application found. The Field visit memo made reference to Atlantic resources. No proof the consent has been obtained/no power of attorney.

Ref. n°	Land owner	Operator (*)	Location	PUP Application issue	Comments
33	People of Kulu Shaw-Boe District	Atlantic Resources	Sinoe	Applications filed by the operators without bringing any written permission from the land owners	The applicant (Atlantic Resources) is different from the contract signatories. We cannot ascertain that the applicant has obtained the prior consent of the community.
34	People of Lorla Clan	Unknown	Bong	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.
35	People of Lower & Upper Jloh District	Atlantic Resources	Grand Kru	Lack of applications	No application found. The Field visit memo made reference to Atlantic resources. No proof the consent has been obtained/no power of attorney.
36	People of Sam Gbalor District	Forest Venture	River Cess	Applications filed by the operators without bringing any written permission from the land owners	The applicant (Atlantic Resources) is different from the contract signatories. We cannot ascertain that the applicant has obtained the prior consent of the community.
37	People of Tarsue District	Forest Venture	Sinoe	Applications filed by the operators without bringing any written permission from the land owners	The applicant (Atlantic Resources) is different from the contract signatories. We cannot ascertain that the applicant has obtained the prior consent of the community.
38	People of Teemor Section	Lone Star Global Trade & Investment Inc	Grand Bassa	Applications filed by the operators without bringing any written permission from the land owners	No power of attorney found given by the District /people to the Permit Operator.
40	People of Zoduia Section	Redwood Inc	Grand Cape Mount	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.
41	People of Zulo Clan	People of Zulo Clan	Bong	Applications filed by civil servants living in the community but who do not have any power of attorney to act on behalf of their communities	No power of attorney found given by the District /people to the PUP signatories and the PUP applicants.

(*) Indicative. The operator may have changed after the issuance of the PUP

**ANNEX 4: DETAIL OF CONTRADICTION DATES IN THE PUP DOCUMENTS
(FINDING N° 22)**

Ref. n°	Land owner	Contradictory dates in the PUP documents
19	People of Chedepo and Potupo Districts	Contract dated 4/05/2010 while the cover page states 28/04/11. Application by the people on 9/03/2011. FDA Field visit dated 6/12/2010 : before the application and the contract signature
20	People of Campwood/Gheegbahn District	The field visit took place in August 2010 while the application was submitted on 4/10/2010.
21	People of Cavalla District	The FDA request to the MLME is dated 27/05/2011 while the application was dated 7/06/2011
24	People of Dugbeh River District	The Field visit Memo was dated 16/10/09 while it states that the investigation took place between 2010 and 2011 which puts the Field visit as a whole in doubt.
26	People of Gbeapo, Potupo and Sarbo Dist	The contract is dated 4/05/2010 while the cover page states 28/04/11. Application by the people on 9/03/11. FDA Field visit dated 6/12/2010 : before the application and the contract signature
32	People of Kokoyah District	The field visit took place from 9 to 15/03/2009 while the application was introduced on 14/03/2011
33	People of Kulu Shaw-Boe District	The PUP application was dated 17/03/11 while the Field Visit Memo was dated 5/04/2010. The Memorandum of Understanding between the people of Kulu Shaw and Atlantic resources was signed on 12/02/2011, thus before the PUP application.
34	People of Lorla Clan	The application date was 22/11/2010 while the FDA memo was dated 25/10/2010, thus before any application was introduced.
37	People of Tarsue District	The FDA memo was dated 5/04/2010, thus before the PUP application which was dated 17/03/2011.
41	People of Zulo Clan	The application date was 22/11/2010 while the FDA memo was dated 25/10/2010, thus before any application was introduced.

ANNEX 5: DETAIL OF THE PUPS LACKING SOCIAL AGREEMENTS (FINDING N° 23)

Ref. n°	Land owner	Operator (*)	Comments
19	People of Chedepo and Potupo Districts	DC. Wilson Inc	No social agreement
24	People of Dugbeh River District	Atlantic Resources/Forest Venture/South Eastern Timber Company	No social agreement
26	People of Gbeapo, Potupo and Sarbo Dist	D.C Wilson Inc	No social agreement
28	People of Geetroh Comm. Forest Mgmt. Organization (GECFMO)	Univeral Forestry Corporation	No social agreement
31	People of Karluway District	Atlantic Resources	No social agreement
32	People of Kokoyah District	Group of Forestry Experts Company (GOFEC)	No social agreement
33	People of Kulu Shaw-Boe District	Forest Venture	The PUP contract states that the operator is Forest Venture while the Social Agreement was signed with Atlantic Resources.
34	People of Lorla Clan	Unknown	No social agreement
35	People of Lower & Upper Jloh District	Atlantic Resources	No social agreement
36	People of Sam Gbalor District	Forest Venture	The PUP contract states that the operator is Forest Venture while the Social Agreement was signed with Atlantic Resources.
37	People of Tarsue District	Forest Venture	The PUP contract states that the operator is Forest Venture while the Social Agreement was signed with Atlantic Resources.
39	People of Zleh Town	Frankbrook Liberia Inc	No social agreement
41	People of Zulo Clan	People of Zulo Clan	No social agreement

(*) Indicative. The operator may have changed after the issuance of the PUP

**ANNEX 6: DETAIL OF FIELD VISIT MEMOS DEEMED NOT RELIABLE
(FINDING N° 25)**

Ref. n°	Land owner	Location	Shortcomings in the Field visit Memos carried out by the FDA
24	People of Dugbeh River District	Sinoe	The field visit memo did not state any precise observation regarding: - the land metes and bounds of the land; - the ecological and environmental aspects of the land; and - the exact area proposed for commercial use.
33	People of Kulu Shaw-Boe District	Sinoe	The field visit memo did not state any precise observation regarding: - the land metes and bounds of the land; - the ecological and environmental aspects of the land; and - the exact area proposed for commercial use.
34	People of Lorla Clan	Bong	No metes and bounds description
36	People of Sam Gbalor District	River Cess	The field visit memo was dated 5/04/2010 while it was stated in the same memo that the field visit was carried out between March and June 2011. The field visit memo did not state any precise observation regarding: - the land metes and bounds of the land; - the ecological and environmental aspects of the land; and - the exact area proposed for commercial use.
37	People of Tarsue District	Sinoe	The field visit memo was dated 5/04/2010 while it was stated in the same memo that the field visit was carried out between March and June 2011. The field visit memo did not state any precise observation regarding: - the land metes and bounds of the land; - the ecological and environmental aspects of the land; and - the exact area proposed for commercial use.
39	People of Zleh Town	Grand Gedeh	The field visit memo does not contain any information regarding the metes and bounds description. The Field visit memo stated that the total land surveyed amounted to 39,494 ha from which a total surface of 11,756 ha corresponding to a protected area should be deducted. At the end, the memo concluded that 50,586 ha are suitable for logging while the memo rationale should end up to an acreage of 27,738 ha. Finally, The PUP contract granted an area of 28,143 ha which is different from the FDA memo.
40	People of Zodua Section	Grand Cape Mount	The objective announced in the field visit memo was to map the communities in order to create a mutual understanding that may lead to sign a social agreement. The Memo did not specify any metes and bounds for the area or the area suitable for commercial use. We noted the team included a manager from Redwood Inc (the holder) which we believe constitutes a conflict of interest since this member can influence the Field visit conclusions.
41	People of Zulo Clan	Bong	The field visit memo does not contain any information regarding the metes and bounds description.

**ANNEX 7: DETAIL OF PUPS WITH POOR EVIDENCE OF DEED VERIFICATION AND AUTHENTICATION BY MLME
(FINDING N° 30)**

Ref. n°	Land owner	Location	License Surface (hectare)	Deed surface (hectare)	Absence or poor evidence of Deed verification and authentication by the MLME
20	People of Campwood/Gheegbahn District	Grand Bassa	51,472	178,951 corrected to 109,293	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included.
21	People of Cavalla District	Grand Gedeh	38,956	38,956	Same as above
22	People of Doedian District	River ccess	49,394	56,656	Same as above
23	People of Doe's Chiefdom	Nimba	79,263	79,263	The wording of the MLME report is in broad terms. The MLME report does not contain any description of the deed but only the name of the district and the county. Poor survey report: no map attached, no description of the metes and bounds and no indication about the total area of the land.
24	People of Dugbeh River District	Sinoe	52,858	29,396	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included (see also Finding n°29).
25	People of Foya District	Gbarpolu	121,834	121,834	There was no MLME verification and authentication report found on file
28	People of Geetroh Comm. Forest Mgmt. Organization (GECFMO)	Sinoe Co	22,831	101,171	The wording of the MLME report is in broad terms. The MLME report does not contain any description of the deed but only the name of the district and the county. Poor survey report: no map attached and no description of the metes and bounds.
29	People of Gibi District	Margibi	22,163	26,412	The wording of the MLME report is in broad terms. The MLME report does not contain any description of the deed but only the name of the district and the county. Poor survey report: no map attached and no description of the metes and bounds. We noted also that the Resident County Surveyor who is an MLME official recommended in his survey report to grant the Permit to the Akewa Group -which is beyond his authority and also addressed a memo to the Permit Holder (the Akewa Group) where he gathered signatures advocating the granting of the permit to the said company. This fact presumes that the County Surveyor has been engaged by the company to carry out such work (which represents a notable conflict of interests).

Ref. n°	Land owner	Location	License Surface (hectare)	Deed surface (hectare)	Absence or poor evidence of Deed verification and authentication by the MLME
30	People of Jo-River District	River cess	30,765		The wording of the MLME report is in broad terms. The MLME report does not contain any description of the deed but only the name of the district and the county. Poor survey report: no map attached, no description of the metes and bounds and no indication about the total area of the land.
31	People of Karluway District	Maryland	28,847	28,847	Same as above
32	People of Kokoyah District	Bong	21,549	89,340	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included. We noted also that the deed was illegible in several parts. Nevertheless the FDA succeeded to define the metes and bounds and the MLME did not raise any concern in this respect.
33	People of Kulu Shaw-Boe District	Sinoe	20,193	unknown	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included. We did not find any deed in the documents. Nevertheless the FDA succeeded to define the metes and bounds and the MLME did not raise any concern in this respect.
34	People of Lorla Clan	Bong	13,636	23,306	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included. The deed is completely illegible in several parts. Nevertheless the FDA succeeded to define the metes and bounds and the MLME did not raise any concern in this respect. Poor survey report: no map attached and no description of the metes and bounds. No indication on the total area suitable for commercial use.
35	People of Lower & Upper Jloh District	Grand Kru	36,509	36,509	The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included.
36	People of Sam Gbalor District	River Cess	23,432	23,432	Same as above
37	People of Tarsue District	Sinoe	63,002	63,002	Same as above
38	People of Teemor Section	Grand Bassa	18,779	45,325	Same as above
39	People of Zleh Town	Grand Gedeh	28,143	50,586	Same as above

Ref. n°	Land owner	Location	License Surface (hectare)	Deed surface (hectare)	Absence or poor evidence of Deed verification and authentication by the MLME
40	People of Zodua Section	Grand Cape Mount	11,324	11,324	The wording of the MLME report is in broad terms. No survey report attached and no reference to a survey included. The MLME recommended the granting of the PUP although there was no property deed but only a tribal certificate.
41	People of Zulo Clan	Bong	23,306	23,306	<p>The wording of the MLME report is in broad terms. There was no survey report attached and no reference to a survey included. The MLME report does not contain any description of the deed but only the name of the district and the county. There is no information regarding the site verification included.</p> <p>The deed is completely illegible in several parts. Nevertheless the FDA succeeded to define the metes and bounds and the MLME did not raise any concern in this respect.</p> <p>Poor survey report: no map attached, no description of the metes and bounds and no indication about the total area.</p>

ANNEX 8: DETAIL OF PUPs ISSUED OVER COMMUNITY FOREST LANDS (FINDING N° 31)

Ref. N°	Land owner	Location	Deed classification
19	People of Chedepo and Potupo Districts	River Gee	Public Land Grant-Tribal Territory
20	People of Campwood/Gheegbahn District	Grand Bassa	Aborigines Grant Deed
21	People of Cavalla District	Grand Gedeh	Aborigines Grant Deed
22	People of Doedian District	River cess	Aborigines Land Sale Deed
23	People of Doe's Chiefdom	Nimba	Public land grant assorted with conditions
24	People of Dugbeh River District	Sinoe	Aborigines Grant Deed
25	People of Foya District	Gbarpolu	Aborigines Grant Deed
26	People of Gbeapo, Potupo and Sarbo Dist	River Gee	Public Land Grant-Tribal Territory
27	People of Gbeapo-Thienpo District	River Gee	Public Land Grant-Tribal Territory
28	People of Geetroh Comm. Forest Mgmt Organization (GECFMO)	Sinoe Co	Public Land Sale Deed
29	People of Gibi District	Margibi	Public Land Sale Deed
30	People of Jo-River District	River cess	Public Land Sale Deed
31	People of Karluway District	Maryland	Aborigines grant deed
32	People of Kokoyah District	Bong	Public Land Sale Deed
33	People of Kulu Shaw-Boe District	Sinoe	No deed submitted
34	People of Lorla Clan	Bong	Public Land Grant
35	People of Lower & Upper Jloh District	Grand Kru	Aborigines grant deed
36	People of Sam Gbalor District	River Cess	Aborigines grant deed
37	People of Tarsue District	Sinoe	Aborigines grant deed
38	People of Teemor Section	Grand Bassa	Public Land Sale Deed
39	People of Zleh Town	Grand Gedeh	Tribal Land Certificate
40	People of Zodua Section	Grand Cape Mount	Tribal Land Certificate
41	People of Zulo Clan	Bong	Public Land Grant

ANNEX 9: SECTOR SPECIFIC COMPLIANCE TEMPLATES

Agricultural Sector

Concession Sector	Agriculture
Applicable regulation	<p>Original Public Procurement and Concessions Act, 2005</p> <p>Amended and Restated Public Procurement and Concessions Act, 2010</p>
Audit of Concession Contractor	

Award Procedure : National/international competitive bidding / Sole Source / Unsolicited bids

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of Sole Source award

Section 101 PPCA	Does the concession fall under one of the 4 conditions stated in Section 101 of the PPCA Act	Check the conditions			
Section 101 PPCA	Did the Concession Entity obtain a cabinet determination	Copy of the Cabinet determination			

Certificate for Concession

Section 89 PPCA	Did the Concession Entity obtain a Certificate for Concession	Copy of the Certificate for Concession			
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Entity Concession Committee

Section 77 PPCA	Did the Concession Entity appoint an Entity Concession Committee	Minute of appointment of the Entity Concession Committee			
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Preparation phase

Section 83 PPCA	Was an Inter-Ministerial Concessions Committee nominated by the President of GOL	Presidential decision of nomination of the IMCC			
Section 79 PPCA	Did the Concession Entity prepare a Concession Procurement Plan	Copy of the Concession Procurement Plan			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Public Procurement and Concessions Committee	Correspondence re approval			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Inter-Ministerial Concessions Committee	Correspondence re approval			
Section 91 PPCA	Did the Concession Entity publish a notice of the stakeholder forum not less than 14 days prior to the Forum. (stating the time and place)	Proof of publication of a notice of the stakeholder forum			
Section 106 PPCA	Did the Concession Entity publish a General Notice of Investment Opportunity	Proof of publication of a General Notice of Investment Opportunity			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Expressions of Interest or pre-qualifications (if applicable)

Section 102 PPCA	Did the IMCC Review and approve the Expression of interest Form and the pre-qualification criteria	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the request for Expression of Interests	Proof of publication of the request for Expression of Interests			
Section 106 PPCA	Was the allowed deadline of at least 4 weeks	Check the deadline in the publication notice			

Reception and evaluation of Expressions of Interest or s (if applicable)

Section 110 PPCA	Did the Concession Entity prepare a minute of receipt of the Expressions of Interest	Minute of receipt of the Expressions of Interest			
Section 111 PPCA	Did the IMCC appoint a Concession Bid Evaluation Panel	Minute of appointment of the Concession Bid Evaluation Panel			
Section 111 PPCA	Were the Expressions of Interest evaluated by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 102 PPCA	Were the evaluation results approved by the Inter-Ministerial Concessions Committee	Minute of approval of the pre-qualification results by the IMCC			

Invitations to bid

Section 77 PPCA	Obtain a copy of the invitations to bid	Invitations to bid			
Section 82 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the IMCC for Review and approval?	Correspondence re approval			
Section 117 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the Ministry of justice for review as to legal matters	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the invitations to bid	Proof of publication			
Section 106 PPCA	The allowed deadline should be at least 6 weeks in case of international tender and 4 weeks in case of national tender	Check the deadline			

Reception, opening and evaluation of bids

Section 110 PPCA	Does the entity prepare a minute for the receipt of the bids	Minute of receipt			
Section 110 PPCA	Does the entity prepare a minute for the opening of the bids	Bid opening minute			
	Does the entity keep the original bids submitted (bids and external envelopes)	Original bids and external envelopes			
	Does the dates on the minute of receipt compliant with the dates on the external envelopes	Check the dates			
	Are bids received after the deadline excluded	Check the dates			
Sections 78 and 116 PPCA	Was an independent organisation appointed to carry out the due diligence	Due diligence report			
Section 116 PPCA	Were the due diligence conclusions taken into consideration	Due diligence report			
Section 118 PPCA	Was an evaluation carried out by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Was the Concession Bid Evaluation Panel evaluation report approved by the IMCC	Minute of approval of the Concession Bid Evaluation Panel evaluation report			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 118 PPCA	Were the President of GOL and the Public Procurement and Concessions Commission notified on the results of the evaluation	Correspondence re notification of the President of GOL and the Public Procurement and Concessions Commission on the results of the evaluation			

Contract Negotiation

Section 118 PPCA	Was a negotiation team appointed by the President of GOL	Decision of appointment of the Negotiation Team by the President of GOL			
Section 118 PPCA	Does the decisions of the negotiation team saved in minutes	Minutes of the Negotiation Team			

Contract signature





Section 117 PPCA	Was the contract signed by the President	Copy of the signed concession Agreement			
Section 6.2.4 GBL	Was the contract ratified by Legislature	Copy of the signed concession Agreement			

Further communications

Section 92 PPCA	Were the documents stated in section 92 of the PPCA Act sent to the National Bureau of concessions	Correspondence re sending of the documents			
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Conclusion

Oil Sector

Concession Sector	Petroleum
Applicable regulation	<ul style="list-style-type: none">  Original Public Procurement and Concessions Act, 2005  Amended and Restated Public Procurement and Concessions Act, 2010  National Oil Company Act of 2000  New Petroleum Law of 2002
Audit of Concession Contractor	
Approval date	
Block	

Award Procedure : National/international competitive bidding / Sole Source / Unsolicited bids

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of Sole Source award

Section 101 PPCA	Does the concession fall under one of the 4 conditions stated in Section 101 of the PPCA Act	Check the conditions			
Section 101 PPCA	Did the Concession Entity obtain a cabinet determination	Copy of the Cabinet determination			

Certificate for Concession

Section 89 PPCA	Did the Concession Entity obtain a Certificate for Concession	Copy of the Certificate for Concession			
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Entity Concession Committee

Section 77 PPCA	Did the Concession Entity appoint an Entity Concession Committee	Minute of appointment of the Entity Concession Committee			
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Preparation phase

Section 83 PPCA	Was an Inter-Ministerial Concessions Committee nominated by the President of GOL	Presidential decision of nomination of the IMCC			
Section 79 PPCA	Did the Concession Entity prepare a Concession Procurement Plan	Copy of the Concession Procurement Plan			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Public Procurement and Concessions Committee	Correspondence re approval			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Inter-Ministerial Concessions Committee	Correspondence re approval			
Section 91 PPCA	Did the Concession Entity publish a notice of the stakeholder forum not less than 14 days prior to the Forum. (stating the time and place)	Proof of publication of a notice of the stakeholder forum			
Section 106 PPCA	Did the Concession Entity publish a General Notice of Investment Opportunity	Proof of publication of a General Notice of Investment Opportunity			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Expressions of Interest or pre-qualifications (if applicable)

Section 102 PPCA	Did the IMCC Review and approve the Expression of interest Form and the pre-qualification criteria	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the request for Expression of Interests	Proof of publication of the request for Expression of Interests			
Section 106 PPCA	Was the allowed deadline of at least 4 weeks	Check the deadline in the publication notice			

Reception and evaluation of Expressions of Interest or pre-qualifications (if applicable)

Section 110 PPCA	Did the Concession Entity prepare a minute of receipt of the Expressions of Interest	Minute of receipt of the Expressions of Interest			
Section 111 PPCA	Did the IMCC appoint a Concession Bid Evaluation Panel	Minute of appointment of the Concession Bid Evaluation Panel			
Section 111 PPCA	Were the Expressions of Interest evaluated by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 102 PPCA	Were the evaluation results approved by the Inter-Ministerial Concessions Committee	Minute of approval of the pre-qualification results by the IMCC			

Invitations to bid

Section 77 PPCA	Obtain a copy of the invitations to bid	Invitations to bid			
Section 82 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the IMCC for Review and approval?	Correspondence re approval			
Section 117 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the Ministry of justice for review as to legal matters	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the invitations to bid	Proof of publication			
Section 106 PPCA	The allowed deadline should be at least 6 weeks in case of international tender and 4 weeks in case of national tender	Check the deadline			

Reception, opening and evaluation of bids

Section 110 PPCA	Does the entity prepare a minute for the receipt of the bids	Minute of receipt			
Section 110 PPCA	Does the entity prepare a minute for the opening of the bids	Bid opening minute			
	Does the entity keep the original bids submitted (bids and external envelopes)	Original bids and external envelopes			
	Does the dates on the minute of receipt compliant with the dates on the external envelopes	Check the dates			
	Are bids received after the deadline excluded	Check the dates			
Sections 78 and 116 PPCA	Was an independent organisation appointed to carry out the due diligence	Due diligence report			
Section 116 PPCA	Were the due diligence conclusions taken into consideration	Due diligence report			
Section 118 PPCA	Was an evaluation carried out by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Was the Concession Bid Evaluation Panel evaluation report approved by the IMCC	Minute of approval of the Concession Bid Evaluation Panel evaluation report			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 118 PPCA	Were the President of GOL and the Public Procurement and Concessions Commission notified on the results of the evaluation	Correspondence re notification of the President of GOL and the Public Procurement and Concessions Commission on the results of the evaluation			

Contract Negotiation

Section 118 PPCA	Was a negotiation team appointed by the President of GOL	Decision of appointment of the Negotiation Team by the President of GOL			
Section 118 PPCA	Does the decisions of the negotiation team saved in minutes	Minutes of the Negotiation Team			

Contract signature

Section 117 PPCA	Was the contract signed by the President	Copy of the signed concession Agreement			
Section 6.2.4 GBL	Was the contract ratified by Legislature	Copy of the signed concession Agreement			

Further communications

Section 92 PPCA	Were the documents stated in section 92 of the PPCA Act sent to the National Bureau of concessions	Correspondence re sending of the documents			
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Conclusion

Forestry Sector

FMC

Concession Sector	Forestry
Concession Entity	Forestry Development Authority
Applicable regulation	<ul style="list-style-type: none"> ✎ Original Public Procurement and Concessions Act, 2005 ✎ Amended and Restated Public Procurement and Concessions Act, 2010 ✎ National Forestry Reform Law of 2006 ✎ Community Rights Law with respect to forest lands ✎ FDA Ten Core Regulations ✎ FDA Regulations to the Community Rights Law with Respect to Forest Lands
Audit of FMC Ref..	
Contractor	
Approval date	
Location	

Award Procedure : National/international competitive bidding / Sole Source / Unsolicited bids

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of Sole Source award

Section 101 PPCA	Does the concession fall under one of the 4 conditions stated in Section 101 of the PPCA Act	Check the conditions			
Section 101 PPCA	Did the Concession Entity obtain a cabinet determination	Cabinet determination			

Validation phase

Section 5.3 NFRL	Was the contract consistent with the National Forest Management Strategy	National Forest Management Strategy			
Section 22 - Regulation 104-07	Did the FDA proceed to the identification of affected communities	Justification Report			
Section 22 - Regulation 104-07	Did the FDA give notice of its intent to conduct consultations with representatives of Affected Communities by publication of a notice in a newspaper in the area; publication of a notice in a newspaper in Monrovia; announcement on national radio stations with coverage in the area; and sending written notices on any Forest Management Stakeholder's list	Justification Report			
Section 62 - Regulation 102-07	Did the FDA convene one or more local public meetings for communities located within and immediately adjacent to the Forest Land that will be affected by the Forest Land Use Action	Justification Report			
Section 62 - Regulation 102-07	Did the FDA record all public comments so that they are fully considered and prepared a report summarising the substance of all public comments	Justification Report			
Section 62 - Regulation 102-07	Did the FDA prepare a Justification Document	Justification Report			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 62 - Regulation 102-07	Was the Justification Document presented for comment at local public meetings	Final Justification Report			
Section 62 - Regulation 102-07	Was the Justification Document approved by the FDA Board	Minute of approval			

Certificate for Concession

Section 89 PPCA	Did the Concession Entity obtain a Certificate for Concession	Copy of the Certificate for Concession			
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Entity Concession Committee

Section 77 PPCA	Did the Concession Entity appoint an Entity Concession Committee	Minute of appointment of the Entity Concession Committee			
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Preparation phase

Section 83 PPCA	Was an Inter-Ministerial Concessions Committee nominated by the President of GOL	Presidential decision of nomination of the IMCC			
Section 79 PPCA	Did the Concession Entity prepare a Concession Procurement Plan	Copy of the Concession Procurement Plan			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Public Procurement and Concessions Committee	Correspondence re approval			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Inter-Ministerial Concessions Committee	Correspondence re approval			
Section 91 PPCA	Did the Concession Entity publish a notice of the stakeholder forum not less than 14 days prior to the Forum. (stating the time and place)	Proof of publication of a notice of the stakeholder forum			
Section 106 PPCA	Did the Concession Entity publish a General Notice of Investment Opportunity	Proof of publication of a General Notice of Investment Opportunity			

Expressions of Interest or pre-qualifications (if applicable)

Section 102 PPCA	Did the IMCC Review and approve the Expression of interest Form and the pre-qualification criteria	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the request for Expression of Interests	Proof of publication of the request for Expression of Interests			
Section 106 PPCA	Was the allowed deadline of at least 4 weeks	Check the deadline in the publication notice			

Reception and evaluation of Expressions of Interest or pre-qualifications (if applicable)

Section 110 PPCA	Did the Concession Entity prepare a minute of receipt of the Expressions of Interest	Minute of receipt of the Expressions of Interest			
Section 111 PPCA	Did the IMCC appoint a Concession Bid Evaluation Panel	Minute of appointment of the Concession Bid Evaluation Panel			
Section 111 PPCA	Were the Expressions of Interest evaluated by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 102 PPCA	Were the evaluation results approved by the Inter-Ministerial Concessions Committee	Minute of approval of the pre-qualification results by the IMCC			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Invitations to bid

Section 77 PPCA	Obtain a copy of the invitations to bid	Invitations to bid			
Section 82 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the IMCC for Review and approval?	Correspondence re approval			
Section 5.3 NFRL	In case the area is less than 100,000 hectares, did the bid documents contain a mention stating that qualified bidders should demonstrate at least 51% ownership by Liberian citizens	Bid documents			
Section 117 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the Ministry of justice for review as to legal matters	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the invitations to bid	Proof of publication			
Section 106 PPCA	The allowed deadline should be at least 6 weeks in case of international tender and 4 weeks in case of national tender	Bid documents/publication documents			

Reception, opening and evaluation of bids

Section 110 PPCA	Does the entity prepare a minute for the receipt of the bids	Minute of receipt			
Section 110 PPCA	Does the entity prepare a minute for the opening of the bids	Bid opening minute			
	Does the entity keep the original bids submitted (bids and external envelopes)	Original bids and external envelopes			
	Does the dates on the minute of receipt compliant with the dates on the external envelopes	Check the dates			
	Are bids received after the deadline excluded	Check the dates			
Sections 78 and 116 PPCA	Was an independent organisation appointed to carry out the due diligence	Due diligence report			
Section 116 PPCA	Were the due diligence conclusions taken into consideration	Due diligence report			
Section 118 PPCA	Was an evaluation carried out by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Was the Concession Bid Evaluation Panel evaluation report approved by the IMCC	Minute of approval of the Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Were the President of GOL and the Public Procurement and Concessions Commission notified on the results of the evaluation	Correspondence re notification of the President of GOL and the Public Procurement and Concessions Commission on the results of the evaluation			

Contract Negotiation

Section 118 PPCA	Was a Negotiation Team appointed by the President of GOL	Decision of appointment of the Negotiation Team by the President of GOL			
Section 118 PPCA	Does the decisions of the negotiation team saved in minutes	Minutes of the Negotiation Team			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Contract revue

Section 5.3 NFRL	Was the contract signed by the President	Copy of the signed concession Agreement			
Section 5.3 NFRL	Was the contract ratified by Legislature	Copy of the signed concession Agreement			

Further communications

Section 92 PPCA	Were the documents stated in section 92 of the PPCA Act sent to the National Bureau of concessions	Correspondence re sending of the documents			
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Conclusion

TSC

Concession Sector	Forestry
Concession Entity	Forestry Development Authority
Applicable regulation	<ul style="list-style-type: none"> ✎ Original Public Procurement and Concessions Act, 2005 ✎ Amended and Restated Public Procurement and Concessions Act, 2010 ✎ National Forestry Reform Law of 2006 ✎ Community Rights Law with respect to forest lands ✎ FDA Ten Core Regulations ✎ FDA Regulations to the Community Rights Law with Respect to Forest Lands
Audit of TSC Ref..	
Contractor	
Approval date	
Location	

Award Procedure : National/international competitive bidding / Sole Source / Unsolicited bids

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of Sole Source award

Section 101 PPCA	Does the concession fall under one of the 4 conditions stated in Section 101 of the PPCA Act	Check the conditions			
Section 101 PPCA	Did the Concession Entity obtain a cabinet determination	Cabinet determination			

Validation phase

Section 5.4 NFRL	Was the contract consistent with the National Forest Management Strategy	National Forest Management Strategy			
Section 22 - Regulation 104-07	Did the FDA proceed to the identification of affected communities	Justification Document			
Section 22 - Regulation 104-07	Did the FDA give notice of its intent to conduct consultations with representatives of Affected Communities by publication of a notice in a newspaper in the area; publication of a notice in a newspaper in Monrovia; announcement on national radio stations with coverage in the area; and sending written notices on any Forest Management Stakeholder's list	Justification Document			
Section 62 - Regulation 102-07	Did the FDA convene one or more local public meetings for communities located within and immediately adjacent to the Forest Land that will be affected by the Forest Land Use Action	Justification Document			
Section 62 - Regulation 102-07	Did the FDA record all public comments so that they are fully considered and prepared a report summarising the substance of all public comments	Justification Document			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 62 - Regulation 102-07	Did the FDA prepare a Justification Document	Justification Document			
Section 62 - Regulation 102-07	Was the Justification Document presented for comment at local public meetings	Justification Document			
Section 62 - Regulation 102-07	Was the Justification Document approved by the FDA Board	Minute of approval of Justification Document			

Certificate for Concession

Section 89 PPCA	Did the Concession Entity obtain a Certificate for Concession	Copy of the Certificate for Concession			
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Entity Concession Committee

Section 77 PPCA	Did the Concession Entity appoint an Entity Concession Committee	Minute of appointment of the Entity Concession Committee			
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Preparation phase

Section 83 PPCA	Was an Inter-Ministerial Concessions Committee nominated by the President of GOL	Presidential decision of nomination of the IMCC			
Section 79 PPCA	Did the Concession Entity prepare a Concession Procurement Plan	Copy of the Concession Procurement Plan			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Public Procurement and Concessions Committee	Correspondence re approval			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Inter-Ministerial Concessions Committee	Correspondence re approval			
Section 91 PPCA	Did the Concession Entity publish a notice of the stakeholder forum not less than 14 days prior to the Forum. (stating the time and place)	Proof of publication of a notice of the stakeholder forum			
Section 106 PPCA	Did the Concession Entity publish a General Notice of Investment Opportunity	Proof of publication of a General Notice of Investment Opportunity			

Expressions of Interest or pre-qualifications (if applicable)

Section 102 PPCA	Did the IMCC Review and approve the Expression of interest Form and the pre-qualification criteria	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the request for Expression of Interests	Proof of publication of the request for Expression of Interests			
Section 106 PPCA	Was the allowed deadline of at least 4 weeks	Check the deadline in the publication notice			

Reception and evaluation of Expressions of Interest or s (if applicable)

Section 110 PPCA	Did the Concession Entity prepare a minute of receipt of the Expressions of Interest	Minute of receipt of the Expressions of Interest			
Section 111 PPCA	Did the IMCC appoint a Concession Bid Evaluation Panel	Minute of appointment of the Concession Bid Evaluation Panel			
Section 111 PPCA	Were the Expressions of Interest evaluated by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 102 PPCA	Were the evaluation results approved by the Inter-Ministerial Concessions Committee	Minute of approval of the pre-qualification results by the IMCC			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Invitations to bid

Section 77 PPCA	Obtain a copy of the invitations to bid	Invitations to bid			
Section 82 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the IMCC for Review and approval?	Correspondence re approval			
Section 5.4 NFRL	Did the bid documents contain a mention stating that qualified bidders should demonstrate at least 51% ownership by Liberian citizens	Bid documents			
Section 117 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the Ministry of justice for review as to legal matters	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the invitations to bid	Proof of publication			
Section 106 PPCA	The allowed deadline should be at least 6 weeks in case of international tender and 4 weeks in case of national tender	Bid documents/publication documents			

Reception, opening and evaluation of bids

Section 110 PPCA	Does the entity prepare a minute for the receipt of the bids	Minute of receipt			
Section 110 PPCA	Does the entity prepare a minute for the opening of the bids	Bid opening minute			
	Does the entity keep the original bids submitted (bids and external envelopes)	Original bids and external envelopes			
	Does the dates on the minute of receipt compliant with the dates on the external envelopes	Check the dates			
	Are bids received after the deadline excluded	Check the dates			
Sections 78 and 116 PPCA	Was an independent organisation appointed to carry out the due diligence	Due diligence report			
Section 116 PPCA	Were the due diligence conclusions taken into consideration	Due diligence report			
Section 118 PPCA	Was an evaluation carried out by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Was the Concession Bid Evaluation Panel evaluation report approved by the IMCC	Minute re approval of the Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Were the President of GOL and the Public Procurement and Concessions Commission notified on the results of the evaluation	Correspondence re notification of the President of GOL and the Public Procurement and Concessions Commission on the results of the evaluation			

Contract Negotiation

Section 118 PPCA	Was a Negotiation Team appointed by the President of GOL	Decision of appointment of the Negotiation Team by the President of GOL			
Section 118 PPCA	Does the decisions of the negotiation team saved in minutes	Minutes of the Negotiation Team			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Contract review

Section 5.4 NFRL	Was the contract signed by the FDA and the holder	Copy of the signed concession Agreement			
Section 5.4 NFRL	The basic term of the contract must not be more than three years	Copy of the signed concession Agreement			
Section 5.4 NFRL	The land area subject to the contract must be no more than 5,000 hectares	Copy of the signed concession Agreement			

Further communications

Section 92 PPCA	Were the documents stated in section 92 of the PPCA Act sent to the National Bureau of concessions	Correspondence re sending of the documents			
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Conclusion

PUP

Concession Sector	Forestry
Concession Entity	Forestry Development Authority
Applicable regulation	<ul style="list-style-type: none"> ✍ National Forestry Reform Law of 2006 ✍ FDA Ten Core Regulations ✍ Community Rights Law with respect to forest lands ✍ FDA Regulations to the Community Rights Law with Respect to Forest Lands
Audit of permit	
Land owner	
Operator	
Signature date	
Permit Surface	
Permit duration	

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Validation of the suitability of the area for commercial use

Section 4.5 NFRL	Has the FDA validated the suitability of the area for commercial use	Validation report			
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PUP application

Section 5.6 NFRL	Was the application signed by the land owner	PUP application			
	If the applicant is not the land owner, did he obtained and submitted a written permission from the land owner	PUP application and the written permission from the land owner			

Verification of the property deed

Section 5.6 NFRL	Did the applicant submit a copy of the deed	Land deed			
	Does the deed correspond to a private land	Land deed			
	Was the deed subject to verification and authentication by the MLME	MLME Report			
	Did the FDA complied with MLME observations	MLME Report			
	Surface as indicated in the deed	Land deed			

FDA internal Procedures - Field visits by the FDA

Internal procedures and Section 4.5 NFRL	Did the FDA undertake field visits to verify the deed	Field Visit Memorandum			
	Did the field visit raise any findings (overlap with another land, protected area, surface differences etc.): provide summary	Field Visit Memorandum			
	Did the FDA comply with the field visit findings and recommendations	Field Visit Memorandum recommendations and PUP provisions			

Applicant qualifications

Section 5.2 NFRL	Did the applicant satisfy the standard qualifications	FDA standards		NA	
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Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 5.6 NFRL	Did the applicant present the FDA with a business plan and demonstrates to the FDA's satisfaction that he has the technical and financial capacity to manage the forest sustainably	Business Plan			
	Did the applicant prepare a five-year land management plan satisfactory to the FDA and has complied with all legal requirements for environmental impact assessment	Management Plan			
Section 41 Regulation 103-07	If the applicant is different from the land owner did he have a valid certificate	Certificate			

PUP finalisation

Section 5.6 NFRL	Did the applicant and the Land Owner commit in writing to a social agreement that was attested to by the FDA and that defined benefits and access rights for local forest-dependent communities	Social Agreement			
	Compliance of the Duration of the PUP with the Forestry standards	Contract & FDA Regulations			

Conclusion

Mining Sector

Mineral Development Agreements

Concession Sector	Mining
Applicable regulation	<ul style="list-style-type: none"> ✎ Original Public Procurement and Concessions Act, 2005 ✎ Amended and Restated Public Procurement and Concessions Act, 2010 ✎ New Minerals and Mining Law of 2000 ✎ Mineral Policy of Liberia, effective March 2010 ✎ Regulation N°002 - Regulation on Interim Procedures for Issuing Exploration Licenses (effective August 2007) ✎ Exploration Regulations - Regulations Governing Exploration Under a Mineral Exploration License of The Republic Of Liberia (effective March 2010)
Audit of Contract..	
Contractor	
Approval date	
Location	

Award Procedure : National/international competitive bidding / Sole Source / Unsolicited bids

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of Sole Source award

Section 101 PPCA	Does the concession fall under one of the 4 conditions stated in Section 101 of the PPCA Act	Check the conditions			
Section 101 PPCA	Did the Concession Entity obtain a cabinet determination	Copy of the Cabinet determination			

Certificate for Concession

Section 89 PPCA	Did the Concession Entity obtain a Certificate for Concession	Copy of the Certificate for Concession			
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Entity Concession Committee

Section 77 PPCA	Did the Concession Entity appoint an Entity Concession Committee	Minute of appointment of the Entity Concession Committee			
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Preparation phase

Section 83 PPCA	Was an Inter-Ministerial Concessions Committee nominated by the President of GOL	Presidential decision of nomination of the IMCC			
Section 79 PPCA	Did the Concession Entity prepare a Concession Procurement Plan	Copy of the Concession Procurement Plan			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Public Procurement and Concessions Committee	Correspondence re approval			
Section 79 PPCA	Was the Concession Procurement Plan approved by the Inter-Ministerial Concessions Committee	Correspondence re approval			
Section 91 PPCA	Did the Concession Entity publish a notice of the stakeholder forum not less than 14 days prior to the Forum. (stating the time and place)	Proof of publication of a notice of the stakeholder forum			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 106 PPCA	Did the Concession Entity publish a General Notice of Investment Opportunity	Proof of publication of a General Notice of Investment Opportunity			

Expressions of Interest or pre-qualifications (if applicable)

Section 102 PPCA	Did the IMCC Review and approve the Expression of interest Form and the pre-qualification criteria	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the request for Expression of Interests	Proof of publication of the request for Expression of Interests			
Section 106 PPCA	Was the allowed deadline of at least 4 weeks	Check the deadline in the publication notice			

Reception and evaluation of Expressions of Interest or pre-qualifications (if applicable)

Section 110 PPCA	Did the Concession Entity prepare a minute of receipt of the Expressions of Interest	Minute of receipt of the Expressions of Interest			
Section 111 PPCA	Did the IMCC appoint a Concession Bid Evaluation Panel	Minute of appointment of the Concession Bid Evaluation Panel			
Section 111 PPCA	Were the Expressions of Interest evaluated by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 102 PPCA	Were the evaluation results approved by the Inter-Ministerial Concessions Committee	Minute of approval of the pre-qualification results by the IMCC			

Invitations to bid

Section 77 PPCA	Obtain a copy of the invitations to bid	Invitations to bid			
Section 82 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the IMCC for Review and approval?	Correspondence re approval			
Section 117 PPCA	Were the Invitation to Bid Form and the invitation to bid documents submitted to the Ministry of justice for review as to legal matters	Correspondence re approval			
Section 106 PPCA	Obtain the proof of publication of the invitations to bid	Proof of publication			
Section 106 PPCA	The allowed deadline should be at least 6 weeks in case of international tender and 4 weeks in case of national tender	Check the deadline			

Reception, opening and evaluation of bids

Section 110 PPCA	Does the entity prepare a minute for the receipt of the bids	Minute of receipt			
Section 110 PPCA	Does the entity prepare a minute for the opening of the bids	Bid opening minute			
	Does the entity keep the original bids submitted (bids and external envelopes)	Original bids and external envelopes			
	Does the dates on the minute of receipt compliant with the dates on the external envelopes	Check the dates			
	Are bids received after the deadline excluded	Check the dates			
Sections 78 and 116 PPCA	Was an independent organisation appointed to carry out the due diligence	Due diligence report			
Section 116 PPCA	Were the due diligence conclusions taken into consideration	Due diligence report			
Section 118 PPCA	Was an evaluation carried out by the Concession Bid Evaluation Panel	Concession Bid Evaluation Panel evaluation report			
Section 118 PPCA	Was the Concession Bid Evaluation Panel evaluation report approved by the IMCC	Minute of approval of the Concession Bid Evaluation Panel evaluation report			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Section 118 PPCA	Were the President of GOL and the Public Procurement and Concessions Commission notified on the results of the evaluation	Correspondence re notification of the President of GOL and the Public Procurement and Concessions Commission on the results of the evaluation			

Contract Negotiation

Section 118 PPCA	Was a negotiation team appointed by the President of GOL	Decision of appointment of the Negotiation Team by the President of GOL			
Section 118 PPCA	Does the decisions of the negotiation team saved in minutes	Minutes of the Negotiation Team			

Contract signature

Section 117 PPCA	Was the contract signed by the President	Copy of the signed concession Agreement			
Section 6.2.4 GBL	Was the contract ratified by Legislature	Copy of the signed concession Agreement			

Further communications

Section 92 PPCA	Were the documents stated in section 92 of the PPCA Act sent to the National Bureau of concessions	Correspondence re sending of the documents			
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Conclusion

Exploration Licences (FIFA System)

Concession Sector	Mining
Applicable regulation	<ul style="list-style-type: none"> ✎ Original Public Procurement and Concessions Act, 2005 ✎ Amended and Restated Public Procurement and Concessions Act, 2010 ✎ New Minerals and Mining Law of 2000 ✎ Mineral Policy of Liberia, effective March 2010 ✎ Regulation N°002 - Regulation on Interim Procedures for Issuing Exploration Licenses (effective August 2007) ✎ Exploration Regulations - Regulations Governing Exploration Under a Mineral Exploration License of The Republic Of Liberia (effective March 2010)
Audit of Contract..	
Contractor	
Approval date	
Location	

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of First Come First Serve Principle

Section 101 PPCA	Was a determination emitted by the Minister of Lands and Mines	Copy of Minister determination			
Section 95 PPCA	Did the MLME Entity obtain the PPCC approval	Copy of PPCC approval			
Section 75 PPCA	Is the Minister determination still in force	Copy of Minister determination			

Application

Regulation 002	Is there any application dated and stamped by the Investor	Copy of the application			
Regulation 002	Was a Technical Work Plan submitted with the application				
Regulation 002	Was the application dated and stamped by the Minister for Initial Receipt	Copy of the application			

Mining Cadastre

Regulation 002	Was the application vetted by the Mining Cadastre	Copy of the application			
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Liberia Geological Survey

Regulation 002	Was the Application vetted by the Liberia Geological Survey Service for technical and financial competence	Copy of the application			
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Payment of fees

Regulation 002	Did the Investor pay the fees to the Ministry of Finance	Copy of the Flag Receipt			
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License finalisation

Regulation 002	Was the License signed by the assistant Minister for Exploration	Copy of License			
Regulation 002	Was the License approved by the Minister	Copy of License			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Regulation 002	Are the Licence data compliant with the application	License against application			
Section 5.3 NMML	Is the initial term \leq 3 years	Copy of License			
Section 5.3 NMML	Is the area \leq 1000 km ²	Copy of License			

Conclusion

Class B Mining Licence (FIFA System)

Concession Sector	Mining
Applicable regulation	<ul style="list-style-type: none">  Original Public Procurement and Concessions Act, 2005  Amended and Restated Public Procurement and Concessions Act, 2010  New Minerals and Mining Law of 2000  Mineral Policy of Liberia, effective March 2010
Audit of License	
Contractor	
Approval date	
Location	

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Case of First Come First Serve Principle

Section 101 PPCA	Was a determination emitted by the Minister of Lands and Mines	Copy of Minister determination			
Section 95 PPCA	Did the MLME Entity obtain the PPCC approval	Copy of PPCC approval			
Section 75 PPCA	Is the Minister determination still in force	Copy of Minister determination			

Application

Internal MLME Procedures	Is there any application dated and stamped by the Investor	Copy of the application			
Section 9.6.4 NMML	Was a production Plan submitted with the application				
Internal MLME Procedures	Was the application dated and stamped by the Minister for Initial Receipt	Copy of the application			

Mining Cadastre

Internal MLME Procedures	Was the application vetted by the Mining Cadastre	Copy of the application			
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Director of Mines

Internal MLME Procedures	Was the Application vetted by the Director of Mines	Copy of the application			
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Payment of fees

Internal MLME Procedures	Did the Investor pay the fees to the Ministry of Finance	Copy of the Flag Receipt			
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License finalisation

Internal MLME Procedures	Was the License signed by the Director of Mines	Copy of License			
Internal MLME Procedures	Was the License signed by the assistant Minister for Mines	Copy of License			

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
Internal MLME Procedures	Are the Licence data compliant with the application	License against application			
Section 9.6.4 NMML	Is the term less than 5 years	Copy of License			
Section 5.3 NMML	Is the maximum area granted to one Investor is less than 100 acres	Copy of License			

Conclusion

Gold & Diamond Dealers

Concession Sector	Mining
Applicable regulation	 New Minerals and Mining Law of 2000  Mineral Policy of Liberia, effective March 2010
Audit of License	
Contractor	
Approval date	

Legal reference	Check	Document to check	Date if applicable	Y/N/NA	Comments
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Application

MLME Internal Procedures	Is there any application dated and stamped by the Investor	Copy of the application			
Section 9.6.4 NMML	Was a Production Plan submitted with the application	Copy of the Production Plan			
MLME Internal Procedures	Was the application dated and stamped by the Minister for Initial Receipt	Copy of the application			

Mining Cadastre

MLME Internal Procedures	Was the application vetted by the Mining Cadastre	Copy of the application			
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Director of Mines

MLME Internal Procedures	Was the Application vetted by the Director of Mines	Copy of the application			
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Payment of fees

MLME Internal Procedures	Did the Investor pay the fees to the Ministry of Finance	Copy of the Flag Receipt			
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License finalisation

MLME Internal Procedures	Was the License signed by the Director of Mines	Copy of License			
MLME Internal Procedures	Was the License signed by the assistant Minister for Mines	Copy of License			
MLME Internal Procedures	Are the Licence data compliant with the application	License against application			

Conclusion

ANNEX 10: TERMS OF REFERENCE

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IV. Appendices

APPENDIX A – DESCRIPTION OF SERVICES

POST AWARD PROCESS AUDIT

THE PROJECT

The LEITI is seeking proposals for consulting services to conduct post-award audits and/or investigations of the process of awarding material public concessions, contracts, licenses, permits and other rights concerning the exploitation of diamond, gold, oil, timber, and agriculture resources of Liberia, from 13 July 2009 to 31 December 2011 to ascertain that the process of awards was in compliance with applicable Liberian Laws at the time of award. **Materiality** shall be defined by the Multi-stakeholder Steering Group (MSG) of LEITI.

SCOPE OF ASSIGNMENT

The assignment will require that the contracted firm performs the following:

1. Liaise with the LEITI Secretariat, relevant government agencies, civil society and other relevant parties to collect copies of all existing concessions, contracts, licenses, permits and any other rights and information relative to sectors covered under the LEITI process;
2. Upon written request from the auditor, the LEITI MSG shall grant written authorization to the auditor to obtain any relevant document not within the possession of the LEITI Secretariat from other functionaries of the Government of Liberia, and other relevant parties/sources deemed necessary to carry out this project;
3. Develop appropriate programs to enable the conduct of an audit/investigation of the award process of each material concessions, contracts, licenses, permits and any other rights as to whether those processes were in compliance with applicable laws at the time of award;
4. Develop sector-specific compliance template(s) summarizing all relevant laws/procedures applicable to the sectors covered under the LEITI program. Such template(s) shall serve as guide for LEITI in evaluating the process of the award of concessions, contracts, licenses, permits and any other rights;
5. Within five (5) working days after commencement of the assignment submit a draft listing of concession agreements/contracts to the LEITI Secretariat containing the concession agreements/contracts to be audited/investigated;
6. Submit its initial draft report to the Multi-stakeholder Steering Group (MSG) for discussions on and amendments (as necessary). The Initial draft report shall include but not limited to background, executive summary, methodology, findings, and



- recommendations and shall be submitted within 60 working days from the date of Contract signature;
7. Submit a final Draft report, within 30 working days of feedback from the MSG on first draft report, inclusive of recommendations for corrective actions and reforms (where necessary) to the MSG;
 8. Final Report of the firm shall be submitted within 15 working days of feedback from the MSG on final draft report and published by the LEITI to a wider audience, including EITI International, in a publicly accessible, comprehensive and comprehensible manner.
 9. The Auditor will be expected to include in his proposals a work and time schedule; the structure and format of the report will be determined between the Consultant and the LEITI Secretariat.
 10. The auditor will carry out the audit services at the Offices of the Liberia Extractive Industries Transparency Initiative (LEITI);
 11. At the end of the audit the auditor will submit 5 certified copies of the audit report to the Management of the Liberia Extractive Industries transparency Initiative (LEITI).

Duration of the Assignment

The duration of the assignment will be for a period of **105 working** days from the date of signing of the consultancy agreement between the consultant and LEITI.

The consultant will report to the Multi-stakeholder Steering Group (MSG) through the LEITI Secretariat.

A handwritten signature in black ink, appearing to be 'M. Fila', is located in the bottom right corner of the page. The signature is written in a cursive style with a horizontal line underneath it.

ANNEX 11: PERSONS CONTACTED AND INVOLVED IN THE AUDIT

Moore Stephens

Tim Woodward	Partner
Ben Toorabally	Senior Manager
Riadh Aouissi	Team Leader
John Meshach Barkemini	Auditor (Parker & Associates)
Yede L. Tarr	Auditor (Parker & Associates)

LEITI Secretariat

Samson Tokpah	Head of Secretariat
Konah D. Karmo	Deputy Head of Secretariat
Larmine A. Goba	Finance Director

National Oil Company of Liberia (NOCAL)

Edward R. A. Smith	Chief of Staff Office of the President/CEO
Albert B. Cassell	Deputy financial Comptroller
Zaiye B Dehkee	Energy, Environment and Natural Resources Law / Mining Engineer

National Investment Commission (NIC)

Ciata A. Bishop	Executive Director
Othello Z. B. Karr	Officer-in-charge Concessions Development & Public Private Partnership
Melvin Sheriff	Head of Secretariat IMCC

National Bureau of Concessions (NBC)

Tarnue Marwolo	Head of Agency
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Public Procurement & Concessions Commission (PPCC)

Peggy Varfley Meres	Executive Director
Joseph S. Neufville	Technical and Policy Advisor
Emmanuel A. Tulay	Director of Complaints and Appeals /Revised Division
Michael Kwabo	Research Assistant - Office of the Executive Director

Ministry of Lands, Mines and Energy (MLME)

Sam G. Guss	Deputy Minister for Operations
Boiyan K. Kpakolo	Assistant Minister for Mineral Exploration and Environmental research
G. Aagon Gwailkdo	Director of Mines

Ministry Of Agriculture (MOA)

Florence A. Chenoweth	PhD – Minister
Hon. Chea B. Garley	Assistant Minister/Technical Services

Forestry Development Authority (FDA)

Harrison S. Karnwea, Sr	Interim Managing Director
Jangar S. Kamara	Technical Manager for Commercial Forestry Department
P. Emmanuel Munyeneh	Assistant Managing Director for Administration and Finance
Theo V. Freeman	Technical Manager for the Department of Conservation
Kederick F. Johnson	Assistant Managing Director for Operations
Ronnie K. Lawrence, Sr	Internal Auditor
G. Garvoice Kardoh	Director for Forestry Training Institute
Joseph SI Koon	Acting Financial Manager
Gertrude nyaley	Senior Programme Coordinator for Commercial Forestry
Ernest V. B. Massaquoi	Manager- General Services