







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Indicator	Score
4.1.1	Context
4.1.1 Context	

4.1.1.050: Has the government created a special fund or natural resource fund that concentrates revenue directly from oil, gas or mineral extraction?

Score: A (B) C

Comments:

There is no equivalent to a Sovereign Wealth Fund in Liberia that concentrates revenues from the natural resource sector. This section is therefore scored as 'Not applicable'. However, there are some small communities funds established in the mineral and oil sectors that are worth mentioning (but that are not assessed in the score).

- Mineral Sector:

Section 18.3 "Establishment of Mineral Development Fund": "There is hereby established a Mineral Development Fund for the following purposes (...) and Section 18.4 Source of Funding for the Mineral Development Fund : " the Mineral development fund shall be funded by a. a one time fee of not less than USD 50,000 by any holder of a Class A Mining License, or by any party to a Mineral Development Agreement with the Government; b. The full amount of all fines imposed and collected (...), c. Minerals obtained by persons not Licensed to mine under this Law and d. 25% of royalties paid pursuant to the present Law"-

- Oil Sector:

New Petroleum Law section 10.18 p. 42: "Petroleum Action Funds: Petroleum Action Funds shall be established to promote research, training and development in hydrocarbon and other energy resources. The Petroleum Action funds shall be funded from a fixed percentage of the resources paid to the National Oil Company of Liberia, from petroleum contract."

References:

Mineral Sector:

- > 2000 Mineral and Mining Law , section 18.3
- > Mineral Development Agreements published by LEITI

Oil sector:

- > 2009 New Petroleum Law, section 10.18, "Petroleum Action fund"
- > Production Sharing contracts published on LEITI website and Liberian Legislature website (see below for further details)

Peer Review Comments:

I understand this question to mean funds in which all revenues from oil, gas, and mining resource are separately held then disbursed to the national budget (i.e. Timor-Leste Petroleum Fund). The funds cited above are small funds that have a specific purpose and do not receive all revenues from oil gas and mining extraction.

4.1.1.051: What authority is responsible for the natural resource fund?

Score: A B C D **(E)**

Comments:

1°) Oil sector: according to PSCs Hydrocarbon Development Fund is managed by NOCAL

2°) ArcelorMittal Social Development fund, placed in the Ministry of Land Mines and Energy "Special Fund" is officially managed by a committee consisting of the Minister of Finance, Minister of Extractive Sector, Minister of Planning and Minister of State.

NB : The Social Development Fund funded by ArcelorMittal for the Development of the three counties (Nimba, Grand Bassa and Bong) where the company operates, is managed by a "Dedicated Fund Committee" consisting of the Minister of Land, Mines and Energy, the Minister of Finance, the Minister of Economic and Planning Affairs, the CEO of ArcelorMittal Liberia and the Minister of State. It is therefore the responsibility of both the Government and ArcelorMittal.

> see Report of the Auditor General on Nimba County ArcelorMittal Social Development Fund, p.6: "The management of the Fund is divided into three layers and involved the Dedicated Fund Committee (DFC), the County Development Management Committee (CDMC) and the Project Management Team (PMT). Counties benefiting from the fund are Bong, Nimba and Grand Bassa and each of the benefiting counties has its own CDMC and PMT. The DFC is a Standing Committee headed by the Minister of Lands, Mines & Energy, Hon. Eugene H. Shannon; who was appointed by the President of the Republic of Liberia, Madam Ellen Johnson Sirleaf. Other members are the Minister of Finance, Minister of Planning and the Minister of State without Portfolio."

+ GAC Report on MLME:

"292. The Mineral Development Agreement (MDA) signed between the GOL and Mittal Steel Liberia provides in article 22, section 3, that the concessionaire shall make a contribution of US\$100,000.00 per annum to the Scientific Research fund of the MLME. 293. Review of the Special Fund Account in which the MLME authority maintains the scientific research fund showed that a total of US\$143,561.00 was collected from Mittal Steel Liberia and deposited into the Special Fund Account of the Ministry."

References:

1° Oil sector:

Oranto-NOCAL PS contract mentions section 19.3.1 p. 40 that "To stimulate research in hydrocarbon, most especially in continental areas, and to assist the Government in its overall goal of achieving energy sustainability, a Hydrocarbon Development Fund, TO BE MANAGED BY NOCAL, has been established.

2° Mineral sector:

> ArcelorMittal Mineral Development Agreement as quoted by the General Auditor's Report on Grand Bassa County ArcelorMittal Social Development Fund For The Period May – September 2009 and by Nimba County Arcelor Mittal Social Development Fund For the Period May - September 2009

> Both GAC Reports (ArcelorMittal Social Development fund for Nimba County and Grand Bassa County) both published on February 6, 2012.

See in particular Nimba Report p. 6

> 2009-2010 MoF Annual Fiscal Outturn: mentions p.47, "Capital transfers", transfers from NOCAL to Grand Bassa, Sinoe, RiverCess and Montserrado counties, from ArcelorMittal to Nimba, Bong and Grand Bassa County, along with the mention of Bong Mines Community Development fund and Western Cluster Development Fund

> See China Union MDA signed in 2009 for Bong Mines, section 16.4: indicates that USD50,000 shall be paid to the Ministry of Finance for the Mineral Development Fund but nothing is said of its management. Another USD100,000 contribution is to be made to a "Scientific Research Fund" into the General Account via the Ministry of Finance.

Peer Review Comments:

These are not natural resource funds as in stabilization, heritage, etc.

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Indicator		Score
4.2.1	Comprehensive reports	N/A
4.2.2.056	Audited reports	N/A

4.2.1 Comprehensive reports

4.2.1.052: Are the rules for the fund's deposits and withdrawals published, including the formula(s) for deposits and withdrawals?

Score: A B **C**

Comments:

Oil and mineral sectors:

> mineral sector: rules for deposits are published in laws, model agreements and in each contract signed between GOL and the operating company . Rules for withdrawals are not published.

1°) Mineral Sector:

> Mineral Law: Chapter 18 - Promotion of Mining Activities - 18.5. "Administration of the Mineral Development Fund" > "one-time fee of USD50,000" + "25% of royalties paid".

> MDA model agreement states in 8.1 Community Funding Obligation in b. a certain percentage of the Company's capital expenditure to be the initial social contribution. It then states the percentage of income which the annual social contribution shall amount to, as well as the installments in which it shall be paid. The contribution shall be "paid to the ministry of Finance for deposit in the general revenue account". Idem in section 16.3 for Mineral Development and Research Fund (one time payment of USD50,000 + 0;05% of the capital expenditure budget for A Mining licens holders. Funds to be paid to the Ministry of Finance for the Mineral Development Fund. Idem in section 16.4 for the Scientific Development fund: 0;02% of capital expenditure budget.

> MDA example: a) Bong Range Mines - China Union - Jan19th 2009, Section 16 Other payments to the government p. 51; 18.4.Mineral Development and Research Fund. "On the First Payment Date and pursuant to section 18.4 of the Mining Law, the Concessionaire shall make a one-time payment of USD50,000 to the government, (...) into the General Account of the Minister of Finance for the Mineral Development Fund. + section 18.5. "Other support. The Concessionaire shall make an annual contribution of USD 100,000 during the Term of this Agreement (...) (which) shall be paid to the General Revenue account for the Scientific Research Fund".

b) Montserrado County - KPO Resources and Liberia - Section 23.2 Other Payments: "the Operator shall pay a one-time payment of USD50,000 to the Government for the Mineral Development Fund". (no ref to the Law and nothing else regarding variable payments)

2°) Oil sector

> Petroleum Law - Section 10.18 "The Petroleum Action funds shall be funded from a fixed percentage of the resources paid to the National Oil Company of Liberia, from petroleum contract."

> PSC Model Contract: "section 19.3.1 Hydrocarbon Development Fund "Within thirty (30) days of the Effective Date of this Agreement, the Contractor shall make a contribution of ... to this fund".

> Example of Oil Contracts: PSC NOCAL-Oranto Petroleum, Signe july 23 2009. 19.3.1 "The Contractor shall make a total contribution of USD50,000. The Payment shall be made within thirty (30) days of the Effective Date of this Agreement.

References:

Mineral sector:

1- 2000 Mining and Mineral Law, section 18.5

2 - MDA Model agreement

3- MDA examples > Bong Mines - China Union - 2009 (NB: size exceeding 10M) see:
http://www.leiti.org.lr/doc/Bong_Range_Signed_MDA_and_Schedules.pdf

Oil Sector:

- 1- 2000 Law creating NOCAL
- 2- 2002 New Petroleum Law, section 10.18
- 3- PSC Model contract
- 4- PSC examples > Oranto NOCAL - ratified July 23d 2009 (size exceeding 10M) See:
http://www.leiti.org.lr/doc/an_act_nocal_oranto.pdf

> See below for more details

Peer Review Comments:

These are not natural resource funds (stabilization, savings, heritage, etc)

4.2.1.053: Does the fund management or authority in charge of the fund publish comprehensive information on its assets, transactions and investments?

Score: A B C D **E**

Comments:

1) Oil:

- No comprehensive information regarding Hydrocarbon Development Fund. no dedicated website, no information on size and activities, nor activity reports published by NOCAL
- > GAC Report on NOCAL indicates p. 87 that Financial Statements show the amount collected for the Hydrocarbon Development Fund in 2007-2008(USD1,250,000) and 2006-2007 (USD250,000)
- > MoF Fiscal Outturns do not mention the Hydrocarbon Development Fund.

2) Mineral sector:

- > GAC Report on MLME states that the USD143,561.00 deposited in the "special fund account" for the scientific research fund were not spent for such purposes, implying that no transparent reporting of the activities of such fund were made at reporting time (February 2010).
- > MoF Fiscal Outturns 2009-2010, "Revenue collection performance", p. 8 : states in other taxes > "Social Development Funds" (which are transferred to counties) amount collected for reporting period. No disaggregated data regarding Mineral Development Funds or Hydrocarbon Development Fund. Nothing in 2010-2011 Fiscal Outturns.

References:

- > Financial Reports of the Ministry of Finance: Fiscal Outturns
- > Ministry of Land Mines and Energy Reports for FY 2008 and 2009
- > General Auditing Commission Reports :
 - Report on NOCAL 2006-2007-2008, Report on MLME FY2007-2008, (Report on Grand Bassa and Nimba County Social Development Fund, May-September 2009)
- > Operating Companies:
 - websites of operating companies
 - <http://www.arcelormittal.com/corp/news-and-media/publications-and-reports>
 - (NO relevant information found in ArcelorMittal CR 2010 Report)

NB / for both subsectors: > Ministry of Land Mines and Energy Report for 2008 and 2009: no information regarding Mineral Development Fund or Hydrocarbon Development Fund. 2008 report mentions p. viii intakes from "ArcelorMittal Community Development Contribution" but does not provide figures.

Peer Review Comments:

These are not natural resource funds (heritage, stabilization, savings, etc)

4.2.1.054: Are the reports containing information on the fund's assets and transactions

understandable?**Score:** A B C D **(E)****Comments:**

MoF and MLME reports containing some aggregate information regarding Social Community Development funds are understandable.

But no dedicated reports were found, mentioning information such as assets and transactions of such funds.

References:

Same as preceding questions

Peer Review Comments:

There are no natural resource funds (savings, stabilization)

4.2.1.055: How often are financial reports published by the fund management or authority in charge?**Score:** A B C D **(E)****References:**

See preceding questions (question 53)

Peer Review Comments:

There are not natural resource funds of this type in Liberia.

4.2.2.056 Audited reports

4.2.2.056a: Are the fund s financial reports audited?**Score:** A B C D **(E)****Comments:**

> ArcelorMittal Social Development Funds have been audited for the three counties of Nimba, Grand Bassa and Bong.

> Ministry of Land Mines and energy has been audited for period FY2007-2008 (including scientific development fund)

> NOCAL, manager of the Hydrocarbon Development Fund has been audited for the first time for FY2006-2007 and 2007-2008

> other funds known such as the "Mineral Development Fund" mentioned in MDA agreements, funded by operating companies such as China Union or KPO Resources (section 23.2.b) have not been audited.

References:

- General Auditing Commission: (see on GAC website: http://gacliberia.com/content_list_sub.php?sub=129&related=26&third=129&pg=sp)

> Grand Bassa County ArcelorMittal Social Development Fund For The Period May – September 2009, february 10th 2012

> Nimba County ArcelorMittal Social Development Fund For The Period May – September 2009, february10th 2012

> Bong County ArcelorMittal Social Development Fund For The Period May – September 2009, february 10th 2012

> GAC Report on NOCAL for period FY2006-2007, 2007-2008, April 20th 2011

Peer Review Comments:

Not applicable, Liberia does not have a natural resource fund of this type (stabilization, savings etc)

4.2.2.056b: Are the audited financial reports published?

Score: A B **C**

References:

See Question 56a. attachment :

- > GAC Audit Report on NOCAL for FY 2006-2007 and 2007-2008, published April 20th 2011
- > GAC Audit Report on Grand Bassa, Bong and Nimba Counties for period may-sept 2009, published February 10th, 2012.
- > GAC Audit Report on Ministry of Land Mines and Energy for period FY2007-2008

All are published on GAC Liberia website > http://gacliberia.com/content_list_sub.php?sub=129&related=26&third=129&pg=sp

Peer Review Comments:

No natural resource funds of this type in Liberia

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Indicator	Score
4.3.1 Legal Framework and Practice	N/A

4.3.1 Legal Framework and Practice

4.3.1.057: Are the rules governing deposits into the fund defined by legislation?

Score: A B **C**

Comments:

NB/ New Petroleum Law states that the Petroleum action fund shall be "funded by a fixed percentage of the resources paid to the National Oil Company of Liberia, from petroleum contract". But Production Sharing Contracts that followed mentioned a fix amount and not a percentage (EG Oranto-NOCAL PSC, signed July 23d 2009, section 19.3.1,p.40 mentions a total contribution of USD500,000 to be paid within thirty days of the effective date of the agreement. Or Anadarko-NOCAL PSC, signed July 23 2009,section 19.3.1 Hydrocarbon Development Fund p. 39, mentions an ANNUAL contribution of USD250,000 to be paid directly to NOCAL).

References:

> New Petroleum Law, Section 10.18 "Petroleum Action Fund"
 > New Mineral and Mining Law, Section 18.4. "Source of Funding for the Mineral Development Fund"
 + as said before > question 52, in all Mineral Development Agreements and Production Sharing Contracts ratified by the Liberian Legislature.
 See below for more details

Peer Review Comments:

No natural resource fund of this type in Liberia.

4.3.1.058: In practice, does the government follow the rules governing deposits to the natural resource fund?

Score: A B C D **E**

Comments:

1) Oil sector:

Neither the Audit report nor newspapers articles on the sujet nor any other report found mentioned the fact that the government did not follow the rules governing deposits to the natural resource fund.

2) Mineral Sector:

> GAC Report on Bong County states in section 22. p. 10 an excess in annual deposit, of USD165,747.42 . Section 138 reaffirms that this amount comes from an "undisclosed source of funding", contrary "to the RULE 51 of the Financial Rules of the GOL".

> GAC Report on Nimba County does not mention any irregularity regarding deposit.

> GAC Report on Grand Bassa County states p. 8 Status of Projects Implementation and Financial Position

8. The Government of Liberia appropriated US\$2,331,507 and US\$2,000,000.00 in the National Budget for the respective Fiscal Periods of 2008/09 and 2009/10. The appropriations were placed under the expenditure category of Capital Transfers with assigned code #2604-02-03 titled "Grand Bassa County

(MITTAL)".

9. However, for the operating period (May 2009-April 2010) under examination, total funds received by the Grand Bassa County Social Development Fund was US\$1,017,463.91, while the total expenditure was US\$761,182.16 and cash balance of US\$256,281.75 was reported as at October 5, 2009. This cash position was verified on the bank statement for the Grand Bassa County Social Development Fund Account obtained from the SDF bank account at the LBDI." No other irregularity noted regarding deposits.

References:

GAC Reports on ArcelorMittal Social Development Funds - Nimba, Grand Bassa and Bong Counties for may-sept 2009 and on NOCAL for period FY2006-2007-2008.

http://gacliberia.com/content_list_sub.php?sub=129&related=26&third=129&pg=sp

Peer Review Comments:

No natural resource fund of this type in Liberia

4.3.1.059: Are the rules governing withdrawal or disbursement from the fund defined by legislation?

Score: A B **C**

Comments:

> General purposes of national resource funds are stated, but there is no evidence of laws prescribing amounts that can be disbursed from such funds as a contribution to the government budget.

NB / Scientific Fund created by MDA with ArcelorMittal:

According to GAC Audit Report on the Ministry of Land Mines and Energy for period FY2007-20008, Mineral Development Agreement signed in 2007 with ArcelorMittal refers to a "Scientific Development Fund to which ArcelorMittal was to contribute. Such MDA could not be accessed (not published neither on LEITI website nor on Ministry or ArcelorMittal website. ArcelorMittal office in Liberia was contacted: answered that National Investment Commission was able to produce such public document. NIC contacted, waiting for answer) > according to the Auditor General and following the name of such fund its purpose was to promote scientific activities.

References:

1) oil sector:

2002 New Petroleum Law section 10.18 "Petroleum Action Funds" p. 40 states the purpose (and therefore disbursement rules) of such funds: they are created to "promote research, training and development in hydrocarbon and other energy sources".

2) mineral sector:

- 2000 New Minerals and Mining Law section 18.3 "Establishment of Mineral Development Fund" states the purposes (and therefore disbursement rules) of such fund: "a. Financing of all or part of activities designed to enhance Mineral resources promotion and development, b. Financing of all or part of the Government's equity in a Mining Operation c. Financing of all promotion and development of safety standards in the industry, d. financing of local and advanced training of the personnel, e. Financing of participation in organizations, at mining conferences and international seminars dealing with the development of the mining sector f. Financing of the conduct by the Ministry of Environment Assessment and related studies, g. Financing of education and training for Operators engaged in Small-scale mining, and h. Such other purposes as the Minister with the advice of the Committee, shall designate".

- 2007 Amendment to 2005 ArcelorMittal MDA: Article 12 amendment to Article XIV: "The Concessionaire shall provide an annual social contribution of US\$3 million which shall be managed and disbursed for the benefit of the Liberian communities in Nimba, Bong and Grand Bassa Counties by a dedicated committee to be formed by the Concessionaire and the Government", p. 13

- 2008-2009 Budget p. 4 provides detailed Guidelines regarding the spending of "appropriations specifically linked to counties" among which ArcelorMittal County Development Fund.

Peer Review Comments:

No natural resource fund of this type in Liberia.

4.3.1.060: In practice, does the government follow the rules governing withdrawal or spending from natural resource fund?

Score: A B C D **(E)**

Comments:

Evidence shows that all of the funds mentioned have been subject to irregular withdrawal or misuse. (NB: No evidence was found for Community Development Funds, also funded by ArcelorMittal but directly managed by the Government of Liberia, and preceding the Social Development Funds set up in 2007)

References:

1) Oil Sector:

> GAC Report on NOCAL for FY 2007-2008: states irregular transfers from Hydrocarbon Fund account to NOCAL's Operating Account as well as unexplained discrepancies between company and bank book balances. see p. 88

2) Mineral Sector:

a. GAC Report on NOCAL GAC Report on Grand Bassa County ArcelorMittal SDF, may-september 2009, published feb 10 2012 states in section 12 p. 9: "12. Overall, the management of the ArcelorMittal Social Development Fund for Grand Bassa County was characterized by weak controls over receipt and disbursements." Eg > in section 24, "Approval and Payment (of USD55,000) for Non-existing Project", ie no payment voucher, no bidding and finally no contract.+ Road rehabilitation project not started
b. GAC Report on Nimba County ArcelorMittal SDF, may-september 2009, published feb 10 2012: states in section 29 p 9 the following conclusions:

"Unapproved Payments, Non adherence to project guidelines, Unsupported expenditure, Failure to occupy office building paid for from project fund, The running of a multimillion dollars project from the back yard of the project, manager private residence".

c. GAC Report on Bong County ArcelorMittal SDF, may-september 2009, published feb 10 2012: states as a general conclusion p. 2: "The activities undertaken by the Bong County's PMT during the period under review was marred with a number of financial irregularities. The financial irregularities noted amounted to S\$324,731.84 and involved excess expenditure over budget, undisclosed source of funding, irregular payments and unsubstantiated monitoring and evaluation. The management of the Bong County Social Development Fund was replete with series of financial, administrative malpractices, political disagreement which considerable undermined the implementation of targeted projects for the people of Bong. Considerable amount of the county's SDF was spent on administrative cost while developmental projects were being sidestepped." or p. 11 regarding project administration: "My review of project documents of the Bong County SDF revealed that the Dedicated Fund Committee, County Development Management Committee and Project Management Team did not carry out the execution of various projects undertaken in the county in accordance with the Project Guidelines and other regulatory frameworks."

d. GAC Report on Ministry of Land Mines and Energy for the period FY2007-2008, vol II p. 52: section 294: "a thorough examination of internal payment vouchers and returned checks provided by the MLME authority indicates that the fund was used for purposes that are not scientific in nature. Moreover, the purposes for which the fund was used were already covered by the National Budget for Fiscal Year 2007/08, thus giving the MLME no basis for the extra budgetary expenditure." + see exhibit 6

Peer Review Comments:

No natural resource fund of this type in Liberia.

4.3.1.061: Are withdrawals or spending from the fund reserves approved by the legislature as part of the budget process?

Score: A B **C**

Comments:

Though for instance the U\$3 million contribution of ArcelorMittal to Community/Social development funds is mentioned in 2008/2009 Budget p.4, and therefore approved by the Legislature, actual spending at the County Level has not been properly managed, as stated by the General Auditor Reports cited before.

References:

Same as preceding questions. > see General Auditing Commission Reports on NOCAL, ArcelorMittal three Social Development Funds as well as on the Ministry of Land Mines and Energy for Scientific Research Fund.
+ Ministry of Finance Budget for FY2008-2009

Peer Review Comments:

Note that there is no natural resource fund of this type in Liberia

4.3.1.062: Are officials of the natural resource fund required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B **C**

References:

No evidence was found in laws, statutes, regulations or reports that officials of natural resources funds are required to disclose information about their financial interest in any oil, gas or mining project. > Officials are NOT required (NB: spelling mistake in the answer B above?) to disclose such information. However, for those officials who are the same as government officials with a role in the oversight of oil, gas on mining sector, they are required to disclose such information. (eg Minister of Land, Mines and Energy, Minister of Finance) see question 28.

Peer Review Comments:

No natural resource fund of this type in Liberia.

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Indicator	Score
5.1.1	Context
5.1.1 Context	

5.1.1.063: Do central governments transfer resources to subnational authorities based on extraction of mineral resources?

Score: A B C D E

Comments:

There are no direct transfers from the central government budget to sub-national governments but mining companies are required to contribute to social development funds, dedicated to communities of counties where the companies are operating.

References:

Occurrences of subnational transfers correspond to areas where contracting company operates

1) ArcelorMittal Community/social development funds:

> 2008-2009 Budget published by the Ministry of Finance:

p 4, Provides guidelines for the "spending of appropriations specifically linked to counties" such as ArcelorMittal Social Development Fund:

+ P. 39: "In 2007/08 a total of US\$6M was channeled for direct development activities in the counties, US\$3M of which was earmarked through the Mittal Mineral Development Agreement for the counties of Nimba, Bong, and Grand Bassa"

> See ArcelorMittal 2007 Amendment to 2005 MDA, Article 12 amendment to Article XIV: "The Concessionnaire shall provide an annual social contribution of US\$3 million which shall be managed and disbursed for the benefit of the Liberian communities in Nimba, Bong and Grand Bassa Counties by a dedicated committee to be formed by the Concessionnaire and the Government", p. 13

2) Community Development contributions from Mineral Companies to Areas of operations.

> eg MDA China Union on Bong County: Section 8.1 and 8.2 "Community Development Obligations" p.

40: "The Concessionnaire shall provide an annual social contribution of US\$3,5 million which shall be managed and disbursed for the benefit of Liberian communities in the countries affected by its Operations".

> Fiscal Outturns for the FY2009-2010 p.47 mentions capital transfers to Nimba, Bong and Grand Bassa County within the Social Development Fund funded by ArcelorMittal, as well as transfers due to the "County Development Fund" and NOCAL funds transfers to Sinoe, Rivercess and Montserrado counties where it operates, along with a transfer of WesternCluster and Bong Mines Community Development both of which have been subject to a Mineral Development Agreement. (See also GAC Audit Report on Nimba, Grand Bassa and Bong Counties)

5.1.1.064: Are conditions imposed on subnational government as part of revenue sharing regime?

Score: A B C

Comments:

For ArcelorMittal Social Development Fund or smaller mineral companies such as China Union or

Western Cluster Community Development contributions, such contributions are to be spent appropriately, according to their initial purpose, but the said contributions are not actual "revenue sharing".

Eg: China Union Bong Mines MDA section 8.2: "A development committee shall be appointed by or selected in accordance with procedure established by the Government from time to time. Such committee shall develop an annual budget in consultation with the Government and the Concessionaire, and the Government shall make disbursements from the general revenue account in which such funds are deposited in accordance with such budget and the instructions of the committee. The budget and disbursement shall be public and shall be subject to the same audit procedures provided for expenditure by the Government and as may further be provided by the Law."

For condition details regarding ArcelorMittal Social development Fund see Budget 2008-2009 p. 4 as cited before.

References:

> China Union MDA ; section 8.1 Community Obligations p. 40

> ArcelorMittal Community/Social Development Fund: see Minister of Finance budget 2008-2009 p. 4 and 2007 Amendment to 2005 MDA, article 12.

(See Comments for more details)

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Indicator	Score
5.2.1	Disclosure 47 

5.2.1 Disclosure

5.2.1.065: Are the rules for revenue transfers from central to sub national governments published, including the formula(s) for revenue sharing?

Score: A B C

Comments:

Mineral sector: Rules regarding transfers to Counties are published in the Ministry of Finance Budget (see 2008-2009 budget p.4) and in Mineral Development Agreements.

Oil sector: nothing was found regarding transfers from NOCAL to counties as seem to be mentioned in Fiscal Outturns published by the Ministry of Finance for FY 2009-2010 p. 47. No evidence of such transfers or rules regarding such operations were found neither in the Ministry financial reports in NOCAL Audit Report by the GAC. No activity report was found regarding the Hyrdocarbon Development Fund (which may be the source of such transfers).

References:

See sources cited before.

5.2.1.066: Does the central government publish comprehensive information on transfers of resource related revenues to sub-national governments?

Score: A B C D E

Comments:

Information published about transfers of resource-related revenues regard the annual amount of money transferred to counties for ArcelorMittal Social/Community Development fund and mineral companies community development contributions, along with "NOCAL" labeled transfers to Montserrado, Rivercess, Sinoe and Grand Bassa counties.

> See Fiscal Outturns for FY2008-2009 and 2009-2010

Please note that such information could not be found in 2010-2011 Fiscal Outturn Report.

References:

> Fiscal Outturn FY2009-2010 p.47, "Capital transfers", FY2008-2009 p. 29, "Mittal Community development Fund" and "Other Community Development Funds"

> GAC Audit Report on ArcelorMittal Social Development Fund for Nimba, Grand Bassa and Bong County for FY2009, published February 12 2012.

5.2.1.067: Are the reports containing information on transfers of resource related revenues to sub-national governments understandable?

Score: A B **C** D E

Comments:

- > Fiscal Outturns FY 2008-2009 p. 29 and 2009-2010 p.47 only provide one line per transfer, indicating amount of money transferred. No narrative section, no context, no explanation.
- > GAC Reports do provide useful details and narrative sections as to how such funds should be used and how they are actually being used.
- > > Activity reports for each of those funds (ArcelorMittal Social Development Fund, including disaggregated data for each of the three counties considered, Community Development Funds, etc.) are not published.

References:

- > See Fiscal Outturns Report for FY 2008-2009 and 2009-2010
 - > See GAC Report on ArcelorMittal SDF for Bong, Grand Bassa and Nimba counties (See Comments for more details)
-

5.2.1.068: How often does the central government publish information on transfers of resource related revenues to sub-national governments?

Score: A B **C** D E

Comments:

There are not dedicated reports, but fiscal outturn reports mentioning annual transfers are published every year by the Ministry of Finance. Please note that 2010-2011 does not seem to contain such information.

References:

Same as preceding questions, esp. Ministry of Finance Fiscal Outturns;
<http://www.mof.gov.lr/content.php?sub=70&related=22&res=70&third=70>

5.2.1.069: Do sub-national governments publish information on transfers received from central governments?

Score: A **B** C


References:

No information was found that would have been published by the Counties regarding fund transfers.

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Indicator	Score
5.3.1 Legal Framework and Practice	84 

5.3.1 Legal Framework and Practice

5.3.1.070: Are arrangements (including formulas and responsible institutions) for resource revenue sharing between central and sub-national governments defined by legislation?

Score: A B C

References:

1°) Mineral Sector: Provided that ArcelorMittal Social Development Fund be considered as "revenue sharing" activity, the arrangements for its distribution among the three counties considered are carefully detailed in 2008-2009 Ministry of Finance Budget p.4 as ratified by the Liberian Legislation.

> + 2007 Amendment to the 2005 ArcelorMittal MDA contains in Annex H the proportion in which each annual USD3 million attributed to the Social Development Fund shall be distributed: USD1,5 Million for Nimba, 0,5 for Bong County and 1 for Grand Bassa. (though not exactly followed as reported in the GAC Audited Reports)

2°) Oil Sector: No arrangements found regarding NOCAL potential sub-national transfers.

5.3.1.071: In practice, does the government follow the rules established by resource revenue sharing legislation?

Score: A B C D E

References:

NB: NO legislation as such.

1) Mineral Sector: GAC Audit Reports on ArcelorMittal Social Development Fund for Nimba, Bong and Grand Bassa Counties, FY2009, state that amounts transferred to the counties do not exactly correspond to the rules regarding subnational transfers as published in Agreements or Annual Budgets.

2) Oil sector: no evidence found regarding transfers' rules.

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Context

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Indicator	Score
1.1	Context
1.1	Context

1.1.001: Does the country have a clear legal definition of ownership of mineral resources?

Score: A B C D E

References:

Constitution of the Republic of Liberia (1984)

"Article 22 b. Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic."

http://www.wipo.int/wipolex/fr/text.jsp?file_id=207595

1.1.002: Who has authority to grant hydrocarbon and mineral rights or licenses?

Score: A B C D E

Comments:

- Petroleum :

National Oil Company of Liberia (state owned company) is in charge of "upstream" petroleum contracts under the policy guidance of the Inter-Ministerial Petroleum Technical Committee (technical agency)

References:

Authority to grant rights and licenses is not the same for Hydrocarbon and for Mineral :

- Hydrocarbon:

New Petroleum Law 2002

Section 2.1 – Binding Effective: In collaboration with the Hydrocarbon Technical Committee, all petroleum contract, shall be negotiated by the National Oil Company of Liberia pursuant to the Act establishing the national Oil Company of Liberia. A Petroleum Contract, pursuant to its terms, shall become effective and binding on the parties thereto, their principals, successors and assignees, upon signing of same by the Parties, attested by the Minister of Justice and approved by the President of the Republic of Liberia.

- 2009 : National Energy Policy :

"The GOL's role in the petroleum sector is conducted through the Division of Hydrocarbons in the MLME and two Government-owned parastatals – the "upstream" National Oil Company of Liberia, and the "downstream" Liberia Petroleum Refining Corporation. Prior to the establishment of NOCAL, MLME's Division of Hydrocarbons played the lead role in negotiating agreements with the handful of international oil companies that came to Liberia with the intent of securing upstream petroleum exploration and production contracts. With its creation in 2002 under President Taylor, this institutional responsibility was passed on to NOCAL. The MLME is now involved through the Inter-Ministerial

Petroleum Technical Committee (IMPTC), which it chairs."

- Mineral rights and licenses :

> Ministry of Land Mines and Energy Report :

"The Ministry, in collaboration with the PPCC, works along with an inter-ministerial Mineral Technical Committee to grant mineral rights of concession nature." Specifically :

> 2000 Minerals and Mining Law : section 3.3 and 6.6:

1°) Class A mining licenses : "The Minerals Technical Committee, created in 2000, and composed of the Minister of Mines, Land and Energy, the Minister of Finance, the Minister of Justice, the Minister of Planning and Economic Affairs, the Minister of Labour, the Investment National Commission, the Council of Economic Advisers to the President of Liberia, the Central Bank of Liberia, is granted the right, under the chairmanship of the Minister of Land Mines and Energy," to negotiate and conclude agreements with applicants for Class A mining Licenses". (NB Class A : 25 years, requiring a Mining Development Agreement to be concluded)

2°) Mineral Development Agreements : > Section 6.6 Liberia Minerals and Mining Law 2000 : The Mineral Development Agreement, required for Exploration or Class A Mining Licences Applicants, "is to be signed by the Minister of Mines Land and Energy, the Minister of Finance and the Chairman of the National Investment Commission or their successors, attested by the Minister of Justice or his successor and approved by the President of Liberia"

3° Other licences : the Minister has authority to grant Reconnaissance licenses, Prospection licenses, Exploration licences, and class C (1 year, 25 acres, small scale operations), B (5 years, industrial operations) Mining licences as well as Quarry Licences, Broker (for Class C Mining licences) and Dealer licences (for class B and A licences, under MDA)

Mineral and Mining Law:

<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwelbi.htm>

New Petroleum Law:

<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwelbi.htm>

Peer Review Comments:

As noted in the researcher's comments, the Public Procurement and Concessions Commission and relevant legislation, the PPCA 2010, govern the issuance of mineral rights/licenses alongside the Minerals and Mining Law. There are also regulations for mining exploration licenses from 2010, which elaborates on the issuance of mineral exploration licenses. There are some conflicts within and among these rules and regulations (Minerals law, regulations, and PPCA 2010) that still need to be resolved.

1.1.003: What licensing practices does the government commonly follow?

Score: A B C D **E**

Comments:

NB/ A Mining Cadastre Information Management System is supposedly being implemented in the country. Such system would allow streamlining of the license processes and ensuring its transparency. MCIMS was not found online yet.

Last event known regarding such project is the opening of the Cadastre Buiding in April 2010 .

US Embassy in Monrovia press release: <http://monrovia.usembassy.gov/pr042810.html>

Video presenting launch of the Mining Cadastre Information System: <http://www.youtube.com/watch?v=VVUYjstHVy0>

References:

- Mineral Sector :

MLME Mineral Policy 2010 : "The principle of First-In-First-Assessed (FIFA) will form the basis for conferring mineral exploration rights over areas where the state's mineral assets are unknown and a transparent and competitive auction system will be used to concession known mineral deposits under the PPCA." p. 8

> "bids" are meant to be published online on the Ministry website:

<http://www.molme.gov.lr/content.php?sub=12&related=6&res=12&third=12>

But no recent bid was found regarding minerals.

- Oil sector:

Bids should be published online: http://www.nocal.com.lr/index.php?option=com_content&view=category&layout=blog&id=49&Itemid=78
However not bid was found recently published

- Overall sector:

The 2005 Public Procurement Act specifies the rules by which bids must be licensing process must be established. Enforced by the Public Procurement Commission created by this Act, in charge of ensuring licensing process' transparency and competitiveness.
<http://www.mof.gov.lr/doc/procurement.pdf>

1.1.004: What is the fiscal system for mineral resources?

Score: A B C **(D)** E

Comments:

Regulatory framework :

- Explorations : ruled by the "Mineral Exploration Regulations" published in 2011 on the Ministry of Land Mines and Energy website : <http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

- Mining and exploitation : ruled by Mineral Development Agreement requiring Mining License Class A, according to the Mineral Exploration Regulations, on the SAMREC Code of South Africa (member of the Committee for Mineral Reserves International Reporting Standards)

=> 2000 Liberia Mineral and Mining Law, p. 37, chapter 17 : "Fiscal Provisions" : Fees for mining and quarry licences, fees for mineral trading and dealership, and surface rentals are to be established in the Regulations by the Minister of Finance. Mineral Royalties are ruled by section 17.4 of the 2000 Law : "There is hereby imposed on all minerals royalties of not less than three (3) percent and not more than ten (10) percent, except silica, sand, and Building and Industrial minerals which shall not be more than five (5) percent . The Minister shall publish Regulations from time to time in consultation with and pursuant to the advice of the Minister of Finance and the Governor of the Central Bank of Liberia setting forth the bases and rates of such royalties, which shall be based upon current prices of Minerals, the return on investment in Minerals and other economic indices and measures." As to "Income tax and other taxes" as mentioned in section 17. 5 : "All taxes, levies, fees and imposts imposed or authorized by the laws of Liberia shall be applicable to the Holder of Mineral Rights in respect of all Operations, and the income received therefrom , permitted by the Law, provided that the provisions of Sections 6.6 (c) of this Law to the Holders of Class A Mining Licenses.

Mineral Development Agreement are published on LEITI website : <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

NOTE : -Hydrocarbon : Production Sharing Contracts are signed between the SOC "NOCAL" and private firms. Published on LEITI website : <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

References:

1) Oil sector: > Production sharing agreements
New Petroleum Law, Part VII: "Hydrocarbon Exploitation and Production Sharing Agreements"
+ Royalties: see 2002 New Petroleum Law Section 3.7

2) Mineral sector: Concessions and Mineral Development Agreements
2000 Mineral and Mining Law - chapter 5 - Reconnaissance/Exploration License, chapter 6 - Mining Licenses, chapter 7 - Quarry License, Chapter 17 - Fiscal Provisions (> License fees, Surface rentals and Royalties)

Production Sharing Contracts between NOCAL and private companies, as well as mineral licenses and concessions are published on the LEITI website :
<http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

Note : LEITI reports' aim is to achieve a "detailed reconciliation of audited payments made by relevant extractive companies as disclosed by them to revenue data provided by agencies of the government of Liberia."It does not focus therefore on the nature of the fiscal regime of each contract signed more or

less openly between the government and private companies, all the more since out of the 121 companies mentioned by the MoF, MLME, NOCAL, MoA and FDA, (ie who sent receipts to those institutions) only 70 only were considered for the reconciliation. As a matter of fact most of the 51 missing companies belong to the mineral sector (ie 43 out of 51, most of which ceased their activity, as mentioned in LEITI 3d report)

>> PWYP, EITI Liberia and US Geological Survey Specialist for Liberia Contacted

1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?

Score: A B C D E

Comments:

Answers depends on the activity considered :

- Mining sector : Minister of Land Mines and Energy
- Hydrocarbon : NOCAL, state owned company

References:

- Mineral Sector : Minister of Lands Mines and Energy
 - > 2000 Minerals and Mining Law
 - > Exploration License Regulations effective from march 2010 on, and published by the Minister of Land Mines and Energy
- Hydrocarbon : National Oil Company - NOCAL
 - > New Petroleum Law : Chapter IV, Administration of the New Petroleum Law :
"4.1 Administration : "Subject to , and in keeping with the provisions of this law, the President/CEO of the National Oil Company of Liberia shall be responsible for the administration, implementation and enforcement of this law. (...) The President/CEO shall promulgate or institute such other rules and regulations necessary for the achievement of purposes and promotion of the policies set forth in the Act establishing the National Oil Company of Liberia."

NB / The National Hydrocarbon Committee, established by the New Petroleum Law for purposes of collaboration, includes the Ministry of Land Mines and Energy, the Ministry of Justice, the Ministry of Finance, the National Investment Commission, the ministry of Labor, the Chairman of Councils of Economic Advisors to the President and the Ministry of Planning and Economic Affairs, has the power to negotiate and conclude agreements regarding Hydrocarbon development and exploitation rights. Note that this Committee is placed "under the chairmanship, supervision and direction of the National Oil Company".

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Disclosure

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Indicator		Score	
1.2.006	Information on licensing process	50	
1.2	Contract transparency	67	
1.2.008	Environmental and social impact assessments	25	
1.2	Access to information and legislation	84	

1.2.006 Information on licensing process

1.2.006.a: What information does the government publish on the licensing process before negotiations?

Score: A B C D E

Comments:

>> Information requested. No answer received as of april 11th 2012.

References:

- Minerals : though a "bid" box appears on the Ministry of Land Mines and Energy website, it does not contain any document/piece of information.

- Hydrocarbon :

> New Petroleum Law (2002)

> in practice : only one Bid has been published since 2009 on the Ministry of Land Mines and Energy website, in August 2009 for a licensing round scheduled in september 2009. Geographical scope of the blocks and description of the procedure were available, and the Production Sharing Contract followed a model available on the Ministry website as well as NOCAL and TGS-NOPEC website. Note that Product Sharing Contracts have been signed and published on LEITI website since 2009 (eg in December 2010) : <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp> but no mention of any bid announcement appears on the Ministry website.

No bid round related document appears on NOCAL website now. the IIIId LIberia Offshore Licensing Round Bid announcement used to be available on this website though.

- Overall sector: is ruled by legislation as set by the 2005 "Public Procurement, Act", ensuring open and competitive bids.

> Mineral Sector: Part VI: "Specific procedures for processing concession agreements"

1.2.006.b: What information does the government publish on the licensing process after negotiations?

Score: A B C D E

References:

- Mining : Ministry of Mines Land and Energy Annual Report for 2009 : information is published regarding the number of bids received, conditions required and winning bids. Mining Development Agreements are published.

- Oil: The Ministry of Land Mines Energy Annual Reports also state the signature of 3 Production Sharing Contracts but without mentioning the selection procedure or content of the contracts. However, Production Sharing contracts are published on LEITI website. The licensing authority, namely National Oil Company, does not publish any "results from auction rounds" or reports "with information about its activities" on its website.

1.2 Contract transparency

1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?

Score: A B C D E

Comments:

1° Arcelor Mittal : though the Amendment to the MDA signed on August 17th 2005 is published on LEITI website, the full MDA is not available. Note: the amendments replaced vast swaths of the original contract. It is unclear how much of the original contract actually remains relevant/intact. (Arcelor Mittal Liberia contacted > answered that the said document was publicly available on request to the National Investment Commission. Request made. No answer received as of April 11th 2012.)

References:

- LEITI Website publishes contracts, agreements and licenses available here:
<http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

Example: http://www.leiti.org.lr/doc/an_act_nocal_oranto2.pdf (The Chevron contract is an addendum to the Production Sharing Contract between the Government and Oranto Petroleum for block LB-11, which was approved by the national legislature on April 16, 2007.)

- Ministry of Land Mines and Energy publishes the latest and major Mining Development Agreements on its website : <http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

- Major contracts in mineral sector (Mineral Development Agreements) have to be ratified by the Senate and the House of Representatives. The latest acts ratifying the said contracts can be found on Liberian Legislature's website : <http://legislature.gov.lr/content/52nd-session-legislation>

1.2.008 Environmental and social impact assessments

1.2.008.a: Does legislation require that mining, gas and oil development projects prepare an environmental impact assessment prior to the award of any mineral rights or project implementation?

Score: A B C

References:

- For MINERALS :
 Liberia Minerals and Mining Law 2000, p.26 :
 "section 8.4 : Environmental Impact Assessment Study.

The Minister shall require each applicant for a class B or class A mining license to submit, as a condition precedent to the grant of the Mining License, an Environmental Impact Assessment Study report prior to the grant of any such application. This study shall state the adverse impact Mining or the exploitation of Minerals and related activities proposed to be undertaken may have on the environment and set forth a plan of mitigation and reclamation. Special attention shall be paid to any adverse effects on nearby communities. The Minister shall grant the application for the Mining License only after reviewing this study and confirming that its mitigating and reclamation proposals adequately protect the environment".

-For Oil:

> 2002 New Petroleum Law,

- Section 12. 3.2: "12.3.2 All holders, including NOCAL, shall undertake environmental impact assessment programs."

- Section 12.3.8 The Environmental Impact Assessment (EIA) should be conducted for all energy project, activity or regulation that is likely to have significant impact on the environment. The information and impact so acquired should be interpreted and communicated to be proper authorities and stakeholders. The appraisal process for energy project should be conducted efficiently without undue complications and as simple as practicable."

>> however does not specify if an environmental impact assessment should be prepared before the award of the contract.

1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?

Score: A B C **(D)** E

Comments:

Oil : Global Witness' statements and recommendations regarding Environment Impact Assessment throughout its report published in September 2011 suggest that the Environment Protection Agency was yet unable in terms of capacity to achieve EIA as required by the Environment Laws of Liberia, and also imply that past concessions and production sharing contracts were signed without consideration of any EIA:

"Global Witness and LOGI are recommending that the Liberian Government should assess the possible social, environmental and economic impacts of developing its different natural resources, including oil, prior to issuing additional concessions. In addition to this national level planning, it is crucial that the government also requires companies to conduct an Environmental and Social Impact Assessment (ESIA) for each concession they are allocated and at each stage of the concession's development."

> Although it is required in the model PSC contract and the New Petroleum Law that a EIA be conducted as specified in the Environment Law before signature of any agreement, it does not seem to have been followed by common practice.

Minerals : although the model Mineral Development Agreement states that the "feasibility" report shall include an Environmental Impact Assessment as well as an Environmental Management Plan, no such Environmental Impact Assessments were found published on the Environment Protection Agency's websites nor on the contracting companies' websites.

References:

Official Websites : No Environmental Impact Assessments for oil or mining projects were found published, neither on the companies' websites, nor on the Ministry of Lands Mines and Energy the National Oil Company's websites, or the Environment Protection Agency websites.

Oil : Global Witness Report : " Curse or cure". (see comment below)

Peer Review Comments:

These documents are sometimes provided at consultations and could be provided in hard copy though they are not published online.

1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?

Score: A (B) C

References:

- Overall sector : Mineral Policy 2010 states that : "No significant mineral operation will be permitted without an environment and social impact assessment having been conducted, evaluated and approved by the Liberia Government. Plans for managing environmental and social impacts must be incorporated into the assessment reports. These must, right from the inception of the operation, include plans for redressing physical impacts upon closure of the mine as well as for sustaining community livelihoods thereafter. The conduct of impact assessments must involve early consultation with the potentially affected public and open hearings will generally constitute a part of the evaluation. The Government of Liberia is committed to nurturing an environment for compliance and enforcement with the highest standards of corporate social responsibility by entities involved in mineral operations."

Yet this is not of legislative value.

- Mining sector :

> Law : The 2000 Mineral Law, though requiring an Environment Impact Assessment Minerals and Mining Law does not require any Social Impact Assessment

> MDA Model agreement : 5.5 states that "the feasibility report preceding any Class A Mining License should include a Social Impact Assessment and a Social Action Plan". 5.6.C also states that "the company shall have held public hearings on the SIA and the SAP in Monrovia and in the County seat in which the Proposed Projection Area(s) are located and shall have included in the feasibility report a statement of the means taken to publicize the hearings"

- Oil :

> New Petroleum Law 2002 : 6.2. Conditions for the Granting of Permit mentions that the request shall show the Environmental Impact study" but no social impact is mentioned.

> PSC model Contract : 5.6.a. states that the company shall provide "an Environment Impact Assessment prior to the commencement of exploration and production" , and section 12. 3.2 that "All holders, including NOCAL, shall undertake Environment Impact Assessment Programs", but no Social Impact Assessment is mentioned.

> Cure or Curse 2011 Report p. 28 : "Global Witness and the LOGI coalition are advocating that the Liberian Government consider changing the assessment requirement, as currently defined [ndlr : Environmental impact only], to an ESIA." More specifically, p. 29 : "All licence holders, including NOCAL, should conduct an ESIA and prepare an Environmental and Social Mitigation Plan that are independently verified and publicly available.

- ESIA's should be conducted prior to the commencement of all operations that may have an adverse environmental impact, including exploration, drilling, infrastructure development or oil and gas production.

- Each ESIA must be drafted following free prior and informed consultation with communities affected by a proposed operation.

- Companies' ESIA's should be continually developed during the lifetime of their hydrocarbon activities in Liberia in order to identify and address new impacts on communities and the environment."

Peer Review Comments:

The Public Procurement and Concessions Act (2005) Amended and Restated 2010 does require concession bids to hold public stakeholder consultations and how the investment will affect communities. This is to be further detailed in regulations.

1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?

Score: A B C (D) E

Comments:

(NB : Researcher tried to reach Contracting companies and NGOs - no answer received as of April 11th 2012)

References:

No social impact assessment published neither on the Ministry of Lands Mines and Energy, LEITI, National Oil Company or contracting companies' websites.

1.2 Access to information and legislation

1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?

Score: A B C D E

Comments:

NB : Mining sector : fiscal provisions : Chapter 17 of Minerals and Mining Laws states in "fiscal provisions" that the Minister of Finance will "from time to time" establish the rates and payments of fees for the grant of each Mineral Right and the renewal, extension, continuation, assignment and transfer when applicable of any Mineral Right". Those will be "published in the Regulations"
 > The surface rights, subject to and "superseded by any inconsistent provisions of the Revenue Code of Liberia" are indeed specified in the 2011 Exploration Regulations, section 12, as well as the License and Application Processing fees.
 > no Regulation published regarding Mineral Development activities.

References:

> Mineral and Hydrocarbon Resource Legislation is published on LEITI website, on the Ministry of Land Mines and Energy website, and partly on the World Law Guide :
<http://www.lexadin.nl/wlg/legis/nofr/oeur/lxwelbi.htm> (New Minerals and Mining Law as well as Regulations are mentioned but no link is provided)
 > New Petroleum Law :
<http://www.molme.gov.lr/doc/AN%20ACT%20ADOPING%20THE%20NEW%20PETROLEUM%20LAW.pdf>
 > states in Chapter X ("Fiscal Regimes, Customs Provisions and Exchange Regulations" that "All holders of petroleum contracts and their partners shall be subject to the payment of taxes and fees in accordance with the Revenue Code of Liberia of 2000 and the Tax Law of general application". Production fees (section 10.4) shall be specified in the agreement. Bonus to NOCAL, Petroleum Levy and Tax Exemptions are specified in sections 10.10, 11 and 12. "Procedures and Conditions for Investment incentives" are specified in section 10.20.
 - Minerals and Mining Law 2000 : http://www.revenuewatch.org/training/resource_center/2000-minerals-and-mining-law-liberia
 Fiscal Provisions are specified in Chapter 17.
 - Mineral exploration Regulations 2011 : Section 12 covers "Surface rights payments and other fees and taxes".

1.2.010: This country has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors.

Score: A B C D E

References:

A Freedom of Information Act has been in discussion since 2008.
 Several sources indicate that A Freedom of Information Act has been passed in 2010:
 > <http://www.freedominfo.org/2010/10/liberian-president-sirleaf-signs-foi-law-regional-first/>

> <http://www.cartercenter.org/news/multimedia/PeacePrograms/FreedomofInformationinLiberia.html>
> http://www.ifex.org/liberia/2010/07/23/foi_legislation/
> http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402127_text . Such article states that the FOI Bill was passed by the House of Representatives on July, 29, 2010? but that it still had to be signed by the Senate and the Head of State.

and

several websites provide what appears as the Freedom of Information Law in full. (<http://www.cemesp-liberia.org/foi-act.pdf>) But no information regarding such law could be found on national official websites.

Also, LEITI ACT ratified by the Senate and the House of Representatives in July 2009 state the following :

Objectives of the LEITI (section 3.0 LEITI act p. 5) :

"3.1 The general objective of the LEITI shall be to assist in ensuring that all benefits due the Government and people of Liberia on account of the exploitation and/or extraction of the country's minerals and other resources are (1) verifiably paid or provided; (2) duly accounted for; and (3) prudently utilized for the benefits of all Liberians and on the basis of equity and sustainability. + specific objectives of the LEITI shall include :

[...] 3.2 a. to require and maintain transparency over all material payments due from and/or made by extractive companies to all agencies and levels of the Government of Liberia as well as all revenues collected from the companies by the Government; (...)


3.2.f. To promote the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources"

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Legal Framework and Practices

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Indicator	Score
1.3 Legal Framework and Practices	67 

1.3 Legal Framework and Practices

1.3.011: The authority in charge of awarding licenses or contracts for mineral or hydrocarbon production is independent of the state owned company (SOC) or other operating companies.

Score: A B C

Comments:

Mineral sector : NO SOC - 'A' criterion applies : the authority to award licences is placed in the Ministry of Lands Mines and Energy and in the Mineral Technical Committee including MLME, Ministry of Finance, Ministry of Planning and Economic Affairs, National Investment Commission, Council of Economic Advisers to the President, Central Bank and Ministry of Justice

Oil : "all contracts are signed by NOCAL " (New Petroleum Law p.7) ; 'B' Criteria applies.
 > "In collaboration with the Hydrocarbon Technical Committee, all petroleum contract, shall be negotiated by the National Oil Company of Liberia pursuant to the Act establishing the national Oil Company of Liberia. A Petroleum Contract, pursuant to its terms, shall become effective and binding on the parties thereto, their principals, successors and assignees, upon signing of same by the Parties, attested by the Minister of Justice and approved by the President of the Republic of Liberia." (New Petroleum Law Chapter II 2.1)
 > The Hydrocarbon Technical Committee, in charge of concluding "agreements with all applicants for hydrocarbon development and exploitation rights" (as opposed to reconnaissance and exploration rights) is composed of NOCAL, the Ministry of Finance, the Ministry of Labour, the Ministry of Justice, the Ministry of Planning and Economic Affairs, the Council of Economic Advisors to the President and the National Investment Commission, and is placed under the "chairmanship, supervision and direction" of NOCAL. (New Petroleum Law Section 4.5 p. 21)

References:

- > Minerals : See Minerals and Mining Law 2000: 'A' criterion
- > Oil : See New Petroleum Law 2002, p.7: 'B' criterion (see comments below for further details)

1.3.012: Is the licensing process intended to be open and competitive to all qualified companies?

Score: A B C D E

Comments:

Mineral Sector : Criterion B.

Oil sector : criterion C.

>The law requires that most (but not all, see above) contracts follow a competitive bid process. In addition, according to Global Witness report :

" Liberia's current oil laws do not include sufficient vetting requirements, allowing questionable companies to enter the sector. While the country's current legal framework does require that most contracts are subjected to competitive bidding, the government has not consistently followed these laws." (Cure or Curse, p. 21)

References:

1) Mineral sector :

A. The Public Procurement and Concession Act (PPCA) of 2005 (attached before : <http://www.mof.gov.lr/doc/procurement.pdf>) sets out a transparent and competitive system for the concession of known state mineral assets.

(See Part V - Methods of Procurement. In particular :

"46 (1) Public procurement shall be undertaken by means of advertised open bid proceedings, to which equal access shall be provided to all eligible and qualified bidders without discrimination, subject only to the exceptions provided under this Part." ; as to "Competitive Biddings, section 47. (1) : "The open bid proceedings may include (BUT DOES NOT REQUIRE) a prequalification stage or the application of a post qualification procedure." ; as to National Competitive Bidding : "48. (1) In procurement proceedings in which the Procuring Entity decides that only domestic suppliers or contractors are likely to be interested in submitting bids, the Procuring Entity may employ national competitive bidding procedures. (2) The Procuring Entity is not required to employ national competitive bidding procedures if the estimated contract amount is lower than the value threshold specified in the Schedule."

B. "Regulations Governing Explorations" : the "eligible applicant" mentioned in the Regulations Governing Exploration under a Mineral Exploration License of the Republic of Liberia" to licensing rounds can be "anyone who is not disqualified by operation of section 4.2 of the Mining Law" whereby "the minister may reserve land from mining".

C. Section 4.2. of the Minerals and Mining Law includes :

"h. With respect to class C mining license, 1) an individual who is not a citizen of Liberia or 2) a person that is legally or beneficially owned or controlled entirely by individuals who are not citizens of Liberia
i. With respect to class B mining license, 1) an individual who is not a citizen of Liberia unless legally permitted to be a resident of Liberia or to seek employment in Liberia or 2) a Person other than an individual, unless individuals who are citizens of Liberia own and control at least sixty percent (60%) of the equity or voting power in such Person or are entitled to receive at least sixty percent (60%) of such Person's net profits or distributable income."

2) Oil sector : New Petroleum Law 2002 :

"2.4.6 The National Oil Company, without prejudice to the rights already acquired, shall determine the areas that are open for reconnaissance, exploration and development, and which shall be broken into blocks for petroleum contracts or reconnaissance permits on conditions that:

- i. The National Oil Company shall, at its discretion, evaluate the requests of bids on petroleum contracts or permits.
- ii. A total or partial refusal shall not give the requesting party a right of legal recourse against NOCAL, nor shall they have the right to any compensation whatsoever from NOCAL as a result of NOCAL's partial or total refusal.
- iii. In the event that competing requests of bids are made, and without prejudice to any rights previously granted, no priority shall be claimed."

1.3.013: Does the licensing process or legislation impose limits to discretionary powers of the authority in charge of awarding licenses or contracts?

Score: A B C D E

References:

1) Mining sector : Liberian contracts sometimes do deviate from general legislation, and do contain stabilization clauses. See, e.g., Mineral Development Agreement between the Government of the Republic of Liberia, China-Union (Hong Kong) Mining Co. Ltd., and China Union Investment (Liberia) Bong Mines Co., Ltd., Section 14)

2) Oil sector :

- Model Contract :

"23. Law Applicable : The laws and regulations in force in the Republic of Liberia and the provisions of international law as may be applicable to international oil and gas activities shall apply to the Contractor, to this Contract and to the Operations which are the purpose thereof, unless provided by the Contract".

- "Cure or Curse" Global Witness Report p. 30 :

"Liberia's current Model Contract contains, and the Petroleum Law allows for, "stabilisation clauses." These provisions potentially affect the rights of individuals, employees and communities affected by companies' operations" (...) Section 36.2 of the Model Contract prevents the Liberian Government from amending or modifying the terms of its agreements with companies through changes to any law, rule or regulation after the effective date of the contract. Moreover, section 23 of the Model Contract, means that if the constitution is changed after the effective date of the contract, and it conflicts with the contract, the contract takes precedence. As a country emerging from conflict, Liberia is in the process of revising its laws to bring them in line with international standards. It is therefore imperative that the government be given free rein to adopt new laws that protect the country's finances, people and environment."

.

1.3.014: Does the legislative branch have any oversight role regarding contracts and licenses in the oil, gas and mining sector?

Score: A B C D E

Comments:

NB : An act ratifying NOCAL- Anadarko PSC - July 23th 2009 and An act ratifying NOCAL- Oranto PSC - August 23th 2009 are available on LEITI website but files' size exceed 20 Mo.

<http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

References:

- > Minerals and Mining Law 2000,
- > New Petroleum Law 2002
- > Liberian 52d Legislature's website

Neither laws mention the role of the legislative branch in the awarding process of licences and contracts, nor is there any evidence that the parliamentarians "actively oversee compliance with relevant legislation and regulation".

However it seems to be a general practice to have mineral development and production sharing contracts ratified by the Parliament. See MDA attached. Some websites (in particular the Legislature of Liberia's website and LEITI's website, mentioned below), publish several Production Sharing Contracts and Mineral Development Agreements that have been ratified by the Parliament. It appears therefore that oil and mineral contracts are indeed at least for some of them transmitted to the Parliament for ratification.

> LEITI website : <http://www.leiti.org.lr/2content.php?main=65&related=65&pg=mp>

> Legislature of Liberia website : <http://legislature.gov.lr/>

Peer Review Comments:

The parliament ratifies Mineral Development Agreements and Production Sharing Contracts in Liberia and they are published into handbills, having the force of law. This is a significant right of the parliament.

1.3.015: Is there a due process to appeal licensing decisions?

Score: A B C

Comments:

> The Environment Protection Law seems to ensure due process of appeal regarding environment related issues.

> As to other causes which may lead to an appeal :

Disputes between parties to the Contracts are mentioned in mineral and petroleum laws, and settled according to contract terms.

NB : Though before the period considered for this research, there have been some cases of bribery between NOCAL and the Legislature, amongst which two officially alleged by the General Audit Commission. According to the report attached, USD118,400.00 was paid from NOCAL's account as "Lobbying Fees" to the National Legislature in order to ratify petroleum contracts before the National Legislature" > namely regarding Broadway PLC and Oranto Petroleum Ltd.

See report attached p. 4

References:

1°) oil sector :

> New Petroleum Law 2002 : Section 11.2 : The appropriate provisions in the respective contracts, licenses or permits shall govern the procedure for settlement or resolution of disputes. A choice of forum for such dispute shall be provided in the applicable provision of the contract. Any dispute arising from the parties with respect to the petroleum contract, reconnaissance permit or any other agreements which have to do with hydrocarbons, shall be governed by this law and other applicable laws of Liberia.

PSC Model Contract as well as examples of PSC published specify the procedure which applies for disputes settlement between Holders and NOCAL or the State. (Article 31 : Arbitration)

2°) Mineral sector :

> 2000 Mineral and Mining Law : Chapter 19 Dispute Resolution.

Section 19.1. Settlement of disputes. The resolution of any dispute arising under any of the provisions of this Law between Holders of Mineral Rights and between another Holder of such rights and the Government of Liberia shall be governed by the respective provisions for such agreements."

and

Chapter 11 Rights of owners or occupants affected by this law.

Esp. Section 11.3 : "Supremacy of the Government's right. Government's right as owner of the minerals in the Republic of Liberia are absolute and supersede the rights of any landowners or occupants of Land in respect of the Exploration or Mining of Minerals, provided that such Landowners or Occupants shall be entitled to just, prompt and adequate compensation for any diminution in the value of Land caused by disturbance, disfiguration or other factors occasioned by the Government's exercise of its rights."

section 11. 4 "Rights of Landowners or Occupants of Land in respect o Mineral Rights. The legal owner of lawful occupant of property on which minerals are discovered are entitled to a right of first refusal in any application for obtaining Class A or Class B Mining Licenses as against any third party or parties."

And " section 11.5 : "Procedure on refusal of Landowner or Occupant to grant access to Land for Exploration or Mining : in the event of the refusal of a Landowner or or Occupant of Land to permit the Holder of a Mineral Right to conduct Exploration or Mining, the Holder may petition the Ministry to intervene setting forth all relevant facts and circumstances, including any financial offers made to such Landowner or Occupant of Land. The Minister shall, by regulation, establish appropriate procedures for the hearing and determination of such petitions.

=> For oil as for mining sector, the "due process" regarding appeals is settled in each contract...

3°) 2005 Public Procurement Act (already attached)> Chapter VIII "Complaints and Review Process" >

ensure the right to appeal licensing decisions for:

- (a) Any bidder who has suffered or is at the risk of suffering a loss or damage as a result of the breach of this Act or in any procurement process;
- (b) Any person who has grounds to believe that he or she or the Entity he or she represents has been prevented from becoming a bidder" (Section 125)

NB / For Environment related Rights : > see Environment Protection Law :

Section 30 : 1) A person aggrieved by the decision of the agency to issue or refuse to issue a license under this section may, within 30 days of being informed of that decision, request in writing setting forth the reasons of his request that, the agency reconsider its decision;

2) The Agency shall within 30 days of receipt of a written request for reconsideration under this section, issue a decision affirming, modifying or reversing its earlier decision. The decision of the Agency shall become part of the record of decision;

3) Any person who is aggrieved by a decision of the Agency may appeal to the Environmental Court within 15 days of the decision"

Furthermore Section 5 p. 17 protecting "the Right to a Clean and Healthy Environment" :

"1) Any person assert their right to a clean and healthy environment in fulfillment of section (34) of the agency Act by:

- a) Petitioning the Agency to take action;
- b) Bringing action before the Environmental Court established under section (32) of the Agency act."

1.3.016: Is there a legal or regulatory requirement to disclose all beneficial ownership in oil, gas and mining companies or projects?

Score: A B C

Comments:

NB : Liberia has been assessed by secrecy jurisdictions with 81 'secrecy points' out of 100 - report published by Tax Justice Network on October 4 2011. It includes "beneficial ownership disclosure" (Transparency of Beneficial Ownership, question 2 and 3.) Answers given by the assessment : "2. Liberia does not put details of trusts on public records". and "3. Liberia does not maintain company ownership details in official records". Other Documents and websites confirm that there is no obligation for companies to disclose beneficial ownership, as well as public record of members, account filing or annual return filing.

References:

1°) Corporate Registry of Liberia : no evidence that the disclosure of beneficial ownership is required :

> <http://www.liscr.com/liscr/CorporateRegistry/tabid/59/Default.aspx>

2°) "Liberia - mapping financial secrecy" by Secrecyjurisdiction.com :

> <http://www.secrecyjurisdictions.com/PDF/Liberia.pdf>

3°) on FormaCompany.com : Liberia page states that for LLC Company Incorporation "beneficial ownership does not have to be disclosed to the authorities :

<http://www.formacompany.com/en/liberia/liberia-company-formation>

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Liberia - RWI Index Questionnaire

Context

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Indicator	Score
2.1 Context	100 

2.1 Context

2.1.017: Does the government receive in-kind payments instead of financial payments from resource companies?

Score: A B C

Comments:

NB: no evidence was found of such in-kind payments

References:

1°) Oil sector :

- 2002 New Petroleum law :

Section 10.4 Production Fees : 10.4.1 "The collection may be in kind or in cash, according to the procedure or modality established in the agreement".

10.9. Payment procedures : "The tax on profits is calculated and collected according to the methods provided by the Revenue and Finance Law subject to the particular provisions of the present chapter.

10.9.1 A petroleum contract may however allow for payment in foreign currency or in kind with a system of possible provisional installments and specific accounting rules for petroleum operations, particularly, the conditions and methods of keeping the accounting books and registers in foreign currency."

- Example of Production Sharing Contract : Nocal-Anadarko : (Same articles are mentioned in the Production Sharing Contract Model)

"16.5.NOCAL may receive its share of production defined in articles 16.3 and 16.4 either in kind or in cash" and "16.6. If NOCAL wishes to receive in kind all or part of its share of production define in 16.3 and 16.4 it shall so notify in writing the Contractor at least ninety (90) days prior to the beginning of the Calendar Quarter concerned specifying the precise quantity that it wishes to receive in kind during said quarter".

(Law already attached.

<http://www.nefl.org.lr/doc/Act%20Adopting%20The%20New%20Petroleum%20Law.pdf>)

2°) Mineral Sector :

- Minerals and Mining Law 2000 :

Section 17.6 : "Government's right to receive royalties, taxes and dividends in kind. The government may require payment of all royalties, taxes and dividends in kind from all Class A licenses at the sole discretion of the Government".

(2000 Mineral and Mining Law already attached.

http://www.revenuewatch.org/training/resource_center/2000-minerals-and-mining-law-liberia)

Peer Review Comments:

Contracts and law allow for in-kind payment for hydrocarbons only, but since there is no production of hydrocarbons, there has been no in-kind payment to date.

2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score: A B C D **E**

Comments:

Oil sector: N/A : no oil is being produced yet.

References:

No information could be found regarding export sales from in-kind payments for minerals.
Oil: N/A: no oil produced yet.

2.1.019: What authority actually collects payments from resource companies?

Score: **A** B C D E

Comments:

There are two different payment processes for mineral and oil sector.

- According to available data, regarding the mineral sector, the Ministry of Finance seems to receive all payments, including licenses and royalties, except for one example of exploration licenses paid to the Ministry of Land Mines and Energy.
- Regarding Oil sector : the State Owned Company is the authority actually in charge of collecting taxes and sector specific payments.

NB / regarding oil sector, most important payments are made to the "hydrocarbon development fund", or are "social welfare contributions" or "contributions to university departments".

References:

1°) LEITI 3d report, published on December 22nd, 2011 :

Available online at : <http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp>

> See Annex VI : "Reconciliation per taxpayer", p.54. 'Reconciliation between amounts paid by extractive companies to specified government agencies and amounts received from extractive companies by specified agencies in the financial year ended 30 June 2010 : (p. 53)

1- Mineral sector :

Eg Arcelor Mittal p.60: > Profits tax, rents : paid to MoF (Ministry of Finance)

> Sector specific taxes: licenses, profit taxes, business registration, work permits : MoF

Global Mining. Sector specific: Class ABC Licenses MoF, Dealer License MoF, broker licenses MLME.

Deveton : Sector specific : Surface rental and exploration licenses: MoF

Golden Mass trading : Sector specific: Dealer License and Royalties : MoF

2- Oil sector examples:

> European Hydrocarbons Ltd /African Petroleum Ltd: Contribution via GOL to university dpts, Surface rentals, Social Welfare Contribution, Hydrocarbon Development Fund, annual training : to NOCAL

> international resources : [NB : unlike the others : Surface rentals = MoF, Annual training, Oil license fees and attendance fees to NOCAL

> Oranto Petroleum Liberia Ltd: idem for all> to NOCAL, + oil license fees also to NOCAL

> NOCAL : Common taxes and fees : to MoF (eg: contributions to Community, dividends to GOL, personal income withholding, and sector specific : surface rental : to MoF.

Peer Review Comments:

The government authority to which payments will be made in the hydrocarbons sector is not settled.














The majority of payments should be made to the MoF (consolidated fund), however the Petroleum Law requires some payments to be made to NOCAL.

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Liberia - RWI Index Questionnaire

Disclosure

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Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	30	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	42	
2.2A	Quality of reports	67	
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	33	
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	19	
2.2B	Quality of reports	50	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	N/A	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	N/A	
2.2C	Quality of reports	N/A	
2.2D.020	Does the Central Bank publish information on revenue generation?	44	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	5	
2.2D	Quality of reports	50	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	33	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	88	
2.2E	Quality of reports	67	
2.2	Public sector balance	100	

2.2A.020 Does the Ministry of Finance publish periodical information on revenue generation?

2.2A.020.a: Reserves

Score: A B C **(D)** E

Comments:

Nothing was found published by the Ministry of Finance regarding reserves. However, it is not part of its function to publish that information.

References:

1°) Annual Fiscal Outturns for 2008-2009, 2010-2011 are published on the Ministry of Finance website : <http://mof.gov.lr/content.php?sub=70&related=22&res=70&third=70>

2°) According to the Public Finance Management Act signed in 2009, Public Finance Management quarterly reports for 2010 and 2011, as well as 2010 annual progress reports are published on the Ministry's website : <http://mof.gov.lr/content.php?sub=110&related=22&res=110&third=110>

2.2A.020.b: Production volumes

Score: A B C D E

Comments:

Not published.

References:

See previous question: Ministry of Finance Fiscal Outturns and other documents published by the Ministry of Finance.

<http://www.mof.gov.lr/content.php?sub=70&related=22&res=70&third=70>

Peer Review Comments:

Central Bank of Liberia would be the government agency most likely to publish this information; though note that there is not much production at present to publish.

2.2A.020.c: Information on prices

Score: A B C D E

References:

Ministry of Finance publishes 2006-2007-2008-2009-2010-2011 Annual reports and 2010-2011 Quarterly Fiscal Outturns on its website : <http://mof.gov.lr/content.php?sub=70&related=22&res=70&third=70>

The annual reports (as well as Q1 2011-2012 Public Debt Management Report) contain general information as to prices' evolution and tendencies compared to world and domestic inflation.

Peer Review Comments:

Central Bank of Liberia (CBL) and MoF publish general price information.

2.2A.020.d: Value of resource exports

Score: A B C D E

Comments:

First, second and third quarter Debt Management Reports, Fiscal Year 2009-2010 do not mention anything on the value of exports, but Q1 2010-2011 Report mentions the value of exports in Table 1 : Selected Economic Indicators, p.7, but only as an aggregated data, i.e. no detail about the value of resource exports as such.

References:

Public Debt Management Reports are published on Ministry of Finance's website.
<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

Peer Review Comments:

The Central Bank of Liberia is a good source of information for exports. There is regular reporting (quarterly), though the level of detail and regularity of publication is not perfect.

2.2A.020.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

References:

1°) Fiscal Outturns reports : Ministry of Finance's Fiscal Outturn report for FY 2009-2010 mentions in "Investment spending", p. 39 the value of 2008-2009 and 2009-2010 global Capital Expenditure as fueled by important concession revenues. It does not however specifies whether such capital expenditure regards, and if so, in which proportions, exploration and development activities.
 NB / nothing about capital expenditures in 2010-2011 reports.

2°) Public Debt Management Reports :

DMU 1st quarter 2011-2012 report only mentions the value of total capital expenditure for 2010, 2011 and 2012 (p. 8)

(Documents already attached. <http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>)

2.2A.020.f: Production costs

Score: A B C **(D)** E

References:

1°) Fiscal Outturns Reports

2°) Public Debt Management Reports (see question 2.2 A019)

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.g: Names of companies operating in country

Score: **(A)** B C D E

Comments:

National and international companies operating in the country are mentioned throughout fiscal reports depending on agreements signed and revenues. However no exhaustive list of all companies operating in the country along with the assets they own has been found as for the Ministry of Finance.

References:

Fiscal Outturns Reports published by the Ministry of Finance generally provide information regarding contracts signed with operating companies in the country as well as revenues incurred from such agreements :

1°) 2010-2011 Fiscal Outturn Report p.6 > mentions the companies with which the Government of Liberia was supposed to sign Concession Agreements as well as revenue collected from operating companies, esp Chevron.

2°) idem for Q3 2010-2011 Fiscal Outturn Report

3°) idem for 2009-2010 Fiscal Outturn Report p.4, 5, 7 and 8. > Regarding deceived assumptions as to

revenues to be collected from various operating companies in the mining sector, namely China Union, HP Billiton and Western Cluster

3°) Q1 Fiscal Outturns Report 2009-2010 mentions the amount collected regarding operating companies' development funds, namely Arcelor Mittal, Bong Mines and Western Cluster
<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.h: Production data by company and/or block

Score: A B C **(D)** E

Comments:

The fiscal reports published by the Ministry Finance contain information regarding production trends as for all economic sectors, including mining sector, but does not provide disaggregated information for each company and/or block.

References:

> Idem:

1°) Annual and Quaterly Fiscal Outturn Reports

2°) Public Finance Management Reports

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A **(B)** C D E

Comments:

- Q1 2009-2010 Report mentions the amount of money considered as "adjusted appropriations" coming from Mittal, Bong Mines and Western Company for their respective "Community Development Funds". For Mittal the global amount dedicated to MIittal Community Development Fund is disaggregated according to regional sectors > Nimba, Bong, Grand Bassa, Nargibi.
- 2009-2010 Annual Report states the amount of money from Mittal and NOCAL funds appropriated, allotted, committed and spent by regions as well as the amount of money appropriated, allotted, committed and spent from Bong Mines Community Development Fund and Western Cluster Development Fund.
- The other reports available don't provide any information regarding quasi-fiscal activities.

References:

1°) 2009-2010 Fiscal Outturns Report:

> "Annex of Public Finance Tables", table entitled 'Detailed of expenditure performance' p.47

2°) Q1 (only quarterly report available for FY2009-2010) Fiscal Outturns Report 2009-2010:

> table 5.1.Fiscal Operations, Appropriation, Commitments and Cash p.32

NB: Other reports publish do not mention any quasi-fiscal activities.

2.2A.020.j Does the Ministry of Finance publish information on disaggregated revenue streams?

2.2A.020.j1: Production streams value

Score: A B C **(D)** E

Comments:

Some fiscal reports (as cited before: 2009-2010 Fiscal Outturns Annual Report and Q1 2009-2010 Report) mention revenues collected for operating companies by development funds. Major concessions

agreements when signed or supposed to be signed during the year/period reported are also mentioned.
- Table 7 from Q1 2009-2010 report goes into more details regarding "Fiscal Operations and Revenue performance" in the Mining Sector : One-time signature bonuses and surface rentals, Development Funds, Mining Royalties and License Fees, as well as, for Oil, NOCAL surface rental, are specified. Note that Q1 2009-2010 Report is the only report disaggregating revenue data according to economic sectors and within each sector, to specific revenue streams.

References:

> Ministry of Finance Quarterly and Annual Fiscal Outturns
> Ministry of Finance Public Finance Management Reports
<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.j2: Government s share in PSC

Score: A B C D **E**

Comments:

No PSC in the mineral sector.

References:

- 2009-2010 Fiscal Outturns Annual Report, Table 'Detail of expenditure performance', p. 47
- Q1 2009-2010 Fiscal Outturns report, Table 'Fiscal Operations - Appropriations, Commitments and Cash, p.32

Other reports don't provide any information regarding production sharing contracts.

2.2A.020.j3: Royalties

Score: A **B** C D E

Comments:

No reference to royalties in published documents except for Table 7: Fiscal Operations – Revenue Performance Analysis: Mining Sector p. 14. Refers to "Mineral Royalty" as calculated in the original annual budget, as in Q1 initial Proj; the revised proj. and the actual amount collected. Only report which includes disaggregated data regarding mineral sector.

References:

Same documents as preceding question.
<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C **D** E

References:

Same sources as preceding questions.
<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.j5: Dividends

Score: A B C **D** E

References:

Same documents as preceding questions

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

2.2A.020.j6: Bonuses

Score: A B C D E

Comments:

No disaggregated data provided in such table regarding the exact amount of bonuses collected. 2009-2010 Report (p.7) however mentions a bonus regarding the signature of a concession agreement with Bong Mines/China Union "for which only about half of the originally budgeted US\$ 43 million was realized during the course of the fiscal year." Such information approximately matches the figures mentioned in the quarterly report's table (40,000 stated in Annual Budget, (20,000 unit should be 1,000 USD, but not mentioned) in the Q1 proj., but nothing actually collected during the first quarter of the said year).

References:

Same documents as preceding questions.

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

One report mentions bonuses: Q1 2009-2010 Fiscal Outturns Report , table 7, 'Fiscal Operations – Revenue Performance Analysis: Mining Sector', p. 14, under the section " One-time signature bonuses and surface rentals", for China Union, HP Billiton and Western Cluster.

2.2A.020.j7: License fees

Score: A B C D E

Comments:

Only one report refers to license fees during the period 2009-2012 : Q1 2009-2010 Fiscal Outturns Report (already attached) mentions indicates on table 7 p.7 the amount of money collected as "license fees" (Gold, Diamond, etc.) for fiscal year 2008-2009. Please note that only the total amount collected is published in such report.

References:

Same sources as preceding questions

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

Esp. 2009-2010 Fiscal Outturn Report, p. 7 (already attached)

2.2A.020.j8: Acreage fees

Score: A B C D E

Comments:

Q1 Fiscal Outturns Report 2009-2010 is the only report mentioning Surface Rentals. See Table 7: Fiscal Operations – Revenue Performance Analysis: Mining Sector, p. 7, and Table 5.1:Fiscal Operations – Appropriations, Commitments and Cash, p. 25.

Table 7 mentions the amount of money collected from NOCAL as "Surface Rental AND Social Development Fund". > no specific data regarding surface rental is given here.

Table 5.1 mentions LAND SURFACE RENTAL TO COUNTIES - FIRESTONE AGREEMENT but does not

mention any amount.

References:

Same as preceding questions

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

More specifically : Q1 Outturns Report 2009-2010: Table 7, p.7 and table 5.1 p.25

2.2A.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

Comments:

According to the only report published by the Ministry of Finance that provides disaggregated data regarding mining sector, money is also collected for "Social and Development Funds and other revenues", (see Table 7: Fiscal Operations – Revenue Performance Analysis: Mining Sector, p.7) for oil (NOCAL) as well as for minerals (HP BiIlliton, Western Cluster, China Union and ArcelorMittal, along with "other SDF's have all paid for "social development").

References:

Same as preceding questions

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

Specifically: Q1 Report, Table 7, p.7

2.2A Quality of reports

2.2A.021: Are periodical reports containing information on revenue generation published by the Ministry of Finance understandable?

Score: A B C D E

Comments:

The reports published by the Ministry of Finance and containing information regarding revenue generation - though not providing disaggregated figures regarding natural resources' revenue, except for Q1 2009-2010 Fiscal Outturn Report - are quite clear, mention their sources and include narrative sections that put figures and results in perspective, and analyze positive findings as well as issues regarding past fiscal outturns. However they do not provide much information regarding methodology and above all do not mention simple definitions of the main concepts used, and thus may not be easily understandable for a broader public.

NB : Q1 2009-2010 Fiscal Outturn Report's simple table on "Fiscal Operations – Revenue Performance Analysis" in the Mining Sector is quite useful as a piece of information regarding resource revenue. Unfortunately such sectoral information were not mentioned in the other reports.

References:

Same as preceding questions

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

> Fiscal Outturns Reports (+ Public Debt Management Reports, Public Finance Management Progress Reports and National Budgets). All these reports are published on the Ministry of Land Mines and Energy's website : <http://mof.gov.lr/content.php?sub=110&related=22&res=110&third=110>

2.2A.022: How often are the periodical reports containing information on revenue generation published by the Ministry of Finance?

Score: A (B) C D E

References:

Quarterly, semi-annual and annual Fiscal Reports are published by the Ministry of Finance. However all of them are not available online : <http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

Eg for 2009-2010 : only Quarter 1 and Annual Reports are available

For 2010-2011 : Mid-Year Review, Quarter 3 and Annual report are published online. Ie Q1 is not available.

2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?

2.2B.020.a: Reserves

Score: A B (C) D E

Comments:

NB : NO report found for years 2010 and 2011. > most recent years reported so far are 2008 2009
 1°) Gold Reserves : "Mining Prospect and Development" page of the Ministry website states that "recent feasibility study confirmed the existence of over 1.5 million ounces of ore which will result in an operating mine that will process over 100,000-150,000 ounces of ore annually. The mine, to be named the New Liberty Gold Mine, will be the first industrial mining type in the Liberia, departing from the small-scale alluvial type operation that has over the decades characterized the extraction of the mineral." NB: The said page indicates that it was last updated in November 2008.

2°) Idem for Diamond potential on another webpage :

The United States Geological Survey (USGS) undertook to implement the program to determine the country's diamond potential. A report released on 2nd November 2006 which was prepared by Dr. Charles H. Thorman and Dr. Karin O. Hoal entitled Geological Assessment of Liberia's Diamond Producing Regions, Diamond Production Potential, & Review of Liberia's Production. Based on the findings presented herein, upon the lifting of sanctions, Liberia's diamond production by artisanal diggers could approach 200,000 carats per year, and continue to increase slowly into the future and might attain levels realized in Sierra Leone and other neighboring countries."

> Study has been made in 2006.

Nothing indicates a more recent study. Lack of information regarding diamond potential and production is justified on the website by the sanctions imposed in Liberia by the UN regarding Diamond, but those sanctions do not apply anymore.

3°) Mineral Potential Map of Liberia is more recent (April 2011) but does not provide any quantitative information.

NB : One of Liberia Geological Survey's missions, from the Ministry of Land Mines and Energy, is to provide "an assessment of the reserves of minerals" in the country. However no publication from Liberia Geological Survey was found. Liberia Geological Survey contacted for more information.

Website : <http://gis.mapsofworld.com/government/government-agencies/liberian-geological-survey-ministry-of-lands-mines-and-energy.html>

References:

> Ministry of Land Mines and Energy Website :

Gold :

<http://www.molme.gov.lr/content.php?sub=55&related=20&res=55&third=55>

Diamond :

<http://www.molme.gov.lr/content.php?sub=69&related=1&res=69&third=69>

Iron Ore dedicated webpage > dysfunction

> Mineral Potential Map of Liberia, dated April 2011:

http://www.molme.gov.lr/doc/Mineral%20Potential%20Map%20of%20Liberia_April2011_1.pdf

> Staff from the Ministry have been contacted. Waiting for answer

2.2B.020.b: Production volumes**Score:** A B C D E**Comments:**

- 2009 Report, p.vi, mentions the volume and value of diamonds extracted during the reporting year according to the Kimberley Process, ie only for export. Indeed it states that "the Government Diamond Office (GDO) processed fifty one KP Certificates with cumulative weight and dollar value at 19,092.64 carats and US\$ 7,420,270.31 respectively."

> Both Diamond and Gold Revenue intake are detailed according to monthly production in table 1 p. 53 "Royalty payment".

+ p.72 : "For the period under review, the Government Diamond Office processed sixty two(62) KP certificates with cumulative weight and dollar value at 27,012.31 carats and US\$8,529,402.76 respectively. Diamond revenue for the reporting period currently stands at US\$255,882.08."

NB : No information was found regarding other minerals' production volumes, whether gold (as disaggregated), iron ore or oil. Volume and value of gold export are mentioned though.

-2008 Annual Report Letter (report not published in full) : only gold exports volumes and value mentioned, as well as Kimberley Process Certificates and volume of diamond export induced.

References:

Ministry of Land Mines and Energy Reports and published documents

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

More specifically :

2009 Report p.vi

2.2B.020.c: Information on prices**Score:** A B C D E**Comments:**

2009 Annual Report :

- Prices for Diamonds and gold are published monthly for 2009

> See table 1 Royalty Payment p.53 > ie not disaggregated...

- Value of total amount of gold exported in 2009 as registered by the Gold Appraisal Office is mentioned p. 75

2008 Annual Report Letter

- p. IV : export volume and value for diamonds and gold.

References:

Same as preceding question

<http://www.mof.gov.lr/content.php?sub=74&related=22&res=74&third=74>

Esp. : 2009 Annual Report ,Table 1 p. 53 and 2008 Report p.IV

2.2B.020.d: Value of resource exports**Score:** A B C D E**Comments:**

2009 Report : p.vi, mentions the volume and value of diamonds extracted during the reporting year

according to the Kimberley Process, ie for export. Indeed it states that "the Government Diamond Office (GDO) processed fifty one KP Certificates with cumulative weight and dollar value at 19,092.64 carats and US\$ 7,420,270.31 respectively."

+ Diamond : "For the period under review, the Government Diamond Office processed sixty two(62) KP certificates with cumulative weight and dollar value at 27,012.31 carats and US\$8,529,402.76 respectively. Diamond revenue for the reporting period currently stands at US\$255,882.08." p. 72

+ Gold : "Up to date, gold export statistics confirmed a total of seventy-four (74) shipments with corresponding weight and US dollar value of 18,186.18 ounces and US\$13,385,776.56 respectively. Accrued revenue is US\$268,144.72." p.74

2008 Report annual letter :

> p.iv : total amount and approximate value of gold and diamond export.

References:

Ministry of Land Mines and Energy Reports and published documents
<http://www.molme.gov.lr/>

2.2B.020.e: Estimates of investment in exploration and development

Score: A B C D E

Comments:

- 2009 Report : Iron Ore Capex only mentioned :
- p. 47 : detail of iron ore projects being negotiated at the time of the report
- > Putu Range Company : estimated Capex USD 2 billions for an expected return of 20 millions tons of iron exported per year ;
- > "Kitoma & Goe Fantro iron ore deposits: Currently negotiating an MDA. Capital expenditure for the project is estimated at US\$1.5 billion, exports 15mn tpa".
- > Nimba (Guinea) iron ore: "estimated investment is USD1Billion".
- > Simandou Iron ore deposit: estimated investment USD2Billion

(2008 Report Letter : nothing regarding estimates of investment in exploration and development)

References:

Same as preceding questions, <http://www.molme.gov.lr/>
 Esp. 2009 Report, p.47
 See below for further details.

2.2B.020.f: Production costs

Score: A B C D E

References:

Same as preceding questions
<http://www.molme.gov.lr/>

2.2B.020.g: Names of companies operating in country

Score: A B C D E

Comments:

- 2009 Report : Though not providing a complete list of all companies operating in the country as such, 2009 Annual Report mentions all the mining companies that were granted an extension of their exploration licenses, as well as those which where denied such extension, and those which exploration

agreement/licence was cancelled due for non-compliance with the terms of Agreement. The report also mentions mining companies that were granted a MDA (Mining Development Agreement) during reporting year. See report p.15-17. Are also mentioned oil companies which signed PSC contracts with GOL during the reporting year (Anadarko, Hong-Kong Tongtai, "an American company" (supposedly Chevron). See report p. 60-61.

- 2008 Report letter : mentions mining companies with which GOL was negotiating at the time of the report. Oil companies that operate offshore are also mentioned (eg Oranto Petroleum Ltd, Anadarko, Hong-Kong Tongtai Petroleum International Company. See Report Letter p.i, iii, vi.

References:

Same as preceding question

Esp. 2009 Report p. 15-17 and 60-61

<http://www.molme.gov.lr/doc/Microsoft%20Word%20-%20Annual%20report%202a.pdf>

2.2B.020.h: Production data by company and/or block

Score: A B C D E

References:

Same as preceding question

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.j Does the Ministry of the extractive sector publish information on disaggregated revenue streams?

2.2B.020.j1: Production streams value

Score: A B C D E

Comments:

2009 Report:

- nothing regarding iron ore or oil production streams.
- Gold and diamonds : value of exports is mentioned (see report p.72) > ie not production streams as such. Idem for gold, p.74.

2008 Report Letter:

- nothing regarding oil and iron ore production streams
- Gold and diamond : states volume and appraised value for gold and diamond export during the reporting year. See report p. iv.

(In both report global revenue intake for Gold and Diamond are mentioned as a total amount : see 2009 Report Table 12.C and 2008 Report letter p.viii)

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

Peer Review Comments:

Nothing on iron ore or petroleum production streams because iron ore did not begin producing until September 2011 and there is no petroleum production (or even proven reserves at this point).

2.2B.020.j2: Government s share in PSC

Score: A B C D E

Comments:

No PSC in the mineral sector.

References:

Same as preceding questions

Peer Review Comments:

The PSCs are public (published on the LEITI website) and the government's share is specified therein.

2.2B.020.j3: Royalties

Score: A B C D E

Comments:

- 2009 Report :

Diamond and gold royalties are mentioned as a 3% rate on sales value and as collected on a monthly basis: see Table 1. Royalty Payment, p. 53 ; as well as figures 12a, 12b and 12c p.52,54 and 55 for 2% and 3% Royalties. Please note that those figures are said to "include intake or mining related fees and royalty both paid on gold and diamond".

- 2008 Report Letter : Table of contents mentions exports royalty figures for gold and diamond p.85 but report is incomplete.

References:

Ministry of Land Mines and Energy reports and published documents

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

Esp. 2009 Report p.53

2.2B.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.j5: Dividends

Score: A B C D E

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.j6: Bonuses

Score: A B C D E

References:

Same as preceding questions

2.2B.020.j7: License fees

Score: A B C D E

Comments:

In MLME Reports "revenue intake" figures include license and acreage fees but do not mention any disaggregated data regarding those two revenue streams.

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.j8: Acreage fees

Score: A B C D E

Comments:

MLME Reports mention a total "Revenue intake", including license and acreage fees, but does not provide disaggregated data regarding such revenue streams.

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B Quality of reports

2.2B.021: Are periodical reports containing information on revenue generation published by the Ministry of the extractive sector understandable?

Score: A B C D E

Comments:

Reports published are quite clear, explain reporting year operations and results while analysing general trends and results, and provide useful context. However they do not include definitions of concepts used, and could be more precise on the origins of their sources/figures and methodology used.

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2B.022: How often are the periodical reports containing information on revenue generation published by the Ministry of the extractive sector?

Score: A B C D E

Comments:

Only one full report was found published online : 2009 Annual Report. 2008 Annual Report Letter only contains an Introduction and the table of contents of the said report. Ministry of Land Mines and Energy was contacted in order to verify whether other reports have been published since then. (pending)

References:

Same as preceding questions

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>

2.2C.020 Does a Regulatory Agency publish information on revenue generation?

2.2C.020.a: Reserves

Score: A B C D E

References:

There is no regulatory agency for the mining sector as such outside the Minister of Land Mines and Energy.

2.2C.020.b: Production volumes

Score: A B C D E

References:

N/A

2.2C.020.c: Information on prices

Score: A B C D E

References:

N/A

2.2C.020.d: Value of resource exports

Score: A B C D E

References:

N/A

2.2C.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

N/A

2.2C.020.f: Production costs

Score: A B C D E

References:

N/A

2.2C.020.g: Names of companies operating in country

Score: A B C D E

References:

N/A

2.2C.020.h: Production data by company and/or block

Score: A B C D E

References:

N/A

2.2C.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

N/A

2.2C.020.j Does a Regulatory Agency publish information on disaggregated revenue streams?

2.2C.020.j1: Production streams value

Score: A B C D E

References:

N/A

2.2C.020.j2: Government s share in PSC

Score: A B C D E

References:

N/A

2.2C.020.j3: Royalties

Score: A B C D E

References:

N/A

2.2C.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

N/A

2.2C.020.j5: Dividends

Score: A B C D E

References:

N/A

2.2C.020.j6: Bonuses

Score: A B C D E

References:

N/A

2.2C.020.j7: License fees

Score: A B C D E

References:

N/A

2.2C.020.j8: Acreage fees**Score:** A B C D E**References:**

N/A

2.2C.020.j9: Other (Explain in 'comments' box.)**Score:** A B C D E**References:**

N/A

2.2C Quality of reports

2.2C.021: Are periodical reports containing information on revenue generation published by the Regulatory Agency understandable?**Score:** A B C D E**References:**

N/A

2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?**Score:** A B C D E**References:**

N/A

2.2D.020 Does the Central Bank publish information on revenue generation?

2.2D.020.a: Reserves**Score:** A B C D E**Comments:**

Foreign exchange reserves are mentioned in CBL Annual reports but the quantity of oil gas and minerals estimated to be recoverable under existing economic and operating conditions is not mentioned.

References:

Central Bank Reports published :

> Central Bank annual reports 2010-2009-2008

http://www.cbl.org.lr/annual_reports.php?sub=annuals

> Central Bank Financial Statistical Report

http://www.cbl.org.lr/lrf_reports.php?sub=reports - 2010 2009 bimonthly reports, 2008 June August,

October and November-December Reports

> http://www.cbl.org.lr/lrf_reports_details.php?record_type=External%20Trade

> Major economic indicators (monthly) 2011

http://www.cbl.org.lr/major_indicator.php?sub=major

2.2D.020.b: Production volumes

Score: A B C D E

Comments:

For production volumes for gold and diamond, see:

> 2008 Report: table 15 Key Industrial Output, 33

> 2009 Report: Table 14 Key Industrial Output, p.31

> 2010 Report: Table 4 Key industrial Output, p.25

References:

Same as preceding question

<http://www.cbl.org.lr/>

Peer Review Comments:

The Financial and Economic Bulletins include all major commodities.

2.2D.020.c: Information on prices

Score: A B C D E

Comments:

> International Commodity prices' as well as Consumer prices' trends are mentioned in the CBL reports, including imported fuel prices.

Prices and their evolution throughout the year for commodity market products such as oil and gold are mentioned in 2009 and 2010 reports

> 2010 Report : p. 3 Commodity Market, Oil and Gold prices (gold "reaching USD1,350 per ounce in November of 2010).

> 2009 Report p.3 Commodity Market, Oil and Gold prices

NB / Nothing found regarding diamond prices.

References:

Same as preceding questions

<http://www.cbl.org.lr/>

See below for further details

Peer Review Comments:

FOB prices are in the Financial and Economic Bulletin

2.2D.020.d: Value of resource exports

Score: A B C D E

Comments:

Value of gold and diamond exports is mentioned and analyzed in all CBL Annual Reports :

> 2008 report: p.39, and Table 21 ("Commodity Composition of exports in Millions USD - 2006-nov 2008), Chart 10 (idem), p. 40.

> 2009 report: p.35, Table 18 ("Commodity composition of exports in Millions USD - 2007-nov 2009),

chart 10 (idem), p.36

> 2010 report: . table 17 and chart 10 (Commodity composition of exports in Millions USD - 2008-2010) p. 40

References:

Same as preceding questions
<http://www.cbl.org.lr/>
(see below for more details)

2.2D.020.e: Estimates of investment in exploration and development

Score: A B C D E

References:

Same as preceding questions

2.2D.020.f: Production costs

Score: A B C D E

References:

Same as preceding questions

2.2D.020.g: Names of companies operating in country

Score: A B C D E

Comments:

Very few companies operating in the energy sector are mentioned. Certain names appear throughout mining sector analysis during reporting year.

Ie :

2008 report: China Union selected for Bong Range Iron Ore project p.33

2009 report: same case again, p. 30

2010 report: Mittal Steel p.24

References:

Same as preceding questions
http://www.cbl.org.lr/annual_reports.php?sub=annuals
See below for further details

2.2D.020.h: Production data by company and/or block

Score: A B C D E

References:

Same as preceding questions

2.2D.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j Does the Central Bank publish information on disaggregated revenue streams?

2.2D.020.j1: Production streams value

Score: A B C D E

References:

http://www.cbl.org.lr/lrf_reports.php?sub=reports
Production output value is mentioned for gold in CBL Financial Statistics reports
> see 2008 report : 2.4 a Key output value for years 2006 2007 and 2008, p.34-37
(Most recent statistical report available)

2.2D.020.j2: Government s share in PSC

Score: A B C D E

Comments:

No PSC in the minerals sector.

References:

Same as preceding questions

Peer Review Comments:

Not published because there is no production for there to be a production share to disclose.

2.2D.020.j3: Royalties

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j5: Dividends

Score: A B C D E

References:

same as preceding questions

2.2D.020.j6: Bonuses

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j7: License fees

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j8: Acreage fees

Score: A B C D E

References:

Same as preceding questions

2.2D.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Same as preceding questions

2.2D Quality of reports

2.2D.021: Are periodical reports containing information on revenue generation published by the Central Bank understandable?

Score: A B C D E

Comments:

1°) CBL Annual reports, though not providing the common reader with definitions of concepts used, is quite clear and informs through narrative sections and figures that can be understood and useful to both specialized and non specialized public.

2°) CBL Financial statistics reports are only statistical data compiled and presented by a one page introduction. Not meant to be easily understood for general public.

References:

Same as preceding questions

<http://www.cbl.org.lr/>

2.2D.022: How often are the periodical reports containing information on revenue generation published by the Central Bank?

Score: A B C D E

Comments:

1°) CBL Annual Reports are published ..annually. 2008, 2009 and 2010 reports available.
2°) CBL Financial Statistics report : 2008 report is the only full report published to date. some information contained in the said full report are also mentioned in separate documents for 2006, 2007 and 2008.

References:

Same as preceding questions

2.2E.020 Does any other government agency or entity publish information on revenue generation?

2.2E.020.a: Reserves

Score: A B C D E

Comments:

LEITI reports will be studied here and for the following questions. No information on reserves

References:

> See LEITI Report for 2007-2008 :
- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
- Summary : <http://www.leiti.org.lr/doc/report.pdf>
LEITI 2ND Report 2008-2009 :
- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
- 2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>
LEITI 3d Report 2009-2010 :
<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.b: Production volumes

Score: A B C D E

Comments:

No information on production volumes.

References:

LEITI Report for 2007-2008 :
- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
- Summary : <http://www.leiti.org.lr/doc/report.pdf>
LEITI 2ND Report 2008-2009 :
- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
- 2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>
LEITI 3d Report 2009-2010 :
<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.c: Information on prices

Score: A B C **(D)** E

Comments:

No information on prices of any product received or sold by the government.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>

- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf

-2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.d: Value of resource exports

Score: A B C **(D)** E

Comments:

Not published

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>

- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf

-2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.e: Estimates of investment in exploration and development

Score: A B C **(D)** E

Comments:

Not published.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>

- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf

-2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.f: Production costs

Score: A B C **(D)** E

Comments:

Not published.

References:

LEITI Report for 2007-2008 :
 - First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
 - Summary : <http://www.leiti.org.lr/doc/report.pdf>
 LEITI 2ND Report 2008-2009 :
 - for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
 -2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>
 LEITI 3d Report 2009-2010 :
<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.g: Names of companies operating in country

Score: A B C D E

Comments:

- 1) Each report states all the companies that have made payments to the Government of Liberia during the reporting year
- 2) an updated contact list of all companies mentioned by the GOL is published on LEITI website.

References:

LEITI Report for 2007-2008 :
 - First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
 - Summary : <http://www.leiti.org.lr/doc/report.pdf>
 LEITI 2ND Report 2008-2009 :
 - for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
 -2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>
 LEITI 3d Report 2009-2010 :
<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.h: Production data by company and/or block

Score: A B C D E

Comments:

Reports provide financial data on individual companies.

References:

LEITI Report for 2007-2008 :
 - First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
 - Summary : <http://www.leiti.org.lr/doc/report.pdf>
 LEITI 2ND Report 2008-2009 :
 - for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
 -2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>
 LEITI 3d Report 2009-2010 :
<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D E

References:

LEITI 1st report: mentions the contributions made by Arcelor Mittal to the Scientific Development Fund received by the Ministry of Land, Mines and Energy, (see p. 11 and 41) as well as, in tables listing taxes

and fees, contributions made by operating companies to Hydrocarbon Development Fund, Mineral Development Research Fund, p 17. See also payments by company p. 29:
<http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp>

LEITI 2nd report:

> see "reporting by tax category" p.18

> See annex 2, "Amounts paid by taxpayer - by sector", p. 28-42 (mineral research and development fund, hydrocarbon development fund, etc.)

> Annex 4 - "Reconciliation by taxpayer" p. 47-53

LEITI 3d report: :

> see Annex I Amounts paid by taxpayer - by sector p.33-45

> Annex VI - Reconciliation per taxpayer p. 54-180

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.j Does any other government agency or entity publish information on disaggregated revenue streams?

2.2E.020.j1: Production streams value

Score: A B C **(D)** E

Comments:

Not published.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>

- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf

-2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.j2: Government s share in PSC

Score: A B C D **(E)**

Comments:

No PSC in the mineral sector.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>

- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf

-2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

2.2E.020.j3: Royalties

Score: (A) B C D E

References:

- LEITI Reports mention the amount of royalties paid to the Government of Liberia: 1°) First Report :
 > see p. 17 "Taxes and Fees"
 > see p. 28 : Appendices : summary of payments and receipts fo the companies that lodged reports
 2°) 2nd Report :
 > see 3.2. Reporting by tax category p. 18 > aggregated amount received by GOL
 3°) 3d Report :
 > see 3.2 by tax category p. 20
 > see annex I p. 33-40
 > see Annex VI Reconciliation per taxpayer). 54-180
-

2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: (A) B C D E

References:

- Excise taxes are mentioned in the reports either when revenues are ordered by tax category or by company.
 Report I :
 > see p. 17 USD Payment/receipts - tax and fees
 > see Appendices p.28 : "summaries of reported payments and receipts for the thirty companies that lodged reports" p. 28 (> p. 37 and 43)
 Report II :
 > see Reporting by tax category p.18,
 > see Annex 2 p.28
 Report III
 > see 3.2 : Reporting by tax category p. 21 (item 7)
 > see Annex I p. 33-40
 > see Annex VI "Reconciliation per taxpayer" p. 54-180
-

2.2E.020.j5: Dividends

Score: (A) B C D E

References:

- > Dividends classified as item 7
 1°) Report I:
 > USD Payments and receipts, Other Receipts p. 18 > Dividends to GOL
 > p. 28 Appendices : summaries of reported payments > Dividends (NOCAL p.30)
 2) IInd Report:
 > 3.2 Reporting by tax category p. 18 > other payments > dividends to GOL; withholdings > dividends
 3°) IIIId Report
 > p. 21 3.2. Reporting by tax category
 > Annex 2 p. 28 : Amounts paid by taxpayer - by sector
-

2.2E.020.j6: Bonuses

Score: (A) B C D E

References:

> #1 Item in reports

Ist Report:

> p. 17 Taxes and fees

> Appendices p. 28 "Summaries of repeated payments and receipts for the thirty companies that lodged reports" > p. 39

IId Report

> 3.2 : Reporting by tax category p. 18

IIId Report :

> 3.2. Reporting by tax category p.20 Annex VI

2.2E.020.j7: License fees

Score: A B C D E

References:

> Mineral License fees (Class A B and C licenses, dealer export licenses, precious minerals license, exploration fees) mentioned in LEITI reports :

Ist Report :

> see USD Payments and receipts, Taxes and fees, p.17

> see Appendices : "Summaries of reported payments and receipts for the thirty (30) companies that lodged reports" p. 28

IInd Report

> see USD Payments and receipts, taxes and fees, p. 18

> see Annex 2 - Mineral Sector p. 37 and oil license fees p. 42

> see Annex 4 Reconciliation sheet p.80

IIInd Report

> see 3.2 Reporting by tax category p. 21

> see Annex I: Amounts paid by taxpayer -by sector, p. 33 -40

> see Annex VI- Reconciliation per taxpayer p. 54-181

2.2E.020.j8: Acreage fees

Score: A B C D E

References:

Surface rentals mentioned in all reports

Same sections as preceding question.

2.2E.020.j9: Other (Explain in 'comments' box.)

Score: A B C D E

References:

Other payments mentioned in the reports :

> Administrative fees and fines

> sector specific payments : GIS maps, Surveying fees and ID Cards fees.

2.2E Quality of reports

2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?Score: A B C D E**Comments:**

Reports are quite clear, sources and methodology carefully explained. Maybe one thing that could help broader public comprehension would be to include definition of the technical words concepts used.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
- 2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

Peer Review Comments:

The EITI reports are thorough in providing disaggregated revenues for those companies that report.

2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?Score: A B C D E**Comments:**

LEITI reports are published on an annual basis.

References:

LEITI Report for 2007-2008 :

- First Reconciliation Report : <http://www.leiti.org.lr/doc/LEITIADMINISTRATORSREPORT01.pdf>
- Summary : <http://www.leiti.org.lr/doc/report.pdf>

LEITI 2ND Report 2008-2009 :

- for web (summary) : http://www.leiti.org.lr/doc/leiti_report_forweb.pdf
- 2d reconciliation report : <http://www.leiti.org.lr/doc/LEITI2ndReconciliationFinalReport.pdf>

LEITI 3d Report 2009-2010 :

<http://www.leiti.org.lr/doc/LEITI3rdReport1.pdf>

Peer Review Comments:

LEITI aspires to report annually though delays have occurred.

2.2 Public sector balance

2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?Score: A B C D E**Comments:**

No SOC in the mineral sector so this question is answered N/A.

For the oil sector and NOCAL, the answer is D:

Fiscal year 2010-2011 Report, Appendix 1 - Ministry and Agency Performance p. 44.
 Fiscal year 2009-2010 Report, Detail of expenditure performance covering the period July 1, 2009 - Sept 30, 2010, p. 47

> In 2009-2010 Report: capital transfers regarding NOCAL for Grand Bassa, Sinoe, Rivercess, Montserrado and maybe Bong Mines and Western Cluster Community Development Funds are mentioned, as well as social contribution to Rivercess,
 > 2010-2011 Report: nothing was found about NOCAL.
 => There is some information published by the Ministry of Finance about NOCAL's revenues and their impact within the Government's overall budget and expenditure performance, but such information is incomplete and NOCAL financial balance does not seem to be published.

References:

Fiscal Outturn Reports by the Ministry of Finance ("prepared in accordance with Section 36.4 of the Public Financial Management (PFM) Act, which requires that the Minister of Finance provides a report to the President, the Legislature and the general public outlining the budget execution and the revenue collections.").

2.2.024: Does the government include projections of transactions, accounts of actual spending by the natural resource funds, and their assets and liabilities, within the public sector balance or overall balance of general government in reports to the legislature?

Score: A B C D **E**

Comments:

No special funds for natural resources as such.

References:

> Same as preceding question
 > Report of the Auditor General on the National Oil Company of Liberia for fiscal years 2006-2007, 2007-2008, John S. Morlu.

2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?

Score: **A** B C

Comments:

> Budget Framework Paper (as established by 2009 PFM Act, section 12) takes into account the drawbacks of including "contingent revenues" coming from natural resources in the overall budget > eg one-off concession payments of large amounts (eg China Union payments of USD19,6 Million for FY2009-2010) that can and have been delayed
 See p. 22 > Core Budget (with core revenues excluding grants and one-off concession payments) vs Project Budgets (financed by grants and one-off concession payments) + according to Section 13 of the PFM Law the creation of a Contingency Fund (<5% of National Budget, for "urgent and unforeseen expenditures")
 Revenue projections separate other tax revenues and one-off concession payments. However it is said in the BFPaper that those concession payments "continue to provide important support for the budget with the second half of a \$40million concession payment coming in 2010-2011 from China Union for instance (see p. 33)
 NB : in the "core budget revenues" listed in Table 5.3.1 p. 35, social development funds revenues are not separated from other earmarked revenues whereas they come from resource related (though indirectly) activities.
 Furthermore the Project Budget revenues for 2010-2011 are to be partly transferred to the Core Budget (USD 46,6 Millions out of USD 83,9 Millions).

FY2009-2010 Budget: Revenues from One-off concession payments stated as "extraordinary revenue",

p.1 (see on MOF website, document's size exceeds 10M)

References:


See 2009 Public Finance Management Act,
Budget Framework Paper of April 2010 published in May 2010 on MOF's website as well as Budget Act
for FY2010-2011 and FY2009-2010 published on MOF's website in november, 2010 :
<http://www.mof.gov.lr/content.php?sub=67&related=21&res=67&third=67>

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Legal Framework and Practices

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Indicator	Score
2.3 Legal Framework and Practices	86 

2.3 Legal Framework and Practices

2.3.026: In the legal framework, what government agencies have authority to collect taxes and payments from resource companies?

Score: A B C D E

Comments:

Oil sector :

> Law establishing the National Oil Company of Liberia, section 6. Capitalization: "Operational and development funds for the Corporation shall be raised by the Corporation through its normal corporate activities including license fees, loans, financial and capital market strategies, and other appropriate arrangements". > Oil license fees, surface rentals + Hydrocarbon Development Fund's, Annual training and Social Welfare contribution are paid to NOCAL. NB / on Leiti Reports, only source publicly available, oil surface rentals sometimes indicated as paid to Ministry of Finance (see Report 2011 p. 114, "International Resource Energy Strategy Liberia Incorporated) sometimes by NOCAL (African Petroleum, p.106) Business registration, personal income withdrawals, etc. are paid o to Ministry of Finance.

Mining sector :

> Payments made to Ministry of Finance
> exceptions : dealer licenses and royalties (see 3d LEITI Report p.132, CICA, Comptoir de Diamant du Libéria, p. 133, p. 144, Class ABC Licenses p. 133, Royalties p. 137, p. 144, etc.)
> MDA Model agreement only mentions payments are to be made "to the government"

References:

> Oil sector :
- New Petroleum Law 2009
- 2000 Law establishing the National Oil Company of Liberia

> Mineral sector:
- 2000 Mineral and Mining law: chapter 17 Fiscal Provisions: does not explicitly mention that payments must be made to the ministry of finance.
- 2009 Annual Report -x (already attached)
> LEITI Reports. See below for further details.

Peer Review Comments:

The Public Finance Management Act 2009 and the Revenue Code and Consolidated Tax Amendment 2010 require nearly all payments to go to the Consolidated Fund/Account which is managed by the Ministry of Finance.

2.3.027: Are all resource related revenues, including those collected by state owned companies, regulatory agencies, ministries, special funds or by the tax authority placed in the national

treasury?**Score:** A B **C** D E**Comments:**

- Curse or cure report p. 11 mentions "NOCAL's account" as well as the GAC Report p. 3

- The GAC Report as well as Curse or Cure report mention acts of bribery - "Lobbying fees" paid from NOCAL to... Legislators themselves in a recent past, with money borrowed by LPRC (another state-owned company) and not declared to Legislature...(Hence Recommendation section 26 p.v of the Auditor regarding "inter-government borrowing"; Section 40 of the GAC Report also mentions an excess payment of US\$76,604.56 paid by the Government to NOCAL since its creation in 2000, that "was not reflected in the financial statements"

Section 48 p.ix: "The non compilation of bank reconciliation statements indicated that irregular dealings of the Company through the Bank may not be promptly uncovered".

Section 53 p. ix "Three bank accounts maintained by NOCAL at Eco bank for 2006/2007 fiscal year indicated that NOCAL had total revenue collection of US\$ 1,059,185,61 as opposed to the US\$ 742,339,92 reported in the 2006/2007 income statement.

Etc.

References:

- Curse or Cure Report - Global Witness - September 2011

- Report of the Auditor-General on NOCAL 2007-2008

Peer Review Comments:

The Revenue Code and Consolidated Tax Amendment of 2010 and the Public Finance Management Act of 2009 are still being implemented. Once they are, most of the payments will go to the national treasury.

2.3.028: Are government officials with a role in the oversight of the oil, gas or mining sector required to disclose information about their financial interest in any extractive activity or projects?**Score:** **A** B C**Comments:**

Government officials are not required to disclose information regarding their financial interests in extractive activities or projects.

> The Liberia Anti-Corruption Commission, set up by the Anti-Corruption Act of August 2008, published and "assets and liabilities" form by which it "required" all major government officials to declare and publish their revenues.

> In 2010 it issued a 10 points anti-Corruption Measure for Public Officials, which is said to "have been endorsed by the Government of Liberia". Among those ten points, "4 states that "Nominees should accept to comply with LACC Income, Assets and Liabilities Declaration regime as a condition precedent for appointment, and bi-annually (once every two years) thereafter."

No legal obligation though, nor does the said form requires to mention the origin of dividends.IE intended for all officials, not those related to Extractive Energies activities.

> According to Law Government officials cannot a) be holders of any license agreements regarding mining operations (which does not mean that they can not have a financial interest in operating companies) and b) be "the holder or BENEFICIARY of a petroleum operation or contract" > petroleum law more precise regarding financial interests.

> as for financial interests government officials may have in mining operations or activities: it is not said in the said laws that they should disclose information about their financial interests in such mining operations.

References:

2000 Mineral and Mining Law states in section 4.2 "Persons not eligible for mineral rights",ie holders of

mining licenses, including government officials.

> not about financial interests.

2002 New Petroleum Law section 2.4.8 p. 12 states that "Excluding state own(ed) corporation, no Public Official or a contracting party or an agent of stat(e) owned corporation shall hold a direct or indirect interest in the petroleum operations, nor may he/she be the title holder or beneficiary of a petroleum operation or contract".

+ According to Secrecy Jurisdictions' document on Liberia, ("Mapping Financial Secrecy - Report on Liberia", published on October 4th, 2011 by Tax Justice Network) question 4 p.3:

"Liberia does not require that ownership of companies is put on public records". (NB does not mention the case of public officials' ownership)

Peer Review Comments:

Executive order #38 passed in early 2012 requires disclosure of financial assets to the Liberia Anti-Corruption Commission by all Government officials.

2.3.029: Is there independent external validation of internal controls of agencies in charge of receiving payments from resource companies with the objective of providing assurances of integrity of public funds and sound financial management?

Score: (A) B C D E

Comments:

Important steps have been made towards an independent control of resource revenues in Liberia, in particular the General Audit Commission report on MLME following LEITI Report, and its report on NOCAL. Both are publicly available, have been welcomed by non governmental third parties for their analysis, have pointed out major failures in revenue transparency, and provided recommendations in order to improve transparency in revenue management.

Reports issued by the General Auditing Commission regarding natural resources:
in 2012:

- Bong County ArcelorMittal Social Development Fund for the period 1 April 2009 - 30 september 2009;
- Nimba County and

- Grand Bassa County ArcelorMittal Social Development Funds for the period May-September 2009

- On the Liberia Petroleum Refining Company - Monrovia Oil trading Corporation "Debt" settlement - 2011:

- Assessment and collection of revenue from Entities within the Extractive Industry - Liberia - FY2009-2010

2010:

- GAC HIPC Report on Ministry of Land Mines and Energy, FY2007-2008

+ regarding GAC's first Audit on the Ministry of Land Mines and Energy : Global Watch's opinion:

"The 2006/2007 audit conducted by the Auditor General, John Morlu, is the first to be carried out in 25 years and forms part of the Heavily Indebted Poor Countries (HIPC) initiative. The Auditor General's rigorous investigation of government finances is, in itself, a significant step forward in Liberia's efforts to strengthen governance, for which the government should be congratulated. However, his findings make for sobering reading. The audit report identifies a range of serious irregularities, not least the failure of three officials to account for US\$862,000 in missing government funds for which they were responsible. The audit also highlights the Ministry's lack of a functional inspectorate unit - a critical component in the government's oversight of the Ministry's management of gold and diamond mining and its implementation of the Kimberley Process."

References:

- see General Auditing Commission website:

<http://gacliberia.com/content.php?sub=124&related=1&third=124&pg=sp>

- > Report on MLME attached

- > Report on NOCAL already provided

- Curse or Cure Report mentioning GAC Report on NOCAL

- Global Watch opinion of GAC's first audit of the Ministry of Land Mines and Energy:

<http://www.globalwitness.org/library/campaigners-warn-lack-financial-controls-liberian-ministry-lands->

mines-and-energy-threatens

2.3.030: Does the national audit office (or similar independent organization) report regularly to the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?

Score: A B C D E

Comments:

All GAC Audit Reports are published and publicly available.

- MLME has only been audited once by the GAC so far. Its report for FY2007-2008 was released on July 31st, 2009 according to Global Witness (see: <http://www.globalwitness.org/library/campaigners-warn-lack-financial-controls-liberian-ministry-lands-mines-and-energy-threatens>) but the copy available on GAC website is dated February 2010.

- NOCAL has only been audited once by the GAC so far. Its report for FY2006-2007 and 2007-2008 available on GAC website is dated 20th April 2011.

References:

See preceding answer (<http://gacliberia.com/content.php?sub=129&related=26&third=67&pg=tp>)

2.3.031: Does a Parliamentary committee scrutinize reports on resource related revenues and, if so, when does this occur?

Score: A B C D E

References:

No information found online.

> Parliament : Jarlawah A. Tonp, director of Press and Public Affairs contacted via email

> GAC: contacted via email - oag@gacliberia.com; tjveikai@gacliberia.com; communications@galiberia.com

> However most of Mineral agreements and PSContracts are ratified by the Parliament

Peer Review Comments:

There is a parliamentary Committee on Lands, Natural Resources and Environment

(<http://legislature.gov.lr/node/198>) which scrutinizes these resources revenues and contracts in a timely manner.

2.3.032: Is this country an EITI candidate or compliant country?

Score: A B C D E

References:

> see LEITI Website :

www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp
and in particular :

> LEITI Proclamation, #7 of LEITI Key documents

<http://www.leiti.org.lr/2content.php?sub=96&related=62&third=96&pg=sp>

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Indicator		Score
3.1.1	Context	56 

3.1.1 Context

3.1.1.033: Is there a state-owned company? If so, what is its role in the extractive sector?

Score: A B C D E

Comments:

1) Mineral Sector: no state-owned company.

2) Oil sector :

> NOCAL is a state owned company and represents the Government of Liberia for all oil related upstream activities, among which negotiations of contracts with private companies. It is therefore dominant in the oil sector.

> Purpose and Functions of the National Oil Company of Liberia according to the 2000 Law establishing NOCAL: "Section 3. Purpose: The Corporation is established for the purpose of holding all of the rights, title and interest of the Republic of Liberia in the deposits and reserves of liquid and gaseous hydrocarbons within the territorial limits of the Republic of Liberia, whether potential, proven, or actual with the aim of facilitation the development of the oil and gas industry in the Republic of Liberia. Section 5. Function: To implement the purpose for which the Corporation is established, the Corporation shall (among others) have the following functions: (b) To undertake and/or facilitate the exploration of established deposits of liquid and gaseous hydrocarbons in Liberia, where economically feasible, through the negotiation and conclusion, subject to approval as otherwise herein provided, of appropriate agreements, loans financing, and exploration arrangements with potential investors and other relevant parties, entities, corporations, or foreign governments, in collaboration with the relevant ministries and agencies of the Government of Liberia. All such agreements and arrangements shall require the final approval of the President of Liberia."

References:

An act adopting the New Petroleum Law approved June 7, 2002 and published by the Ministry of Foreign Affairs July 2, 2002

An act establishing the National Oil Company Law on April 20, 2000

Peer Review Comments:

Regarding the monopoly question, the New Petroleum Law (2002) requires that NOCAL have a 20% participating interest in each block, though in fact that has not always occurred under the PSCs signed to date.

3.1.1.034: How is government ownership of resource companies structured in this country?

Score: A B C D E

Comments:

1) Oil sector: the National Oil Company established in 2000 for purposes and with functions detailed previously, is 100% owned by the government of Liberia.

2) Mineral Sector: no state owned company.

References:

Oil sector: same as preceding question

Mineral Sector:

- Mineral and Mining Law

- US-GS 2009 Report "The mineral Industry of Liberia":

<http://minerals.usgs.gov/minerals/pubs/country/2009/myb3-2009-li.pdf>

- Ministry of Land, Mines and Energy Annual Reports - 2008 and 2009 (seen before:

<http://www.molme.gov.lr/content.php?sub=14&related=7&res=14&third=14>)

- LEITI reports (seen before: [http://www.leiti.org.lr/2content.php?](http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp)

[sub=48&related=62&third=48&pg=sp](http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp))

Peer Review Comments:

NOCAL is 100% owned by the state, and by law should have a 20% interest in all petroleum activities but in fact this has not been enforced uniformly.

3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?

Score: A B C

References:

See sources previously cited > Law establishing NOCAL as state-owned company, 2002 New Petroleum Law, 2000 Mineral and Mining Law

Peer Review Comments:

It may be worth noting here that the New Petroleum Law (2002) requires that citizens have a participating interest of 10% in all petroleum activities but this interest is supposed to be at fair market value. This legal mandate has not been enforced to date.

3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?

Score: A B C

Comments:

NOCAL is in charge of collecting contributions for Social Welfare Contribution, and for the Hydrocarbon Development Fund. See LEITI 3D Report, Annex VI, Reconciliation per taxpayer, p.54

New Petroleum Law section 10.18 – Petroleum Action Funds: Petroleum Action Funds shall be established to promote research, training and development in hydrocarbon and other energy resources. The Petroleum Acton funds shall be funded from a fixed percentage of the resources paid to the National Oil Company of Liberia, from petroleum contract.

NB: Nothing is said regarding social welfare contribution in the New Petroleum Law nor in LEITI reports.

References:

> LEITI Reports

> 2002 New Petroleum Law

See below for more details

Peer Review Comments:

The Public Financial Management Law of 2009 and the Consolidated Tax Amendment 2011 have since modified the flow of funds, and they should go to the Ministry of Finance since they are later in time, though there is debate about this. See Global Witness "Liberian Oil: Ensuring Revenues for Development" February 2012 for a chart of various fiscal streams and discussions about how they might

be functioning in fact.

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Indicator		Score
3.2.1	Comprehensive reports	N/A
3.2.2.038	Does the SOC publish information on revenue generation?	N/A
3.2.3.038.j	Disaggregated Revenue Streams	N/A
3.2.4	Quality of reports	N/A
3.2.5.043	Audited reports	N/A

3.2.1 Comprehensive reports

3.2.1.037: Does the SOC publish comprehensive reports with information about its operations and subsidiaries?

Score: A B C D **E**

Comments:

As this survey assesses the mining sector in Liberia, questions on the SOC are answered as 'Not applicable'. Comments regarding NOCAL are however kept.

NOCAL contacted > no answer received as of April 11th 2012

References:

NOCAL website, LEITI and GAC report on NOCAL: NO public reports found published or referred to. NOCAL contact for that matter.

Peer Review Comments:

NOCAL has just recently announced its intention to start publishing reports and open itself up to audit; but as of this survey, this has not yet occurred.

3.2.2.038 Does the SOC publish information on revenue generation?

3.2.2.038.a: Reserves

Score: A B C D **E**

Comments:

> NOCAL publicly mentions (see website : http://www.nocal.com.lr/index.php?option=com_content&view=article&id=88:potentially-significant-oil-discovery-in-liberia&catid=40:press-release&Itemid=88) potential discoveries, eg: "The National Oil Company of Liberia (NOCAL) welcomes the announcement by African Petroleum that their Narina-1 exploratory well drilled in Block LB-09 off the coast of Liberia indicated a potentially large accumulation of oil deposits, while emphasizing that development of any discovery will take several years" but the quantity of oil estimated to be recoverable is not publicly available. No oil has been produced yet in Liberia. Exploration activities have been in process for a few years. Following Global Witness Report on the Oil

Sector, NOCAL has acknowledged its conclusions and repeated its will to improve the sector's "governance system, fiscal transparency and sustainability". As part of this new effort, is the regular publication of information regarding NOCAL's activities.

> On February 21, 2012 was published on NOCAL website a press release stating that "significant oil discovery" were made in Liberia by African Petroleum, saying that "Although early indications are positive, the exact extent of the deposits found in LB-09 is not yet known". This press release may be the first step towards regular communication towards the general public regarding oil reserves in Liberia.

References:

> see NOCAL Website > Press Releases (relayed by articles published in newspapers):
http://www.nocal.com.lr/index.php?option=com_content&view=article&id=88:potentially-significant-oil-discovery-in-liberia&catid=40:press-release&Itemid=88

3.2.2.038.b: Production volumes

Score: A B C D E

Comments:

NO oil produced yet.

References:

Same as preceding questions
> NOCAL website: <http://www.nocal.com.lr/>
> LEITI reports: <http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp>
> Global WITness Report "Curse or Cure": <http://www.globalwitness.org/library/curse-or-cure-how-oil-can-boost-or-break-liberia%E2%80%99s-post-war-recovery>
> GAC Report on NOCAL : <http://gacliberia.com/doc/nocal.pdf>

3.2.2.038.c: Information on prices

Score: A B C D E

Comments:

No oil produced yet.

References:

Idem

3.2.2.038.d: Value of resource exports

Score: A B C D E

Comments:

No oil produced yet in Liberia

References:

Same as preceding questions

3.2.2.038.e: Estimates of investment in exploration and development

Score: A B C D (E)

Comments:

>Seismic Data: According to GAC's 2011 report on NOCAL, a MOU was signed in 2002 between NOCAL and TGS-NOPEC Geophysical Company under which TGS "acquired, processed and interpreted seismic data off shore of Liberia approximately 9,382 km from deep water and under which NOCAL was to be paid 50% of the proceeds generated by the selling of seismic data". (GAC Report p. 2, sections 4 and 5)
> Exploration activities: are achieved through Production Sharing Contracts signed with private companies, under which (as stated in 2.4 section of PSC Contract between NOCAL and Anardako signed in 2009) "The contractor shall bear alone the financial risk associated with the performance of all Petroleum operations".
>> No direct investment in exploration and development activities seem to be managed by SOC, even though its status allows it to . (see 2002 New Petroleum Law)

References:

> same as preceding questions
> Production sharing contracts signed with NOCAL

Peer Review Comments:

There are no development costs or estimates yet, as there is not yet any definitive commercial reserves to develop yet in Liberia. There are exploration activities though, and estimates of this investment expenditure are not public.

3.2.2.038.f: Production costs

Score: A B C D (E)

Comments:

No oil produced yet.

References:

Same as preceding questions

3.2.2.038.g: Names of companies operating in country

Score: A B C D (E)

Comments:

NOCAL has recently published a press release entitled "update on the status of Liberia's Oil Blocks" listing all 17 blocks and mentioning the private companies under contract with NOCAL.

References:

NOCAL website :
> Press release published on March 19, 2012:
http://www.nocal.com.lr/index.php?option=com_content&view=article&id=94:update-on-status-of-liberias-oil-blocks&catid=40:press-release&Itemid=88

3.2.2.038.h: Production data by company and/or block

Score: A B C D (E)

Comments:

No oil produced yet.

References:

Same as preceding questions:

- > LEITI Reports
- > GAC's report on NOCAL
- > MLME annual Reports
- > NOCAL website

3.2.2.038.i: Quasi fiscal activities

Score: A B C D **(E)**

Comments:

NB / nothing was found regarding the "Social Welfare contribution" paid by all companies under contract with NOCAL, to NOCAL, nor regarding the "Hydrocarbon Fund".

References:

NOCAL provides information under the "community and social relations project" section regarding a Housing Project in Partnership with TGS-NOPEC Geological company and for which it has signed a Memorandum of Agreement with the National Housing Authority.

The project, as "part of NOCAL's social intervention initiatives" is aiming at "the construction of thirty low cost housing units in the counties of Gran Bassa, Lofa and Nimba". No mention of date or amount of money dedicated to that project.

Full report could not be downloaded.

http://www.nocal.com.lr/index.php?option=com_content&view=section&layout=blog&id=9&Itemid=68

3.2.3.038.j Disaggregated Revenue Streams**3.2.3.038.j1: Production streams value**

Score: A B C D **(E)**

Comments:

No oil produced yet.

References:

Same as preceding questions

3.2.3.038.j2: Government s share in PSC

Score: A B C D **(E)**

Comments:

NOCAL's press release cited before regarding oil blocks' status, mentions the proportion of government's share in production sharing contracts.

(http://www.nocal.com.lr/index.php?option=com_content&view=article&id=94:update-on-status-of-liberias-oil-blocks&catid=40:press-release&Itemid=88)

Such Production Sharing Contracts when they are published and ratified by the Liberian Legislature, (Curse or Cure report from Global Witness, p. 26 states that all contracts do not yet follow legally prescribed process) mention government's share (usually 10%).

References:

NOCAL Website

+ see preceding questions

> esp. NOCAL Press Release entitled "Update on status of Liberia oil blocks"
http://www.nocal.com.lr/index.php?option=com_content&view=article&id=94:update-on-status-of-liberias-oil-blocks&catid=40:press-release&Itemid=88

Peer Review Comments:

The percentage share is publicly available since the PSCs are available; but no actual production share revenues or in-kind since no production.

3.2.3.038.j3: Royalties

Score: A B C D E

Comments:

No oil produced yet

References:

Same as preceding questions

Peer Review Comments:

The royalty rates are also public; but here, too, no production so no yearly amount received in cash or in kind as royalty.

3.2.3.038.j4: Special taxes

Score: A B C D E

References:

same as preceding questions

Peer Review Comments:

There is no special petroleum tax or RRT or other tax in Liberia as there is in other countries.

3.2.3.038.j5: Dividends

Score: A B C D E

Comments:

NB: LEITI 3d report p. 40 mentions dividend of USD250,000 paid by NOCAL to the government. USD250,000 is the amount of the initial capital, as stated in section 6. "Capitalization", of the 2000 Law establishing the creation of NOCAL. Nothing is said about such "dividend" throughout the report. No document published by NOCAL referred to such "dividend"

References:

Same as preceding questions

Peer Review Comments:

Since there is no production, there would be no dividend from the state's interests in the blocks. The revenues NOCAL receives other than from the State, if any, would be upfront and social contributions under the PSCs and from selling data through its partnership with TGS-NOPEC.

3.2.3.038.j6: Bonuses

Score: A B C D E

References:

Same as preceding questions

Peer Review Comments:

Bonuses have been paid upon the entry of larger companies into existing PSCs, and these amounts can be found in the budget submitted to the legislature and in the local media. NOCAL has not been systematically publishing these, however.

3.2.3.038.j7: License fees

Score: A B C D E

Comments:

Information regarding License fees payments are published in LEITI reports.

References:

Same as preceding questions

Peer Review Comments:

As with previous, though NOCAL does not publish, it does submit to the LEITI process as a taxpaying company.

3.2.3.038.j8: Acreage fees

Score: A B C D E

Comments:

(Surface rental payments are published in LEITI reports)

References:

Same as preceding questions

3.2.3.038.j9: Other (Describe below)

Score: A B C D E

References:

Same as preceding questions

3.2.4 Quality of reports

3.2.4.039: Are the reports published by the state owned company understandable?

Score: A B C D E

Comments:

No reports published on a regular basis yet. Press releases however, easily understandable.

References:

Same as preceding questions
<http://www.nocal.com.lr/>

3.2.4.040: How often are the reports or statistical databases containing information on revenue generation published by the state owned company?

Score: A B C D E

References:

Same as preceding questions
<http://www.nocal.com.lr/>

3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?

Score: A B C

References:

Same as preceding questions

> 2002 New Petroleum Law, section 10.18 - establishes a "Petroleum Action Funds" in order to promote "research, development and training in hydrocarbon and other energy resources".

NB: It further specifies that "The Petroleum Action funds shall be funded from a fixed percentage of the resources paid to the National Oil Company of Liberia, from petroleum contract."

> PSC Nocal -Anadarko, section 19.3.1 states that "The contractor shall make an annual contribution of two hundred fifty thousand dollars (\$250, 000) during exploration and production to this Fund directly to NOCAL."

(NB/ NOCAL - Anadarko contract file size exceeds maximum)

3.2.4.042: If there are joint ventures, does the SOC (or government) publish information on its share of costs and revenues deriving from its equity participation in joint ventures?

Score: A B C

Comments:

NB: Contracts signed by NOCAL are Production Sharing contracts. According to section 7.1 of the New Petroleum Law, NOCAL may "contract the services of a petroleum company in order to carry out, on its behalf, the production and development activities", "grant the contracting party a share of production", while "the holder of the contract shall assume, among other risks, the risk of financing such operations". The oil mineral resource belongs to the National Company, and the "the holder of the sharing contract shall receive a part of the production sufficient to reimburse his/her cost of production", and "profit oil" is then shared between the SOC and the Holder according to terms fixed in the contract. >> The holder does not seem to have equity position in the venture, => PSC are not joint ventures, and no formal vehicles or joint venture companies were found as a result of an agreement between NOCAL and operating companies.

References:

Same as preceding questions

> 2002 New Petroleum Law, section "7.1 Production Sharing Contracts".

Peer Review Comments:

To add, there is some kind of joint arrangement with TGS-NOPEC for geologic data, only. It is not a commercial relationship for the future exploration or exploitation of petroleum by TGS-NOPEC under a license, contract, etc.

3.2.5.043 Audited reports

3.2.5.043.a: Is the SOC subject to annual audits conducted by an independent external auditor to ensure that the financial statements represent the financial position and performance of the company?

Score: A B C D **E**

Comments:

One audit has been made so far by former Auditor General John Morlu on NOCAL, for fiscal years 2006-2007 and 2007-2008. Its report, specific and precise, states major deficiencies, loopholes and mistakes in the financial management and reporting of NOCAL.

References:

- > Liberian Auditing Commission, General Auditor Report on NOCAL, FY 2006-2007, 2007-2008, published on April 20th, 2011
<http://gacliberia.com/doc/nocal.pdf> (already attached)
- > Global Witness' Report on the Oil Sector in Liberia: "Curse or Cure", referring to GAC Report on NOCAL. (already attached)
<http://www.globalwitness.org/library/curse-or-cure-how-oil-can-boost-or-break-liberia%E2%80%99s-post-war-recovery>

Peer Review Comments:

NOCAL has not previously been subject to such audits but it did disclose its budget for the first time in its twelve year history and is planning a full financial audit. See http://www.nocal.com.lr/index.php?option=com_content&view=article&id=95:nocal-announces-full-external-audit-of-finances&catid=40:press-release&Itemid=88

3.2.5.043.b: Are SOC audited reports published?

Score: A B C D **E**

Comments:

The only report achieved by the General Auditing Commission on NOCAL was published three years after reporting period.

NB: Robert Kilby was appointed Auditor General in 2011, to replace former Auditor John Morlu II.

References:

- > GAC "Auditor General Report on NOCAL", FY2007-2008, published on April 20, 2011

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Indicator	Score
3.3.1 Legal Framework and Practice	N/A

3.3.1 Legal Framework and Practice

3.3.1.044: Does the SOC have a legal obligation to publish financial reports?

Score: A B **C**

Comments:

1) No Transparency Law as such;
 2) NOCAL does not operate on financial markets > no obligation to follow stock exchange laws
 HOWEVER: Liberia has been implementing new Public Finance Management Regulations adopted by the Public Finance Management Act signed in 2009.
 Such Public Finance regulations mention in PART M."State Owned Enterprises": that Financial Statements (including Balance Sheet, Cashflow statement and Revenues/liabilities) shall be "transmitted to the Auditor General, the Minister, the Sector Minister and the Bureau of State Enterprises", but NOT to the Legislature.
 Requirements towards Liberian Legislature is indicated in M.11.Annual report, (5): "The Minister shall present a statement of the overall performance of State Owned Enterprises to the Legislature alongside the budget proposals for the following year"
 + Although Liberia does not have a transparency law yet, it is an EITI compliant country. It has endorsed therefore strong transparency principles.
 As the "Validation Report" shows p. 26, NOCAL is committed to disclose all necessary information in order to "reconcile figures and produce the EITI Report"
 > CF EITI Ist (2007-2008) IID (2008-2009) and IIID (2009-2010) EITI Reports published online.

(NB/ LEITI has been ratified by Legislature through the LEITI Act approved June, 10, 2009:
<http://www.leiti.org.lr/doc/act.pdf>)

References:

> Minister of Finance Public Finance Management Law 2009
 > Minister of Finance Financial Regulations, 2010
 > EITI principles and criteria, EITI 2011 Rules p. 26 (3.3 "Disclosure Requirements"), LEITI Validation Report p.26 (NOCAL validation report)
 (Published online: <http://www.leiti.org.lr/doc/leitifinalreport.pdf>)
 > LEITI Act: <http://www.leiti.org.lr/doc/act.pdf>
 > LEITI Reports published online: <http://www.leiti.org.lr/2content.php?sub=48&related=62&third=48&pg=sp>

3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score: A B **C**

Comments:

Curse of Cure Report:
 p. 18 states that "according to Liberia's former Auditor General John Morlu, whose term ended in April 2011, during his last conversation with NOCAL staff it was apparent that the agency was years away

from implementing necessary accounting procedures"

GAC Report on NOCAL:

> p. 9 section 46: NOCAL as quoted by the Auditor General states that : "Our present accounting manual was modeled to include the generation of the Company's revenue and how payments are made in line with GAAP".

To which the Auditor General answers what follows :

47. "The Management's contention that NOCAL's accounting manual is consistent with Generally Accepted Accounting Practices (GAAP) is without merit. NOCAL did not even indicate which GAAP , as for example United States GAAP, British GAAP, IPSAS, IFRS, etc. Furthermore, the financial statements, as noted, showed that they are not prepared on the basis of GAAP".

> No document was found published by NOCAL to prove contrary.

References:

> Curse or Cure Report by Global Witness

> GAC, "Auditor General Report on NOCAL", FY2006-2007, 2007-2008, published on April 20, 2011

3.3.1.046: Do SOC audits include consolidated accounts that cover all of the SOC subsidiaries?

Score: A B C

Comments:

No information was found regarding NOCAL's possible subsidiaries.

GAC report p.24 mentions subsidiaries as follows:

"42. NOCAL did not maintain either general or subsidiary ledgers".

(NB: no internal audits were achieved as to GAC's Report: see section 45. p. 9: "For periods under audit, the Internal Audit department (IAD) was not established within NOCAL. An Audit Committee neither existed at the level of NOCAL's board.")

References:

Same as preceding questions

3.3.1.047: Are officials of the SOC required to disclose information about their financial interest in any oil, gas or mining projects?

Score: A B C

Comments:

> 2009 NEW Petroleum Law not only requires that all interests held by officials be disclosed, but forbids officials to have any direct or indirect interests in petroleum operations:

"2.4.8 Excluding state own corporation, no Public Official or a contracting party or an agent of a state owned corporation shall hold a direct or indirect interest in the petroleum operations, nor may he/she be the title holder or beneficiary of a petroleum operation or contract."

NB: in a "Statement on Governance and Reform Programme" following Global Witness Report on the Oil Sector, NOCAL recalls that NOCAL and the government are "wholly committed to both the principle and practice of transparency", mentioning that "unless the management and the sector is subjected to open and public scrutiny there can be no accountability".

(> 2000 Law Establishing the National Oil Company: does not mention such requirement. Section 7, "Board of Directors and Management" only mentions that the Board shall include not less than three (3) members and no more than seven (7) members, all of whom shall be appointed by the President of Liberia.)

References:

> 2009 New Petroleum Law, section 2.4.8 p. 12

(+ > 2000 Law establishing the Natinal Oil Company of Liberia, section 7

> PFM Regulations regarding State-Owned enterprises

> LACC

> NOCAL Press Release published on March 12, 2012: "Statement on the Governance and Reform Programme": http://www.nocal.com.lr/index.php?option=com_content&view=article&id=90:statement-on-governance-and-reform-programme&catid=40:press-release&Itemid=88)

Peer Review Comments:

There is also a new Code of Conduct established by Executive Order #38 that may also apply to NOCAL if it is considered a part of the Executive Branch. This remains an undetermined legal question. This order requires disclosure of all financial interests and assets to the LACC by all members of the Executive Branch.

3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?

Score: A B C

Comments:

NOCAL website provides the names of members of its Board of Directors as of March 2011.

References:

Cf NOCAL Website: http://www.nocal.com.lr/index.php?option=com_content&view=category&layout=blog&id=35&Itemid=66

Peer Review Comments:

While NOCAL's information is out of date, the appointment of the board is by the President and was made public on the executive mansion website and was widely reported in local media.

3.3.1.049: Does the SOC publish information about the rules governing decision making by the Board of Directors?

Score: A B C

Comments:

> 2000 Law establishing the National Oil Company of Liberia: section 7 states the rules by which members of the Board shall be appointed (ie nominated by the President of Liberia); section 8 lists the powers of the Board, without mentioning the ways and rules by which decisions regarding such powers shall be made.

Furthermore, the General Auditor Report points out the incapacity of the Board to produce documents regarding decision making process regarding the CEO appointment as well as more general direction of NOCAL.

Eg:

"181. My requests to both the Management and Minister of State for Presidential Affairs for documentation on the Search Committee's deliberations leading to the appointment of the Chief Executive Officer, Vice Presidents and other Executive Officers for the purpose of ascertaining compliance with the President's directive were not heeded to." (section 181 p.51)

> NOCAL response denies as quoted by the General Auditor in section 203 p. 54, saying that the proof of such Search Committee is attached in Annex A, to which the General Auditor finally replies that it never received the said annex A..., section 204 p. 54

"Board's failure to produce and submit to the President of Liberia, a report on strategic goal or Direction to NOCAL" (section 184 p. 51)

However the GAC refers to minutes of the meetings of the Board of Directors, which implies that

decision processes are in themselves available at least for some people external to the Board. No other document was found to ascertain that NOCAL publishes or has published the rules governing decision making.

References:

> 2000 Law establishing the National Oil Company of Liberia, section 7 "Board of directors and Management" and 8 "Power of the Board"

> GAC "Report of the General Auditor on NOCAL", Sections 177 and 178 p. 50, and 181, 182, 183 and 184

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