LIBERIA: INVESTMENT CLIMATE STATEMENT 2011

There is growing investor interest in Liberia, particularly in agriculture, construction, the extractive industries and tourism. UN sanctions were lifted on timber exports in 2006 and on diamond exports in early 2007. Liberia is now Kimberley Process compliant. The removal of sanctions opened the door to investment activity in those sectors. Liberia has demonstrated consistent annual progress since its 2007 debut in both the International Finance Corporation (IFC) "Doing Business" ranking and the Transparency International corruption index, and now ranks in the top half of African nations in both indices. The National Investment Commission has recorded over $16 billion in new foreign investment since 2006, primarily in the extractive industries, and local business registration also continues to rise. (Note: All currency amounts are in U.S. dollars. End note.)

Five years of democratic rule have helped the economy to gain modest growth. Much of Liberia's infrastructure -- including roads, the electrical grid, and communication systems -- remains in disrepair, but progress, supported by the substantial infusion of international development assistance, continues. Facilities for foreign visitors are adequate in the capital, Monrovia, but virtually non-existent in the rest of the country. There is a tremendous demand for jobs. The unemployment rate in the formal economy is estimated at 25% of the available labor force, however, most other Liberians are self-employed in the informal sector or contribute to a family business or farm. Most labor is unskilled, and the illiteracy rate is estimated to be 45%. While there are virtually no landline phones, cell phone service is widely available and coverage is being extended into rural areas. Although satellite Internet access is available, it remains unreliable and relatively expensive, especially for high-speed connections. Major foreign investors typically are expected to include support for schools, clinics, and other social services as part of any concession agreement.

There are three serious challenges the Liberian government must address as it works to ensure equitable economic growth and reduce poverty: land tenure disputes, corruption, and the related factor of a dysfunctional judicial system. Expanded investment in promising sectors such as agriculture, forestry, mining, energy or tourism, and the ability to provide affordable housing for more Liberians, depends on rapid clarification of the tangled land tenure regimes and a significantly improved judicial system.

Openness to Foreign Investment

The impact of years of violence and bad governance undermined the rule of law and created unchecked opportunities for corruption. The government benefited from the Governance and Economic Management Assistance Program (GEMAP), which sought to institute accountability, responsibility, and transparency in the fiscal management of the government in key state-owned enterprises. GEMAP, which concluded in 2009, has had a positive effect in many areas that influence foreign investment decisions, including mining and forestry policies, and transparency in the procurement process. However, lack of training, inadequate salaries and a culture of corruption have created a judicial system that actively hampers investment.

Liberia slipped by three spots on the IFC's 2011 "Doing Business" ranking in 2010 to 155 out of 183 countries. The Liberia Better Business Forum, a public-private initiative of the IFC established in late 2007, is guiding proposals to further improve the business climate. In principle, the government aims to create an open, nationality-neutral investment climate that would encourage the energy, ideas, and capital that create jobs and provide lower prices and higher value for consumers. However, political pressure remains to "empower" domestic businesses by constraining foreign investment.

Seeking to empower Liberian businesses, the government in 1998 promulgated a "Liberianization Policy," that set aside 26 business activities exclusively for Liberians. Following opposition from donors and foreign businesses that claimed the law was discriminatory and anti-competitive, a revised Investment Act of 2009 reduced the number of sectors reserved for Liberians to 16. These sectors include:

-- Block making with cement, clay or like materials
-- Supply of sand, stone and granite
-- Operation of gas stations
-- Peddling
-- Video clubs
-- Travel agencies
-- Distribution in Liberia of locally manufactured products (this provision shall not prevent manufacturers or producers from transporting or otherwise distributing their products to Liberian citizens or qualified persons for resale)
-- Importation or sale of second-hand or used clothing
-- Retail sale of rice and cement
-- Ice making or sale of ice
-- Importation and sale of used cars (except authorized dealerships which may deal in certified used vehicles of their make)
-- Tire repair shops
-- Auto repair shops with investments of less than $50,000
-- Operation of taxis
-- Shoe repair shops
-- Retail sale of timber and planks

Foreign investors may invest in the following business activities provided they invest no less than $500,000. If a Liberian partner maintains at least a 25% equity stake, the foreign investors need only invest $300,000:

-- Production and supply of stone and granite
-- Ice cream manufacturing
-- Commercial printing
-- Advertising agencies, graphics and commercial arts

-- Cinemas
-- Production of poultry and poultry products
-- Operation of water purification or bottling plant (excludes the production and sale of water in sachets)
-- Entertainment centers not connected with a hotel establishment
-- Sale of animal and poultry feed
-- Operation of heavy-duty trucks
-- Bakeries
-- Sale of pharmaceuticals

The Act has not been effective in increasing Liberian participation in commercial industries, nor has enforcement been consistent. The Investment Act of 2009 eliminated the mandate that qualified Liberians be employed at all levels, including upper management of foreign-owned companies. Nevertheless, as a matter of practice, the Ministry of Labor has delayed work permits for expatriates and intervened in hiring decisions.

To obtain a concession for new investments requires a lengthy, multi-step process, but much progress has been made to ensure that procedures and requirements are transparent to potential investors. First, the concession entity prepares a request for Expression of Interest and an invitation to bid, based on the National Competitive Bidding regulations. The President appoints an Inter-ministerial Concession Committee (IMCC), including the Ministers of Justice and Finance and the Chairman of the National Investment Commission, to handle the bidding process and award the contract. The IMCC selects a technical team, including representatives of the contracting agency, to handle the technical aspects of the bid. A technical evaluation committee, also from within the IMCC, will evaluate the bidders and award the contract. The President sends the contract to the legislature to be ratified.

The following table indicates Liberia's ranking according to various metrics of transparency and good governance in 2010:

Measure	**Index/Ranking**
Transparency Int'l Corruption Index	87/178
Heritage Economic Freedom	46.2
World Bank Doing Business	155/183
MCC Government Effectiveness	29%
MCC Rule of Law	35%
MCC Control of Corruption	69%
MCC Fiscal Policy	7%
MCC Trade Policy	3%
MCC Regulatory Quality	21%
MCC Business Start Up	53%
MCC Land Rights Access	2%
MCC Natural Resource Management	53%

Conversion and Transfer Policies

Both Liberian and U.S. dollars are legal tender. Most business and government transactions (such as taxes) are conducted in U.S. dollars; most street transactions are in Liberian ("Liberty") dollars. The Investment Incentive Code allows the transfer of funds associated with investments, including profits. There are no restrictions on converting or transferring investment funds. However, the Central Bank of Liberia conducts a foreign exchange auction only once per week, and its US dollar sales, which rarely exceed $750,000 are often oversubscribed, so large investors may find it takes more than one week to exchange large sums of money. ATMs are not connected to global electronic banking networks and travelers' checks and credit/debit cards are rarely accepted.

The Central Bank of Liberia regulates foreign exchange transfers. Transfer of sums in excess of $10,000 must be reported to the Central Bank of Liberia, and no more than $7,500 in foreign currency banknotes can be moved out of the country at one time. Larger sums must be transferred via bank draft or other financial instruments. Persons without a Liberian bank account are limited to two outgoing $5,000 over-the-counter cash wire transfers per month.

Expropriation and Compensation

The Embassy is aware of one claim by a U.S. firm of expropriation (looting) by LURD rebels who attacked Monrovia in 2003, before the current government was elected. The claimant has not been in touch with the Embassy since 2004. The Government of Liberia hopes to burnish its image as a destination for foreign investment, so appropriation of foreign assets by the current government remains highly unlikely.

Dispute Settlement

Liberia's legal system is similar to the criminal and civil law in the United States, but laws are not implemented consistently or predictably. Investors cannot rely on the court system as a fair arbiter of disputes. Judges and other judicial officers are poorly paid, courthouses are in disrepair, and administrative support is weak. Judgments can be purchased, and foreign firms tend to be at a disadvantage. In 2008 an unreasonable court finding caused a major foreign rubber company to cease operations, and frivolous suits have been used to harass other investors. Due to the backlog of cases, it can be years before a hearing takes place. The Sirleaf government is committed to judicial reform, and there are plans underway to expand Alternative Dispute Resolution mechanisms and legislation has been passed to create a commercial court, but implementation will take time. The Ministry of Commerce, in collaboration with the IFC-sponsored Liberia Better Business Forum, has initiated programs aimed at commercial law reform. Liberia does not have general bankruptcy law to protect creditors' rights. There is a provision in the Central Bank's New Financial Institutions Act of 1999, which deals with voluntary and compulsory liquidation of financial institutions.

Performance Requirements and Incentives

The Investment Act of 2009 prohibits nationalization of private enterprises and aims to attract foreign investment. It grants foreign investors the same rights and subjects them to the same duties and obligations as those that apply to domestic investors and citizens for purposes of business registration, dispute settlement and labor and environmental requirements. However, there are efforts to encourage all companies to hire Liberians. Section 216 of the Liberian Decent Work Bill 2009 stipulates that “the Ministry shall not issue a permit to work in Liberia unless it is satisfied that there is no suitably qualified Liberian available to carry out the work required by the employer”.

The Revenue Code of 2009 allows for special tax incentives for foreign investors who invest at least $9 million in priority sectors, such as tourism, energy, health care, housing, transportation infrastructure, information and communication technology and banking. There are additional incentives for those investors who pursue projects outside of the greater Monrovia area. Investment incentives may include exemption from customs duty, tax exemption on profits re-invested in fixed assets and provision for loss carry-over and accelerated depreciation of fixed assets. The Investment Act encourages industrial enterprises which utilize, to the highest possible extent, Liberian labor at all levels and contribute to advancing national skills through training schemes. The National Investment Commission of Liberia (NIC) implements the Code, and more details are available on the NIC website: http://www.nic.gov.lr/

Right to Private Ownership and Establishment

Land ownership is restricted to Liberian citizens. Chapter III, Article 22 of Liberia's Constitution states:

"Every person shall have the right to own property alone as well as in association with others, provided that only Liberian citizens shall have the right to own real property within the Republic. 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. Non-citizen missionary, educational and other benevolent institutions shall have the right to own property, as long as that property is used for the purposes for which acquired; property no longer so used shall escheat to the Republic."

The 2006 Forestry Reform Law states that natural forests are owned by the Republic, with two exceptions (Chapter II, Section 2.1). Rights to land ownership and to use of resources such as minerals and timber are likely to evolve in coming years, and the government has established a Land Commission to address questions of land tenure.

Many foreign businesses have entered into long-term leases, but disputes over land ownership and squatters' rights remain contentious, particularly for large concessions. Violence based on land disputes erupted in Nimba County in late 2008. There were no reported land disputes in 2010 that erupted into violence, but as more agricultural and forestry concessions begin operations, clashes over land use may be expected between investors and local communities. The government established the National Land Commission in August 2009, although the institution has yet to advance any material reforms and is not yet a forum for adjudicating disputes.

Protection of Property Rights

Conflicts between customary and statutory land tenure systems have not been reconciled. The official archives, including property deeds and secured property interests, were looted during the war and disputes over real estate ownership are difficult to adjudicate. The lack of adequate facilities and salaries for judicial officers also degrades enforcement of property rights as judges sometimes decide cases in favor of the highest bidders. The Ministry of Lands, Mines and Energy, which is in charge of survey and validation of land claims, has established an office for implementing a national mining cadastre that could eventually incorporate land title registrations. There have been cases of fraud by government-licensed land surveyors.

Liberia is a member of the World Intellectual Property Organization (WIPO) and a contracting party to international conventions and treaties on the protection of intellectual and industrial property rights, including the Berne, Paris, Lisbon, Vienna and Washington conventions and the Madrid Agreement. The Act adopting the New Copyright Law of Liberia, approved in July 1997, provides the legal and administrative framework for protection of intellectual and industrial property rights. The Copyright Office (CRO) and the Industrial Property Office (IPO) manage these issues, but lack the capacity to function effectively.

All imports of intellectual property must be so identified on the import permit (rather than being identified as "general merchandise"). All businesses dealing in intellectual property must reflect that on their business registration form. Holders of intellectual property rights have access to judicial redress but enforcement is minimal. In 2010, the Liberia Copyright Office recorded fewer than 50 businesses, including songwriters, movie producers, and authors, holding intellectual property rights. Infringement of intellectual and industrial property rights is prevalent. Movies and music are duplicated. Counterfeit drugs, apparel, cosmetics, and computer software and hardware are sold openly. Broadcasters do not tend to pay royalties for use of protected material.

Transparency of the Regulatory System

The Liberian government continues to improve Liberia's ranking in the "Doing Business" index by making regulations more transparent, accountable, and effective. For example, in 2010, the government launched the Integrated Tax Administration System (ITAS) and the website link for its Revenue Department to streamline bureaucratic procedures and reduce the cost of compliance to taxpayers, with an eye to facilitating imports and investment. The government's implementation of GEMAP and agreement with policy prescriptions advanced by the

International Monetary Fund (IMF) are showing results. New regulations are improving the transparency of the government's Public Procurement and Concession Commission (PPCC): http://ppcc.gov.lr . Harmonization of the regulatory environment across ministries and agencies with conflicting rules and regulations is ongoing. However, regulators can still be arbitrary or heavy-handed, and limited capacity means existing regulations are not always enforced.

In 2010, the National Legislature ratified key legislation that will improve the environment for all investors, including the Investment Act, a new Revenue Code and the establishment of a commercial court.

Efficient Capital Markets and Portfolio Investment

The Liberian banking system provides basic banking services but there is no effective capital market or options for portfolio investment. While financial institutions allocate credit on market terms to foreign and domestic investors alike, the historically high rates of non-performing loans mean banks grant only short-term (less than 18 months), high-interest loans (between 12%-20%) that constrain capital investment and limit new business development. Total assets of the eight commercial banks were approximately $385 million in 2010. Minimum capital requirements were raised to $8 million in 2009, and will be further increased to $10 million in December 2010. The minimum capital adequacy ratio was increased from 8 percent to 10 percent in 2008. Banks have continued to reduce the proportion of non-performing loans since 2003 and loan quality is improving as banks expand their operations in the rural areas of Liberia.

The Liberian market offers the private sector few credit instruments. Liberia reached Completion Point under the Highly Indebted Poor Countries (HIPC) Initiative in June 2010, liberating the government to borrow for the first time in two decades. While the Central Bank of Liberia plans to issue short-term debt instruments during the 2010-2011 fiscal year, government borrowing will remain very modest in the near term. Private companies also do not issue debt, in part because there is no government benchmark, and in part because there is a perceived lack of appetite for such investment instruments.

The weak judicial system means financial institutions find it difficult to recover bad loans through the courts. In addition, there is no effective credit rating system, and many firms lack the business records necessary for credit approval. The obstacles to domestic travel and communication increase the risk in accepting collateral outside Monrovia and the lack of reliable land title hampers access to credit.

The United States has programs to support investment in small and medium Liberian companies, some of which provide services, such as lodging, communications, and construction, which improve the overall investment climate. In 2007, the Overseas Private Investment Corporation (OPIC) committed $20 million to the Liberia Enterprise Development Finance Corporation (LEDFC) to support small and medium Liberian enterprises. LEDFC, which works closely with the commercial banks, is the first non-bank financial institution licensed by the Central Bank of Liberia to support small and medium enterprises. This program is helping to strengthen the financial sector and improve access to capital by growing Liberian firms. To date, LEDFC has given 47 loans worth over $3.4 million, creating about 500 direct jobs for Liberians. The United States African Development Foundation (USADF) has invested $1.67 million in Liberia to stimulate job creation and improve income levels by supporting cooperatives and enterprises, including farmer cooperatives. USADF's portfolio in Liberia consisted of 25 investment projects in 2010. These projects provide sustainable jobs, technology transfer, food security, financial and general management training.

Competition from State-Owned Enterprises
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Liberia has approximately 15 state-owned enterprises, parastatals and regulatory agencies. The history of SOEs in Liberia is characterized by a high level of corruption, cronyism and mismanagement. However, President Sirleaf's administration has embarked upon a series of vigorous reforms since taking office in 2006. A number of SOEs, including some autonomous agencies, have been granted minimal budget allocations that will ensure their eventual dissolution. The GEMAP framework and other initiatives are improving financial and operational performance at several SOEs, notably the National Port Authority (NPA), Roberts International Airport (RIA), the Forestry Development Authority (FDA) and the Liberia Petroleum Refinery Corporation (LPRC).

The government plans a two-pronged restructuring strategy for SOEs before 2012. Firstly, it intends to dissolve or privatize SOEs that have become obsolete, unnecessary or appropriate for private ownership. Secondly, there are ongoing plans to improve efficiency and economic governance at those remaining SOEs. The decision by the government to privatize SOEs offers opportunities for local and foreign entrepreneurs, notably in areas such as agriculture, aviation and transport services, petroleum refining and marketing, and port management and power generation.

Corporate Social Responsibility (CSR)
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Foreign investors typically are expected to offer social services to local communities where they operate as a gesture of goodwill. Concession contracts often specifically outline what services an investor is expected to provide, such as road building, school construction or maintenance of health clinics. Even after a concession is ratified by the legislature, some investors find that communities expect them to negotiate separately with local leaders for additional services, a process that can be cumbersome or lead to delays.

A consortium of large foreign investors launched a Corporate Responsibility Forum in Liberia in 2009. While the initiative is still in the early stages, it provides information and resources to foreign investors on how to follow generally accepted CSR principles such as the OECD Guidelines for Multinational Enterprises.

Political Violence

There has been no significant political violence since the signing of the Accra Comprehensive Peace Agreement in 2003 and the deployment of 15,000 UN peacekeepers throughout Liberia. The former Armed Forces of Liberia (AFL) was completely demobilized and with USG assistance a modern, professional force is being trained. By the end of 2010, the AFL will reach initial operational capability, but will still rely on international support. The Liberian National Police is also being restructured and includes an Emergency Response Unit (ERU), which has the ability to respond rapidly and to address sudden tactical police emergencies. UN troops, which now number 8,500, are gradually being withdrawn as Liberia's security forces gain in strength and experience. Increasing freedom and transparency for the Liberian people has led to vigorous pursuit of perceived rights, which results in active, often acrimonious, but non-violent political debate. Access to land remains a volatile issue that has led to violent disputes on the local level.

Corruption

The government is tackling corruption, but it remains endemic in Liberian society. In 2010, Transparency International rated Liberia 87th of 178 countries on its corruption perception index, up from 138th place the previous year. Among sub-Saharan African nations, Liberia ranked 11th in 2010 compared to 13th in 2009. The 2010 Mo Ibrahim African governance index ranked Liberia 36th out of 53 countries, and the 2009 World Bank Worldwide Governance Indicator cited Liberia for progress over the past two years in "control of corruption," political stability and absence of violence. Although corruption is being addressed, travelers may encounter officials who solicit bribes (often euphemistically referred to as "cold water" or "my Christmas").

There have been improvements in the transparency of government procurement, and the government has increasing success in corralling revenue leaks. Since taking office, the Sirleaf administration has boosted civil service salaries over 200 percent and continued payments of salary arrears incurred by past governments. However, the starting government salary is still only $80 per month, and despite efforts at reform, delays in paying government employees persist. The Sirleaf administration faces the dual pressure of controlling government expenditures while at the same time providing civil service salaries that constitute a living wage that will limit corruption.

Liberia is signatory to two important international instruments: the UN Convention against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC). In 2006, the government, along with Liberia’s international partners, designed the national anti-corruption strategy, which paved the way for the establishment of the Liberia Anti-Corruption Commission (LACC) in 2008.

Bilateral Investment Agreements
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Liberia has a few bilateral trade agreements, but some of the agreements have remained inactive for years. The country does not have a definite trade policy, which has prevented it from joining regional and international trade organizations. Liberia attained World Trade Organization observer status in 2007, but a transparent trade regime has become a pre-requisite for full WTO membership. In 2011, the Millennium Challenge Corporation will begin a threshold program in Liberia designed to improve trade policy and practices, specifically in harmonizing tariffs, engaging regional and global bodies, and strengthening the regulatory environment.

In October 2009, the government began a series of capacity-building programs, in collaboration with ECOWAS, to formulate a trade policy that would qualify Liberia for WTO membership. The policy is currently being drafted by a consultant and a Technical Committee, headed by the Ministry of Commerce and Industry. In February 2007, Liberia signed the Trade and Investment Framework Agreement (TIFA) with the United States to reduce trade and investment barriers between the two countries. Liberia is eligible for trade benefits under the African Growth and Opportunity Act (AGOA), though the country did not make use of AGOA trade preferences in 2010. Liberia has long-standing trade agreements with the European Economic Community (EC), ECOWAS, and neighboring Mano River Union (MRU) countries.

OPIC and Other Investment Insurance Programs
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OPIC provides coverage for investors in Liberia. The U.S. restored Liberia's eligibility for the Generalized Systems of Preferences in February 2006.

The Liberian dollar is a fully-convertible currency and operates on a free float with no predetermined path. It is therefore unlikely that OPIC would ever be required to pay an inconvertibility claim. There is less risk of currency depreciation in 2010, as the Central Bank of Liberia strengthens its foreign exchange reserves, but Liberia will continue to run large current account deficits until it begins once again to export raw materials and value-added products.

Labor

The Liberian labor force is predominantly illiterate and unskilled, and most Liberians lack basic computer skills. The literacy rate is believed to be about 15% for those below age thirty-five. Many skilled professionals have emigrated.

Employees enjoy freedom of association, and they have the right to establish and become members of organizations of their own choosing without previous authorization or coercion. In this regard, no employer shall discriminate against an employee because of membership in a labor organization. The Ministry of Labor requires employers to demonstrate a goodwill effort to hire a qualified Liberian before it will grant work visas to foreigners, and some foreign investors find this process to be a lengthy one.

Labor legislation was revised in 2007, repealing a decree that prohibited workers from striking and repealing section 1508 (3), which permitted employees to be dismissed without cause.

According to Liberian law, labor organizations and associations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their programs. The labor law specifies that no industrial labor union or organization shall exercise any privilege or function for agricultural workers and no agricultural labor union or organization shall exercise any privilege or function for industrial workers. In 2010, the legislature passed into law the "Decent Work Bill" to improve work conditions and workers' rights.

Foreign Trade Zones/Free Ports

In 1976, the government of Liberia created the Liberia Industrial Free Zone Authority (LIFZA) to promote industrial and corporate growth, but the FTZs have been inactive for a long time. Almost no manufacturing is done in Liberia.

Foreign Direct Investment Statistics
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Investment and commercial activity continue to increase. The National Investment Commission reported approximately $175 million in new investment in 2010, with 70% of that total in the services sector. Business registration data confirm the sharp increase in investment activity. According to statistics from the Bureau of Domestic Trade at the Ministry of Commerce, partial year figures of total businesses registrations as of October 31, 2010 (foreign and domestic) increased 4.2% over the previous year, from 7,445 firms in 2009 to 7,759 firms. The Ministry registered 1,219 foreign owned businesses in 2010, a 23.8% increase over the 2009 figure. (Note: businesses must register annually. End note.)

Detailed investment statistics are not available. However, according to International Financial Statistics, the stock of foreign direct investment in Liberia from 2004 (when statistical estimates resumed after the civil conflict) through 2009 is $641 million. The International Monetary Fund estimates Liberia's 2009 GDP at $880 million, with FDI stock representing 73% of GDP and 2009 FDI flows representing 11% of 2009 GDP. Liberia has limited, if any, foreign direct investment abroad.