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AgCLIR LIBERIA

Agribusiness Commercial Legal and Institutional Reform Assessment

AGENDA FOR ACTION
JANUARY 2015





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LIST OF ACRONYMS

AFELL	Association of Female Lawyers of Liberia
AgCLIR	Agribusiness Commercial Legal and Institutional Reform
AGOA	African Growth and Opportunity Act
AHS	Liberia's Animal Health Service (AHS), a division of the Ministry of Agriculture
AWEP-L	Africa Women Entrepreneurs Program – Liberia
AWICBT	Association of Women in Cross Border Trade
BCE	Liberia's Bureau of Customs and Excise (Customs)
BDS	Business Development Support
BEE	Business-enabling environment
BIVAC	Bureau Veritas, an international firm that conducts pre-shipment inspections of goods
CAADP	The African Union's Comprehensive Development Programme
CARI	Liberia's Central Agricultural Research Institute
CBL	Central Bank of Liberia
CDA	Cooperative Development Agency
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CET	Common External Tariff, imposed under ECOWAS Trade Liberalization Scheme
CIT	Corporate income tax
CNDRA	Center for National Documents and Records Agency
CSC	Liberia's Civil Service Commission
CST	Liberia's former County Support Team; replaced by LDSP
DEOH	Division of Environmental and Occupational Health (part of Liberia's Ministry of Social Welfare)
DHS	Demographic and Health Survey (Liberian Institute of Statistics and Geo-information Services)
EAT	Enabling Agricultural Trade
ECOWAS	Economic Community of West African States
ETLS	ECOWAS Trade Liberalization Scheme
FAO	Food and Agriculture Organization of the United Nations
FED	USAID's Food and Enterprise Development Program
FTF	US Government's Feed the Future initiative
FOB	Free on Board
GEMS	USAID-funded Governance and Economic Management Support Program
GEWEE	UN's Joint Programme on Gender Equality and Women's Economic Empowerment
GDP	Gross domestic product
GOL	Government of Liberia
HANDS	USAID's Health, Agriculture and Nutrition Development for Sustainability program
HDI	Human Development Index
IBEX	USAID-funded Liberia Investing in Business Expansion Project

ICT	Information and communications technology
IFAD	International Fund for Agricultural Development
IFC	International Financial Corporation
IFPRI	International Food Policy Research Institute
IITA	International Institute of Tropical Agriculture
ILO	International Labour Organization
IMF	International Monetary Fund
IMCC	Liberia's Inter-Ministerial Concessions Committee
IPDs	Import Permit Declarations (IPDs), issued via by Liberia's Ministry of Commerce and Industry
IPPC	International Plant Protection Convention
LASIP	Liberia Agriculture Sector Investment Program
LAUNCH	USAID's Liberia Agriculture Upgrading Nutrition and Child Health program
LBDI	Liberian Bank for Development and Investment
LBBF	Liberia Better Business Forum
LBR	Liberia Business Registry
LCC	Liberia Chamber of Commerce
LDIP	Liberia Decentralization Implementation Plan
LDLD	Liberia's former Decentralization and Local Development program; replaced by LDSP
LDSP	UN-commissioned Liberia Decentralization Support Program
LEITI	Liberia Extractive Industries Transparency Initiative
LIBA	Liberian Business Association
LIFE	USDA-funded Livelihood Improvement for Farming Enterprises program
LISGIS	Liberian Institute of Statistics and Geo-information Services
LMA	Liberian Marketing Association
LNDLG	Liberia National Decentralization and Local Governance policy
LPMC	Liberia Produce Marketing Corporation
LTPC	USAID's Liberia Trade Policy and Customs Project
MCC	Millennium Challenge Corporation
MDG I	Millennium Development Goals
MFIs	Microfinance institutions
MOA	Liberia's Ministry of Agriculture
MOCI	Liberia's Ministry of Commerce and Industry
MOF	Liberia's Ministry of Finance
MoGD	Liberia's Ministry of Gender and Development
MOJ	Liberia's Ministry of Justice
MPW	Liberia's Ministry of Public Works
MSMEs	Micro-, small-, and medium-sized enterprises
MUFFA	Mutual Fund for African Women in Liberia
NCBA	National Customs Brokers Association
NCCL	National Consumers Council of Liberia
NGOs	Non-governmental organizations
NIC	Liberia's National Investment Commission
NPA	Liberia's National Port Authority
OECD	Organisation for Economic Co-operation Development

PCU	Post-clearance Audit Unit of Liberia's Customs Bureau
PFM	Public Financial Management
PPCA	Liberia's Public Procurement and Investments Act
PPP	Public-private partnership
PRS	GOL's National Agenda for Transformation (Poverty Reduction Strategy II)
PRSP	Poverty Reduction Strategy Papers
PSI	Pre-shipment inspection(s) of imported and exported goods
RKO	Revised Kyoto Convention requirements; aimed at unifying customs procedures worldwide
RM	Risk Management Unit of Liberia's Customs Bureau
SHOPS	USAID's Smallholder Oil Palm Support program
SIDA	The Swedish International Development Cooperation Agency
SMEs	Small- and medium-sized enterprises
SMWF	Sirleaf Market Women's Foundation
SPS	Sanitary and phytosanitary standards for traded goods
TOT	Training of Trainers
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
UNMIL	United Nations Mission in Liberia
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USDA	United States Department of Agriculture
VAT	Value-added tax
WAVF	West African Venture Fund
WFP	World Food Programme
WIPNET	Women in Peacebuilding Network
WCO	World Customs Organization
WTO	World Trade Organization



INTRODUCTION AND SUMMARY OF FINDINGS

This report describes the overall environment for doing business in Liberia's agricultural sector. More specifically, this report closely examines Liberia's agriculture-related policies, laws, institutions, and social dynamics. The purpose of this report is to inform strategies and decisions by government institutions, donors, non-government organizations, the private sector, and others with respect to developing agricultural enterprise and economic growth.

ABOUT THIS REPORT

This report is intended for multifaceted use. It can be used as a foundation for formulating agriculture policy, a framework for donor intervention, a substantive resource for future projects, a benchmark for assessing change, a tool for academic instruction, and, most immediately, a "jumping off point" for stakeholder discussion and consensus-building.

Since 2008, USAID's AgCLIR analyses have brought greater clarity and understanding of the policies and laws that affect business in the agriculture sectors in more than 10 countries. The AgCLIR methodology incorporates knowledge gained from extensive field-based analysis, along with in-depth, comparative perspectives solicited from public- and private-sector experts. This report integrates AgCLIR data received from private sector activity along agricultural value chains, ranging from subsistence farmers through mid-level service providers to large producers and processing enterprises. It also analyzes gender considerations and provides information on protecting intellectual property. In sum, this AgCLIR report provides an array of useful content that can help Liberia better identify, prioritize, and respond to the legal, institutional, and social constraints to developing its agricultural economy.

**TABLE 1: "EASE OF DOING BUSINESS" RANKINGS OF WEST AFRICAN COUNTRIES
WORLD BANK, DOING BUSINESS IN 2014¹**

COUNTRY	RANK
Ghana	67
Sierra Leone	142
Liberia	144
Nigeria	147
The Gambia	150
Burkina Faso	154
Mali	155
Togo	157
Cote d'Ivoire	167
Benin	174
Guinea	175
Niger	176
Senegal	178

¹ Note that the World Bank's Ease of Doing Business index does not incorporate the agricultural sector in its methodology, emphasizing instead non-agricultural sectors in developing its index scores. Nevertheless, the Ease of Doing Business index provides an excellent framework for a qualitative snapshot of the general time, costs, and complexity for operating a formal business in a country.

AGRICULTURE IN LIBERIA

Liberia is rich in the natural resources needed for a vibrant agriculture sector. It has good quality soil, abundant rain, and a climate suitable for sustaining the production of two or three harvests annually. Its 380 miles of coastline² offers Liberian products potential access to regional and international markets.

In fact, agriculture dominates the Liberian economy, both at the subsistence farmer level, as well as among very large business. In the rural counties outside Monrovia, subsistence agriculture accounts for nearly all economic activity, except for shops that sell imported fabric and clothing, household goods, and basic tools and appliances. In rudimentary rural markets, farm families aim to sell the excess of what they grow, but because they lack transport and storage options, much of the excess becomes wasted or spoiled. At the opposite extreme, vast plantations held by international companies under concession agreements with the government grow industrial products for export—historically rubber, and increasingly oil palm (in addition to timber and mining).

Between these extremes, remarkably few Liberian farms or farm-based enterprises offer their owners more than modest supplementary revenue. Agricultural enterprise, dominated by women-led subsistence farming, is often discounted as a high-potential business opportunity. Processing and marketing possibilities are stymied by the virtual absence of affordable electricity and barely passable roads. Simply put, Liberia's agricultural economy lacks an "ecosystem" for business—especially small- and medium-sized enterprises (SMEs)—that can support more productive, competitive, and higher-value farming. Missing from the sector is a range of goods and services that producers, processors, and traders need, such as:

- Accessible, reliable suppliers of seed, fertilizer, and crop-protection products.
- Live young animals; animal feed and medicines; supplies for raising livestock; veterinary services; safe and clean slaughterhouses.
- Dry storage and packaging supplies.
- Cold storage and cold transport.
- Seed cleaners and grain mills.
- Coffee cleaning and cocoa fermentation stations.
- Warehouses, butchers and bakeries.

² https://www.cia.gov/library/publications/the-world-factbook/geos/print/country/countrypdf_li.pdf

Since the end of the civil war,³ Liberia has been beset with problems across nearly every category of state-building, including agriculture and its business-enabling environment. Before the war, Liberia was a net importer of food. Because of the war, previous productive farms and facilities—including tree crops, warehouses for storage, millers, and schools and research institutions—were lost or suffered dramatically reduced capacity. Moreover, because of the virtual absence of formal education during the war years—along with neglect of the people of the hinterlands in the generations that came before—a significant segment of the population between 25–40 years of age, about 57%, is essentially illiterate.⁴ While the war raged, the order and predictability of laws, regulations, and institutions virtually collapsed.

Although some basic pre-war legal and institutional structures remain, the new government that took office in 2005 started not merely with a blank slate, but a slate that had been crumbled beyond recognition. Today, an economy that might in other contexts embrace the normal risks of entrepreneurship and investment, which could be mitigated by reliable systems of education, contracts, and infrastructure, has merely shifted from a culture of war to a culture of mistrust while opportunity continues to be overwhelmed.

Food insecurity often influences a country's agriculture policies, and agricultural policies directly affect farmers and formal agribusinesses. This scenario prevails in Liberia: according to World Food Programme (WFP) estimates, nearly 750,000 people are food insecure, and an additional 1.2 million are vulnerable with external shocks.⁵ Discussions with the Ministry of Agriculture revealed that improving food security is of paramount importance to the country.

Through various policy initiatives and willingness to engage international support, Liberia's national government is working to overcome daunting post-war economic obstacles, including those relating to agricultural production, processing, and trade. The widespread perception, however, is that most government institutions and offices are ineffective and, in many cases, corrupt. At the heart of this culture of mistrust: the "rules of the road" are maddeningly opaque. A lack of accessible, clear, and

³ The Second Liberian Civil War, 1999–2003. According to the BBC, as a result of this war, Liberia's "infrastructure is in ruins." <http://www.bbc.com/news/world-africa-13729504>.

⁴ UNICEF Country Profile: http://www.unicef.org/infobycountry/liberia_statistics.html.

⁵ <http://www.wfp.org/news/news-release/liberia-launches-2012-comprehensive-food-security-and-nutrition-survey>.

reliable information—about the price of goods, the costs of doing business, or the actions of agencies and individuals — discourages entrepreneurship and interferes with SME growth.

Drawn from a comprehensive diagnostic process, this report examines the relationship between Liberia’s agriculture-based economic opportunities, particularly for small and medium-sized players, and the business environment for producers, processors, transporters, traders, and professionals that will allow (or prevent) realization of those opportunities. This report specifically assesses the fundamental question of whether people with sound entrepreneurial ideas in Liberia’s agriculture sector—including traditionally disenfranchised groups such as isolated rural populations and women—are in a position to launch and maintain enterprises with reasonable prospects for success. Indeed, given the sector’s inherent challenges of weather, topography, infrastructure, and other related conditions, the political, legal, institutional and social dynamics for supporting agribusiness become all the more critical.

AGCLIR: A TOOL FOR UNDERSTANDING THE ENVIRONMENT FOR AGRIBUSINESS START-UP AND GROWTH

The AgCLIR methodology is a diagnostic tool that, for any given country, reviews and analyzes the legal frameworks, the numerous public, private, and not-for-profit institutions, and the social dynamics underlying conditions for reform in that country’s agriculture sector. Based on AgCLIR analyses, a variety of recommendations are made. The AgCLIR diagnostic protocol endeavors to take into account certain themes found in the World Bank’s *Doing Business* initiative,⁶ which since 2002 has assisted countries in targeting where their regulatory environments may favor or interfere with economic growth, and investigates how these same issues, along with other key topics, affect the agriculture sector in the analyzed country.

For each topic covered in the *Doing Business* reports, the World Bank considers key indicia of how the regulatory environment is “working,” measured by such means as the number of procedures involved in achieving a goal (for example, starting a business, paying taxes, enforcing a contract); the number of days it takes; and the costs of the procedures in relation to per-capita income. The World Bank gathers data from 186 countries and ranks each, thereby demonstrating how, to this limited degree, their respective environments compare to

6 See World Bank, *Doing Business in 2014* (2013), and accompanying literature at www.DoingBusiness.org.

TABLE 2: WORLD BANK DOING BUSINESS SCORES – LIBERIA

CATEGORY	2014	2013	CHANGE IN RANK
Doing Business Overall (186 countries surveyed)	144	149	+5
Starting a Business	31	37	+6
Dealing with Construction Permits	129	129	+/-0
Getting Electricity	142	144	+2
Employing Workers	n/a	n/a	n/a
Registering Property	181	180	-1
Getting Credit	86	105	+19
Protecting Investors	147	147	+/-0
Paying Taxes	42	44	+2
Trading Across Borders	142	143	+1
Enforcing Contracts	165	166	+1
Resolving Insolvency	161	159	-2

others throughout the world. AgCLIR supplements *Doing Business* by examining key components of the regulatory environment for agricultural enterprise in those developing countries, including Liberia, whose economies and workforces are significantly based in agriculture.

In World Bank’s *Doing Business* 2013 report, Liberia ranked 144th out of 186 countries surveyed. Liberia improved 5 spots in the rankings over the previous year, with notable improvements to the business enabling-environment in starting a business and getting credit (see box). Targeted to address key issues in Liberia’s agricultural economy, this AgCLIR report analyzes 9 out of 11 areas reviewed in *Doing Business*—**Starting A Business, Dealing with Licenses,⁷ Employing Workers,⁸ Registering Property, Paying Taxes, Protecting Investors, Trading Across Borders,**

7 In its 2008 survey, the World Bank changed the designation of the category “Dealing with Licenses” to “Dealing with Construction Permits,” a title that more accurately reflects the scope of its survey. AgCLIR’s focus remains on the broader issue of Dealing with Licenses, many of which are required to do business in the agricultural sector.

8 In 2011, the World Bank removed Employing Workers from its ranked areas of inquiry, due to ongoing controversies over the issues it evaluates. Nonetheless, *Doing Business* continues to include data about the issue in its reports.

and **Enforcing Contracts**. This AgCLIR report also examines the important regulatory issues of **Competing Fairly** and **Accessing Marketing Infrastructure**⁹ and, consistent with USAID's Policy on Gender Equality and Female Empowerment, includes a chapter on **Integrating Gender**.

The in-country portion of information-gathering for this report took place January 5–21, 2014. A seven-member team of consultants convened in Liberia to conduct interviews across the agricultural sector. The team was advised by USAID's Monrovia-based representatives and representatives of USAID's key projects, in particular its Food and Enterprise Development (FED) Program. Individually and in groups, the team met with more than 250 national and local officials; farmers and their associations; small, medium, and large agricultural enterprises; business associations; educational and research institutions; the lending and investment community; donor representatives; and many others. Interviews and observations took place in and near Monrovia, Buchanan, and several locations in Lofa, Bong, and Nimba counties. The AgCLIR diagnostic culminated in a roundtable presentation and discussion in Monrovia on January 21, 2014, attended by more than 90 stakeholders. At the roundtable, team members introduced their preliminary observations, which were then subjected to feedback and elaboration from the participants. This input helped shape the final conclusions of the team, which are found in this report.

SUMMARY OF FINDINGS

Summaries of subject-matter areas examined in this report are set forth below.

STARTING A BUSINESS.

To formally register in Liberia, a new business need only comply with four procedures, which can be accomplished in about one or two days. Moreover, the cost to do so is nominal. Liberian law does not impose a minimum capital requirement, and the Liberia Business Registry (LBR) adopts a common-sense attitude toward the amount of capital a new business must represent that it has. This benign picture, however, is only half of the story. Although the formal procedures for registering a business are in fact simple and straightforward, the prospect for a local producer, processor, or trader to establish a commercially viable agribusiness remains daunting. Liberia's lack of infrastructure makes some ventures impossible simply because getting products to market in a reasonable time is not feasible. In addition, there is a dearth of financing for new

ventures. Interviews also suggest that potential business registrants fear official corruption during the process. Business development services are largely missing, except for those provided by a number of donor-supported non-government organizations (NGOs). Private suppliers of agricultural inputs, including seed, fertilizer, and pesticides, are scarce. Liberia's Ministry of Agriculture (MOA) provides only limited extension services in rural areas, and farmer organizations and cooperatives are relatively few in number.

DEALING WITH LICENSES

As in all countries, there is no single business license in Liberia that ensures compliance with all legal requirements. Some companies may be subject to several requirements, while others may not be subject to any. Liberia's licenses and regulations pertaining to agriculture-related enterprises range from annual "re-registration" to certification and licensing of agricultural inputs (such as seed, fertilizer, and pesticides), to licenses and permits required for transport and marketing of agricultural products, environmental protection, and the health and safety of certain products. Against a backdrop of near overwhelming infrastructure constraints—chiefly, Liberia's lack of roads and electricity—"dealing with licenses" is almost never the first complaint articulated by entrepreneurs. As the country's infrastructure is upgraded—and primary roads in particular are now being improved at a steady pace—many opportunities for domestic, regional, and international commerce will be unleashed.

Liberia has another critical licensing issue that has not yet fully taken shape. In January 2012, the Liberia National Decentralization and Local Governance (LNDLG) policy took effect, aiming to substantially transfer political, fiscal, and administrative powers from the national government to the country's 15 counties and other administrative units.

INTEGRATING GENDER

This chapter deals with women in agriculture and agribusiness, and covers five groups of women in the continuum of agricultural enterprise: (1) women farmers; (2) market women; (3) women traders; (4) SME businesswomen (including food processors, retailers, service-providers, and others); and (5) women professionals. Although each group faces its own challenges, the unique experiences of each need to be taken into account overall when designing programs to support agriculture.

Most women farmers operate in a world that remains traditional in terms of roles, practices, and expectations. Efforts to reach them should take into account that literacy and

⁹ AgCLIR does not cover the World Bank's newest area of inquiry, Getting Electricity.

numeracy in Liberia are extraordinarily low. A smaller cohort of professional women engage in cross-border trade and agribusiness, though many businesswomen tend to choose other, more lucrative sectors for their commerce.

Women also play an integral role in markets both upcountry and in Monrovia, and are critical actors in price setting. Programs designed to boost agriculture should take their prominent role into account.

REGISTERING PROPERTY

It is an understatement to observe that Liberia's land and property system in general, and its property registration system in particular, are undergoing vital transition. Since 2009 (and continuing into the foreseeable future), Liberia has been engaged in a focused process of reforming all facets of its property systems, led by reforms in real and movable property, but also with respect to intellectual property. Land issues are by far the most crucial, however, for many reasons, including:

- Agriculture's overriding importance to Liberia's GDP and work opportunities.
- Land use is of vital importance across the economic spectrum, since subsistence farmers, smallholder farmers, and large-scale timber, rubber, palm oil, and mining concessions all depend on land for survival and income.
- According to recent studies, land disputes comprised an estimated 90% of the controversies in the courts.¹⁰

COMPETING FAIRLY

As of 2014, Liberia does not yet have a legislative, regulatory, or administrative framework to ensure fair competition. A variety of current licensing practices and government policies may actually have anti-competitive impacts, particularly on poor producers and consumers. This, combined with the small size of the country and island-like nature of its economy, may have given rise to market structures where unfair competition is the norm, and consumers and smallholders are disadvantaged.

EMPLOYING WORKERS

¹⁰That said, the vast majority of these land dispute court cases relate to wrongful occupancy of houses, most of which occurred as persons fled during the civil war and those who remained took possession. Further, the percentage of land disputes in the courts originating from rural communities is far lower, because these are usually resolved at a local level. For further information, see the below "Implementing Institutions" portion of this chapter.

Liberia's education system is in a dismal state. Primary and secondary schools especially lack resources and are poorly attended. This has a direct, and negative, impact on the nation's workforce. In fact, the challenges relating to Liberia's workforce—in particular, workers who support the agriculture sector not only in production, but also as processors, transporters, traders, and professionals—are among the most critical facing the economy.

With respect to Liberia's legal regime for labor and employment, the issue of primary concern as of early 2014 is the status of "Decent Work" legislation, which has been before the national legislature since 2010. The content and impact of this legislation is fraught with opacity and misinformation. Although its enactment is of intense interest to certain constituencies in the country, the overall weakness of the Ministry of Labor—which would be charged with implementing the legislation but is barely able to enforce its various other responsibilities—threatens to reduce the legislation, even if enacted, to yet another opportunity for Liberia's citizens to be disappointed in their government institutions. Moreover, enacting Decent Work legislation without clarifying roles and responsibilities, particularly with respect to determining and setting minimum wages, would be a disservice to the economy.

ACCESSING MARKETING INFRASTRUCTURE (AMI)

Although the AMI methodology specifically excludes public goods such as electricity, hard infrastructure repeatedly came up as a potential binding constraint to the improvement of Liberia's agriculture industry. The most glaring example of this is the road network: a lack of adequate primary and farm-to-market roads prevent farmers from getting goods to nearby markets and to the larger wholesale and retail markets in Monrovia. In fact, less than 10% of Liberia's road network is paved, and a majority of primary (county capital to county capital) roads are unpaved. The network of farm-to-market roads is insufficient and roads degrade quickly during the heavy rainy seasons. This significantly impedes a cost-effective transport industry, yet farmers have few options to get goods to markets.

PAYING TAXES

Taxes are an important source of revenue to the government of Liberia, but donor contributions exceed taxes in value by 25%. Most taxes paid to government come from a small percentage of the population, and the biggest single source of tax revenue comes from customs and other import duties. Many

potential taxpayers simply ignore the revenue authorities. Other than payments from large agribusiness concession firms, very few taxes are paid by local agribusinesses.

The major taxation challenge for Liberia is to expand the economy and move more businesses into the formal sector so they can be better regulated and taxed. And the government is moving to address some of its tax collection problems. It is in the process of establishing a semi-autonomous revenue authority. It is also working to establish a communications system that will automatically make available various types of useful information to the revenue authorities from other government agencies. On the other hand, many entrenched obstacles attend installing a better business tax system, including addressing the reported wide-scale corruption among revenue agents.

PROTECTING INVESTORS

There are ongoing efforts within the public, private, and non-profit sectors to improve the laws, institutions, and culture that make up the investment climate in Liberia. Recently reformed laws such as the Investment Act of 2010 and the Consolidated Tax Amendment Act of 2010 have brought Liberia closer to internationally accepted norms for investment; for example, foreign investors now have the same rights and are subject to the same duties and obligations as domestic investors.¹¹ Other recently enacted laws will also help protect investors, including the Commercial Code of 2010 and the Liberia Institute of Certified Public Accountants Act of 2011.

Institutional reforms have occurred as well, such as the creation of the commercial court system in 2010 and a collateral registry that should begin operating during the middle of 2014. Undeniably, these reforms are important and positive, since they attempt to limit risk and improve opportunity for Liberian citizens and for outside investors. At present, however, the reforms resemble an investment in agribusiness itself: “patient capital” is required because most of the returns will likely not be seen for some time.

TRADING ACROSS BORDERS

The Liberian government has launched several initiatives that have expedited the flow of international trade in agriculture. These initiatives include:

- Infrastructure improvements at Freeport Monrovia.
- Introducing advanced technology into Customs processing.
- Tariff reform.
- Organizational restructuring of Customs administration.
- Regional trading agreements that encourage free trade within specified areas.
- An array of exemptions for agriculture-related inputs.

These initiatives are undermined, however, by government bureaucracy, an overriding focus on the borders as a source of revenue, and a lack of collaboration among the border agencies. Liberia continues to lag behind in its use of international best border practices and in attaining efficient processing in line with international standards. For example, it takes 11 days to clear goods at Freeport Monrovia, and that rate is not trending downward. Time-consuming and cumbersome border processes encourage unscrupulous traders and tempt even those who normally play by the rules to bypass formal channels, further endangering revenue collection.

ENFORCING CONTRACTS

Liberia’s written laws, complicated court procedures, and adversarial litigation exist in parallel to an entirely different system of customary, tribal right recognition and enforcement. Much of the country’s formal system for resolving legal disputes is an uneasy American import, and there is widespread disaffection with it.¹² Customary law is recognized by the Liberian Constitution and is binding, within limits, on the “uncivilized” tribal peoples.¹³ It is thus not useful to discuss contract enforcement in Liberia without delving, at least a bit, into this fundamental divide. Even a cursory review of formal Liberian contract law and enforcement processes reveals a marked, apparent unevenness in the body of written law. Laws range from straightforward and practical to extremely complex. The gap between unwritten, traditional, tribal dispute resolution and Liberia’s formal legal system is made even more extreme by the near wholesale adoption of some aspects of American commercial law, in all its technical and procedural complexity. For a country at Liberia’s state of development, the sheer density of these laws may pose a problem.

¹²See Looking for Justice: Liberian Experiences with and Perceptions of Local Justice Options, United States Institute of Peace and Peaceworks, November, 2009 (USIP Study), which summarized this topic as follows:

Affordability, accessibility, and timeliness are three of the most consistent demands that Liberians have when it comes to the provision of justice. Our research reveals that the formal justice system is seen almost universally by Liberians as falling abysmally short of their expectations in all three of these important service categories.

¹³See <http://www.nyulawglobal.org/globalex/liberia.htm>, Paragraph 17, Customary Law

¹¹ The only restrictions are a collection of discrete business areas listed in the Investment Act where foreign ownership of a business is limited or prohibited entirely, depending on the amount of the investment and the business area. This was done to protect and stimulate Liberian businesses in the specified areas, but the restrictions have not been shown to have brought about any such increase.

HOW THIS REPORT IS STRUCTURED

Each chapter in this report is structured the same way. Following an introduction, each has four substantive sections (Legal Framework, Implementing Institutions, Supporting Institutions, and Social Dynamics), which are followed by Recommendations.

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Legal Framework. The chapters first examine Liberia's formal policies, laws, and regulations that serve as the structural basis for the country's ability to achieve and sustain market-based development in the agricultural sector. They discuss the following questions: With respect to key components of the business environment, what is the government's policy? How accessible is the law, not only to elite, well-informed groups, but also to less sophisticated actors, rural constituencies, or foreign investors? How clear are the laws, and how closely do they reflect emerging global standards? How well does law respond to commercial realities faced by stakeholders in the agricultural sector? What inconsistencies or gaps are present in the legal framework? This section examines key laws and regulations that apply throughout the economy and additional laws and regulations underpinning the agricultural sector specifically.

Implementing Institutions. Next, the chapters examine those institutions that hold primary responsibility for implementing and enforcing the legal framework. These institutions generally include government ministries, authorities, and registries. In addition, courts and other tribunals are examined with respect to their effectiveness in addressing disputes that arise in the agricultural sector. Again, the diagnostic seeks to uncover

how these implementing institutions function not only with respect to mainstream business interests in the capital but also in rural areas and agricultural communities.

Supporting Institutions. The chapters then look closely at those organizations, individuals, or activities without which the agricultural sector in Liberia cannot be fully developed. Examples include business and professional associations, educational institutions, research and extension resources, business support services, and donors. The relative awareness of law and practice on the part of each institution is examined, along with the specific ways in which institutions increase public and professional awareness, work to improve economic performance, and otherwise serve their constituencies.

Social Dynamics. As the final point of analysis, the chapters discuss key issues that impact the environment for growth in the agricultural sector. Roadblocks to reform, in particular, are considered, including those entities that may be undermining change. This discussion also identifies significant opportunities for bolstering the environment for agricultural enterprise—such as champions of reform or regional initiatives—as well as matters of access to opportunity and formal institutions. Social dynamics also concern the important matters of gender, human capacity, and public health, each of which may have a significant bearing on how the business environment truly functions. Indeed, a full understanding of a country's legal and institutional issues cannot often be achieved without a nuanced consideration of its social dynamics.

Recommendations. Based on the extensive knowledge and analysis set forth in this report, a series of recommendations are set forth at the end of each chapter. These are drawn from the key findings and reflect current reform capacities, opportunities, and evidence of will to reform. Some of the recommendations within the chapters may overlap, and all of them turn on the priorities and preferences as enunciated by Liberia's government itself. The recommendations in this report are intended to serve, among other functions, as a threshold list for donor coordination of immediate initiatives, and to inform strategies for improved program design.



STARTING A BUSINESS

Among the fundamental economic challenges facing Liberia is the transformation of its vast community of informal, barely productive subsistence farms to the scale of commercially viable enterprises operating in the formal economy. Given this broad challenge, the issue of establishing an appropriate legal, regulatory, and institutional environment for starting a business is of critical importance. The focus of this chapter, then, is on the factors influencing the formation of commercially successful small- and mid-sized agribusinesses in Liberia.

The World Bank's *Doing Business in 2014* report paints an upbeat picture of starting a business in Liberia. Taking into account the four criteria that it reviews—specifically, the number of procedures required to start a company; the time it takes to undergo these procedures; the cost of start-up; and required paid-in minimum capital—*Doing Business* ranks Liberia 31st out of the 189 countries surveyed for ease of starting a business. Liberia's showing is substantially better than the regional average of Sub-Saharan countries. Further, Liberia's score has improved over the last seven years in each of the three categories where there was room for improvement (all but start-up capital, where no improvement was necessary).

Although the Liberia Business Registry (LBR),¹⁴ the government entity charged with registering new businesses, adopts a common-sense attitude toward the amount of capital a new business must represent that it has (for example, a registration might be refused for a new airline showing it has no capital), Liberian law does not impose a minimum capital requirement.

This benign picture, however, is only half of the story. Although the formal procedures for registering a business are in fact simple and straight forward, the prospect for a local producer, processor, or trader to establish a commercially viable agribusiness remains daunting. Liberia's lack of infrastructure makes some ventures impossible simply because getting products to market in a reasonable time is not feasible. In addition, there is a dearth of financing for new ventures. Business development services are largely missing, except for those provided by a number of donor-supported NGOs. Private suppliers of agricultural inputs, including seed, fertilizer, and pesticides, are scarce. The MOA provides only limited extension services in rural areas, and farmers' organizations and cooperatives are relatively few in number. Since 2012, the Ministry of Commerce and Industry (MOCI) has had a clear agenda to support small businesses, which has included some training and networking support, but has not significantly reached entrepreneurs beyond the capital of Monrovia.

TABLE 3: DEFINING MSMEs, ACCORDING TO THE LIBERIA MSME POLICY

TYPE OF ENTERPRISE	NUMBER OF FULL-TIME, NON-FAMILY EMPLOYEES
Micro enterprise	0-3
Small enterprise	4-20
Medium-sized enterprise	21-50
Large enterprise	More than 50

To formally register in Liberia, a new business need only comply with four procedures, which can be accomplished in about one or two days. Moreover, the cost to do so is nominal.

¹⁴The Liberia Business Registry is not to be confused with the Liberian Corporate Registry. Liberia has a vibrant offshore corporate industry. These offshore corporations operate mostly in the maritime and financial services industries. The Liberian Corporate Registry, under contract with the Liberian government, is headquartered in Virginia and operates out of offices located around the world.

LEGAL FRAMEWORK

Liberia's policy and legal framework for business registration and small business development generally is adequate. However, parts need to be updated and disparate provisions need to be better integrated.

Policy backdrop. In 2010, the Liberian government established the **Liberia Agriculture Sector Investment Program (LASIP)** in partial fulfillment of its commitment to the African Union's **Comprehensive Development Programme (CAADP)**. LASIP sets forth a range of goals, including a proposed effort to encourage "competitive value chains and market linkages." Among other efforts, LASIP aims to "develop agribusinesses along commodity chains to facilitate value addition, and link farmers to input and output markets."¹⁵ The challenge now is to move the entire LASIP program along to fulfillment. However, LASIP anticipates many potential projects, without specifying priorities among them, a plan for implementation, or a sequence of activities. In fact, nearly any type of agriculture-related project implemented by the government or donor community is regarded as in step with the LASIP. As of January 2014, although the Ministry of Agriculture (MOA) sponsors a number of crop-centered technical committees, the overall ordering of LASIP priorities was poor given obvious resource constraints.

Moreover, for the past few years, the MOA and related agencies have been allocated between 1% and 3% of the national budget. If the government is to succeed in fulfilling LASIP—which also sets goals for food and nutrition security, institutional development, and land and water development—it will need to set aside a higher percentage of budget funding and better account for the funds spent.

A second recent policy initiative pertaining to Starting a Business is the **Rationale, Policy and Implementation Framework for MSME Development in Liberia (2011-16)** (MSME Policy), issued by the Ministry of Commerce and Industry in July, 2011. According to the policy document, "The specific case for supporting MSMEs in Liberia includes: (i) the very large informal sector and the small size and fragility of the formal sector; (ii) a history of a highly fragmented, largely informal economy; (iii) the low status of business in Liberia; (iv) absence of readily available business

information; (v) need to shore up public-private partnership; and (vi) the ad hoc, fragmented support for MSMEs in place currently."¹⁶

KEY POLICIES, LAWS, AND REGULATIONS

- Liberia Agriculture Sector Investment Program (LASIP) (2010)
- MSME Policy ("Poverty Alleviation and Wealth Creation Through Small Enterprise Development: 2011-16")
- Microfinance Policy and Regulatory & Supervisory Framework
- Associations Law (1976, as amended)
- General Business Law (1973, as amended)
- Investment Act (2010)
- National Investment Commission Act (2010)
- Regulations of the Liberian Business Registry (2011)
- Land Commission Act (2008)
- Public Procurement and Concessions Agreement Act (2005)
- Cooperatives Act (1936)

The framework identifies four priority areas for state-led coordination and intervention:

1. The legal/regulatory framework
2. Access to finance
3. Access to markets
4. Skills and knowledge

Specifically with respect to legal and regulatory conditions, the framework prioritizes increased formal registration of enterprises, simplified systems of taxation, and expanded dissemination of legal and regulatory information.¹⁷ The first issue, company registration (in particular through the Liberia

¹⁵Republic of Liberia, Liberia Agriculture Sector Investment Program (LASIP) Report (2010) at 26.

¹⁶Ministry of Commerce and Industry, Rationale, Policy and Implementation Framework for MSME Development in Liberia (2011-16) (July 2011) at 1.
¹⁷Id. at 14.

Business Registry) is discussed in this chapter; matters of taxation are discussed in this report's chapter on Paying Taxes; and issues of business licensing and other threshold regulatory matters, including the agriculture sector—largely skipped over in the MSME Policy—are detailed at this report's chapter on Dealing with Licenses.

In 2009, the Central Bank of Liberia created the **Microfinance Policy and Regulatory & Supervisory Framework** for Liberia to guide its efforts in providing financing to SMEs both in agribusinesses and in other lines of business. Using this framework, it has begun efforts to bring funding to SME agribusinesses. This report only lightly addresses issues of "Getting Credit," because the issue was detailed at length in 2013 by a USAID-sponsored inquiry into access to finance.

Legal backdrop. The **General Business Law** of Liberia (Title 14 of Liberia's general code of laws) took effect in 1973, and remains the law of the land, although parts have been amended over the years through stand-alone legislation. The General Business Law sets the stage for a variety of private sector functions, including the requirement (in Chapter 4 of the law) that all businesses register with the Ministry of Commerce. However, the law specifically excludes from this registration requirement "the production of agricultural products" and "the sale of agricultural products by a person who produced them."

For those agricultural enterprises that go beyond the farm-based production and sales to establish a more formal place in the economy, Title 5 of the **Associations Law of 1976** lays out the different forms of engaging in business (for example corporation, partnership, and limited liability company). A substantial portion of this law was updated in the early 2000s. The remaining parts of it, including the provisions relating to cooperatives, still need to be updated.

Regulations for starting a business. The regulatory conditions for registering a business are primarily set forth in the **LBR Regulations**, jointly issued in 2011 by the Minister of Foreign Affairs, the Minister of Finance, the Minister of Commerce and Industry, and the Director General of the National Social Security & Welfare Corporation. The LBR Regulations aim to provide "one-stop shopping" for setting up entities doing business in Liberia; however, systems are not yet in place to serve a number of practical business needs, including licensing. Still, businesses that register with the LBR are also simultaneously registering with a variety of agencies, including

the Ministry of Finance (for the purpose of paying taxes) and the National Social Security and Welfare Corporation (for the purpose of entering employees into the country's nominal "social safety net"). The LBR has a well-constructed and easy to use website, which contains general information about the business laws and regulations of Liberia. It is also possible to register online, although to do so requires evidence that the applicant has paid its taxes. In the future, the LBR intends to create and post a standard set of incorporation forms and model corporate by-laws.

In addition to its Monrovia office, the LBR operates small satellite offices in Ganta and Buchanan. These tiny offices, outfitted with a generator and computer equipment, were literally constructed from shipping containers and transported to these smaller cities from Monrovia, with donor support. Despite access to electricity and a link to the central registry, the Ganta office continues to rely on its ledger book as its primary record-keeping tool.

Registering a business, whether for a domestic or foreign company, takes four steps:

1. Reserve a unique company name.
2. Register at the Liberia Business Registry.
3. Pay fees and obtain proof of payment; the fees vary depending on the type of business being registered, but are modest.
4. Receive the business registration certificate.

Enterprises are required to pay a fee of 2,000, 3,000, and 4,000 Liberian dollars (LRD or L\$)¹⁸, respectively, for annual re-registration of sole proprietorships, partnerships, and corporations. Costs for registering as a cooperative appear to be nominal. In addition to these registration fees, businesses must present proof of having paid their required tax to the Ministry of Finance (and, in the future, to the newly established Department of Revenue). Businesses are also required to post the registration certificate in their place of business. The report team's informal survey of various business locations inside and outside Monrovia indicated that many businesses have not yet registered (or at least have not posted their certificate). As a technical matter, failure to register means that the business is

¹⁸Except as otherwise noted as here, dollar references indicate US\$.

operating in the informal economy. As a practical matter, however, even though registration is a legal requirement, there are virtually no consequences for failing to register.

During interviews conducted for this assessment, officials at the registry in Monrovia indicated that, since the LBR launched in 2013, some 294 for-profit agribusinesses have registered, along with an additional 39 not-for-profit agricultural entities (cooperatives). The Monrovia office designated companies as “agribusinesses” based on International Standard Industrial Classification (ISIC) codes. Prior to 2013, few agribusinesses had registered with the government. Therefore, a large number of agribusinesses have failed to register, although most of them are likely small and not profitable.

At the moment, there appears to be little incentive to register with the LBR other than eligibility to obtain contracts with the Government of Liberia (GOL) and to otherwise deal with the GOL in such matters as importing goods. However, the MOA could dramatically increase registrations by establishing, through field agents and related means, an effective program that provides “how to” help for developing commercially viable agribusinesses, and by making registration a prerequisite for getting that help.

For its part, the Ganta office of the LBR reported registering 251 new enterprises in 2013 (the vast majority being sole proprietorships, with 10–12 registered as corporations). However, unlike the Monrovia office, the Ganta office does not distinguish whether a company does business in the agriculture sector, and apparently does not use the ISIC code. If the main office of the LBR accounts for agricultural enterprises (as a subset of all enterprises), then all branch offices (in this case Ganta, but also Buchanan) should. Simply put, in order for Liberia to have a comprehensive—and comprehensible—national business registry, all local LBR registration practices must be reconciled.

Another problem with business registrations is that several other agencies still play a role in the process. In the past, the Minister of Foreign Affairs oversaw the incorporation and licensing of both domestic and foreign corporations doing business in Liberia. It still exercises this authority. The Cooperative Development Agency (CDA) still oversees the creation of cooperatives. This overlapping authority is confusing and should be eliminated.

Legal conditions for investors. The **Investment Act of 2010**, coupled with the **National Investment**

Commission Act of 2010, mandates fair treatment of corporations doing business in Liberia. The Investment Act is aimed principally at foreign corporations to encourage them to conduct business in Liberia. The act prohibits discrimination against these corporations and promises that their capital, profits, and dividends will not be expropriated. Section 9 of the Investment Act also promises “access to public information,” including “all laws and decisions of courts or other adjudicative bodies and to any other public information, which has a rational relationship to their investment interests.” This promise may be interpreted as providing assurance that GOL will not enforce licensing and permitting requirements that have not been disseminated to the public.

The Investment Act also lists a variety of enterprises that are reserved for Liberian entrepreneurs only, or are otherwise significantly restricted. Several of the restricted enterprises relate to agricultural production and trade. The list of restricted enterprises includes: (1) supply of sand; (2) block-making; (3) peddling; (4) travel agencies; (5) retail sale of rice and cement; (6) ice-making and sale of ice; (7) tire repair shops; (8) auto repair shops with investments of less than US\$550,000; (9) shoe repair shops; (10) retail sale of timber and planks; (11) operation of gas stations; (12) video clubs; (13) operation of taxis; (14) importation or sale of second-hand or used clothing; (15) distribution in Liberia of locally manufactured products; and (16) importation/sale of used cars (except authorized dealerships, which may deal in certified used vehicles of their make).

However, the Investment Act allows foreign investors to invest in certain, otherwise restricted, business activities provided they invest no less than US\$500,000, or, if a Liberian partner maintains at least a 25% equity stake, no less than US\$300,000. Those activities are: (1) production and supply of stone and granite; (2) ice manufacturing; (3) commercial printing; (4) advertising agencies, graphics and commercial artists; (5) cinemas; (6) production of poultry and poultry products; (7) operation of water purification or bottling plant (specifically the production and sale of water in sachets); (8) entertainment centers not connected with a hotel establishment; (9) sale of animal and poultry feed; (10) operation of heavy duty trucks; (11) bakeries; and (12) sale of pharmaceuticals.

According to the US Department of State's 2013 “Liberia Investment Climate Statement,” international donors and some business groups raised concerns that that the

Investment Act is discriminatory and anticompetitive, but the government nonetheless imposed the restrictions. The Statement concluded that, in fact, the law “has not effectively increased Liberian participation in commercial industries.”

Accessing land for enterprise. The **Land Commission Act of 2008** establishes Liberia’s Land Commission. As detailed in this report’s chapter on Registering Property, title to land in Liberia derives from a complex mix of western law and tribal customary law. For this reason, legal title to land in some areas of Liberia is problematic. For farmers trying to establish commercial farms, the difficulty in securing clear title to land presents a problem in determining what specific piece of property is his or hers to farm and, equally important, can cause difficulty in obtaining financing absent a valid deed to the farm property. The Land Commission has been charged with sorting out the legal issues in this area.

Concessions. The **Public Procurement and Concessions Agreement Act of 2005**, as amended, was enacted to address the dubious legacy of large, government-negotiated agribusiness concession agreements and to lay the groundwork for the creating new, and more proper, concession agreements. However, the intent of this law has been notably ignored: according to some estimates, between 2006 and 2011, more than a third of Liberia’s land was conceded to private investors via “private use permits” to use for logging, mining, and agro-industrial enterprises. Moreover, these projects enjoy various valuable benefits, including incentives and tax breaks.

The tradition of largesse to foreign interests has caused enormous tension between licensing them and existing land rights. Ever since the law was enacted, the newly established Procurement and Concessions Commission has worked to modify some of the more egregious provisions in earlier concession agreements, including those that essentially disenfranchised Liberians from land they had lived on and worked for generations.

Because this chapter focuses on starting small- and mid-sized agricultural enterprises (SMEs), a detailed treatment of problematic concession agreements with large-scale agribusinesses is beyond the scope of this report.¹⁹ However, some additional discussion of concessions appears in this report’s chapter on Competing Fairly.

¹⁹For analysis of the state of agricultural land concessions in Liberia, see Early Warning Early Response Working Group, “Agricultural Land Concessions and Conflict in Liberia: Policy Analysis Brief” (June 15, 2012).

Starting a cooperative. The **Cooperatives Act of 1936** deals with creating cooperatives and establishes the powers of the Cooperative Development Agency. The act is difficult to locate and is probably outdated. LASIP calls for the authority to be reinvigorated and the act revised to bring it up to date.

IMPLEMENTING INSTITUTIONS

A number of implementing institutions should be playing a significant role in moving Liberia’s agricultural economy forward (see box for a list of key institutions). But in many cases, the institutions are underfunded, understaffed, or poorly managed, and for these reasons do not function well. There are exceptions, notably the Liberia Business Registry, which is generally accessible and transparent, and the Central Bank, which offers small-scale programs to support agribusiness financing. Significant effort needs to be made to improve the overall performance of most other implementing institutions.

The previous section discussed the Liberia Business Registry and the roles of the Public Procurement and Concessions Commission and the Liberia Land Commission. Therefore, this section will not further discuss those institutions.

KEY IMPLEMENTING INSTITUTIONS
• Liberia Business Registry
• Public Procurement and Concessions Commission
• National Investment Commission
• Ministry of Agriculture
• Ministry of Commerce and Industry
• Central Bank of Liberia
• Cooperative Development Authority
• Liberia Land Commission

National Investment Commission (NIC). Initially set up to attract foreign investment into Liberia, the NIC now focuses on encouraging both domestic and foreign investment. The Commission does not have a program specifically dedicated to agribusinesses, but its areas of authority and concentration influence those businesses. For example, the NIC leads the inter-ministerial cabinet committee on granting concession agreements. NIC can help shape these agreements to call for

(1) a concession company to invest in the local communities where it operates and (2) contract or out-grower farming provisions that enable nearby small farmers to sell their produce to the concession company. In addition, the Commission can provide incentives for SMEs to import needed farm inputs (such as seeds, tools, and fertilizer) by easing the burdensome tax certification requirements for imports.

Ministry of Agriculture (MOA). Although traditionally oriented to the production aspect of agriculture, the MOA has an oversight role not only with respect to food security, but also the foundations of agricultural enterprise. For generations, the Ministry has been in charge of prioritizing Liberia's domestic rice production, which appears to consume more institutional interest and commitment than any other crop or product. In recent years, the Ministry has drafted numerous policies aimed at bringing the country up to essential standards and practices with respect to seed, plant protection, livestock, and various crops, including rice, cassava, and cocoa (see table in this report's chapter on Dealing with Licenses). The Ministry is underfunded, however ("We have nothing," complained one official during this assessment). And to date, the Ministry has made little progress toward transforming policy priorities—or developing new systems and implementing bodies—into sustainable change via marked increases in production, reduction of post-harvest loss, or increased domestic sourcing of food supplies.

A crucial test of the Ministry's leadership will be in coordinating the implementation of LASIP. The Ministry should have extension agents active in each county, training farmers on production techniques and labor-saving innovations, but today it has too few agents and provides only skeletal coverage of rural areas. In addition, LASIP establishes a program for monitoring and evaluating its reform efforts (M&E), but it seems that just one person, funded by the World Bank, staffs the M&E office. Although M&E also takes place through the major donor-sponsored projects that support agriculture, these M&E activities are not directly tied to those anticipated by LASIP. The Ministry not only requires more funding, it requires leadership and authority to push the Liberia's agriculture-related priorities forward.

Cooperative Development Agency (CDA). Although charged with many duties pertaining to facilitating and strengthening cooperative societies throughout Liberia, the CDA does not currently function in an effective way. The authority could play a significant role in moving small farmers

into successful larger agribusiness enterprises, but it is so severely underfunded and understaffed that it cannot possibly do so.

Prior to the civil war, cooperatives appear to have been significant players in SME agribusinesses. And although cooperatives can be prone to abuse by dominating members, they should still play an important role in helping to revive Liberia's agribusiness. The CDA needs life breathed into it, but given high levels of distrust, may find it difficult to convince farmers that cooperatives can be beneficial.

MSME division of the Ministry of Commerce and Industry (MoCI). Based on the policy agenda established by the government's MSME Policy, the MSME division of MoCI has four areas of focus:

1. Supporting the development of SMEs.
2. Enhancing access to markets.
3. Building the capacity of the population to engage in business.
4. Finding finance for SMEs.

Although programs in support of these four areas are in their early stages, one popular initiative—an MSME Conference and Trade Fair—was launched in 2013 and the second "annual" event was held in April 2014. With significant support from the donor community and national leadership, the 2013 conference invited 50 enterprises in agriculture, catering, construction, lodging, and other services (such as consulting, cleaning, IT, security, waste management, textiles, transportation and logistics, and woodworking). One participant in the 2013 event observed that at least as many women entrepreneurs participated as men. The 2013 conference offered training and networking opportunities for these enterprises, and claimed credit for connecting participating companies with \$500,000 worth of contracts. One small grain-processing enterprise interviewed for this assessment reported high satisfaction with the 2013 event, stating that the skills it emphasized and contacts it shared had proved valuable over the ensuing year.

Central Bank of Liberia. Although SMEs can be financed internally (with savings and help from family members and friends), as a practical matter, without external financing most SMEs cannot move beyond the start-up phase. Because scant institutional financing is available to SME agribusinesses in

Liberia, the Central Bank has taken the lead. The Central Bank has made a US\$7.5 million loan to AfriLand Bank, a Cameroon-based bank that has started making agricultural loans through a banking subsidiary in Liberia. More recently, the Central Bank has set up a US\$5 million Loan Extension and Availability Facility (LEAF) to extend credit to rural non-banking institutions such as village savings and loans associations (VSLAs)—which mainly lend to females owning agribusinesses—and credit unions. These local institutions use the money from the LEAF to lend to their members. These initiatives are important but small steps forward, and need to be nurtured and expanded.

SUPPORTING INSTITUTIONS

With some significant exceptions, supporting institutions in Liberia do not yet play a significant role in supporting new SME agribusinesses (see box for a list of key supporting institutions). In part, this simply reflects the fact that except for major concessionaires, there are relatively few commercially viable agribusinesses in Liberia. But as more of these enterprises emerge, Liberia’s supporting institutions need to evolve and expand to complement their growth. Supporting institutions can promote SMEs by providing “how to” guidance on such topics as legally forming and setting up a business, obtaining financing for it, and operating it. This identified vacuum has been filled to some extent by international and donor-supported NGOs operating in Liberia. The role of these external groups should be transitory, although in this case, “transitory” likely means for several years to come.

Business associations. A number of business associations, including sector-specific business associations, are active in Liberia. The **Liberia Chamber of Commerce (LCC)** serves as an umbrella organization for many associations, representing both domestic and foreign-owned companies. The LCC’s association members represent such sub-sectors as rubber plantations; independent rubber planters; palm growers and dealers in oil palm; and cassava growers and traders. The LCC is particularly vocal on matters of labor and employment law, land, and access to credit.

The **Liberian Business Association**, a member of the LCC, represents the interests of Liberian-owned companies, mostly SMEs, across all 15 counties.

The LBA’s primary concerns include access to credit for small entrepreneurs; currency constraints faced by SMEs; raising tariffs on imports to attract consumers to locally produced goods; and access to opportunity for Liberian citizens. This last

concern involves strong support for reserving certain enterprises to Liberians pursuant to the Investment Code, as well as support for legislation that requires the government to reserve a certain percentage of its purchases for Liberian-owned businesses. However, the LBA’s priorities are not always in step with the LCC, which represents both local and foreign-owned enterprises.

KEY SUPPORTING INSTITUTIONS
<ul style="list-style-type: none"> • Business associations (Liberia Chamber of Commerce, Liberian Business Association, Liberian Women’s Chamber of Commerce, etc.)
<ul style="list-style-type: none"> • Educational institutions (University of Liberia, College of Agriculture & Forestry, Cuttington University)
<ul style="list-style-type: none"> • Vocational institutes (Booker T. Washington Vocational Institute)
<ul style="list-style-type: none"> • Liberian National Bar Association
<ul style="list-style-type: none"> • Liberian Association of CPAs
<ul style="list-style-type: none"> • Various NGOs and donor-supported programs
<ul style="list-style-type: none"> • Support for women’s entrepreneurship

The **Liberia Women’s Chamber of Commerce** has also been established by a group of relatively prosperous, Monrovia-based business women, but does not yet have significant business-promoting programs of its own.

The International Financial Corporation (IFC) supports the **Liberia Better Business Forum (LBBF)**, a public-private dialogue platform to engage the government and stakeholders in business-enabling environment reforms.

Educational institutions. As with many other Liberian institutions, universities and vocational schools in Liberia lack the resources they need to assume a robust role in promoting private sector enterprise. The **University of Liberia** was established in 1862 as Liberia College and became a university in 1951. Despite an attractive new campus underwritten by the Chinese government, the university currently appears to be in a state of disarray. During the AgCLIR assessment visit in January 2014, its faculty was on strike, closing the university since late in 2013. The leadership of the College of Agriculture & Forestry appears to be competent and is focused on reviving the curriculum to make it relevant and responsive to the

situation in Liberia. The College hopes to generate enthusiasm among its students for starting new agribusinesses, for example by offering a minor in entrepreneurship to students majoring in traditional agricultural disciplines. However, overall, the university appears to have too many students for too few professors, and many students appear ill-prepared for a college education.

Cuttington University, a private university based in Bong County, has a large agricultural program that benefits from its proximity to Liberia's Central Agricultural Research Institute (CARI). It also has a burgeoning center for entrepreneurship. There is no intersection, however, between the technical emphasis on agricultural production stressed by the university and issues of entrepreneurship and sustaining agricultural enterprises.

The **Booker T. Washington Vocational Institute (BWI)**, also in Bong County, offers an active agricultural curriculum to older high school students. Most of its students go on to university training. Entry to the institute is competitive, and many of the country's leaders are graduates. There is even an active alumnae association with members located all over the world. BWI was closed during the civil war, but has made a remarkable recovery, integrating support from donors into its facilities and curriculum (which includes business training and development of biofuels). Notwithstanding a large campus with well-tended teaching fields and even livestock, BWI appears to suffer from a severe lack of funding.

Legal profession. Many capable law firms operate in Monrovia, but it does not appear that any of them spend an appreciable amount of time working on establishing new small- or medium-sized agribusinesses. There is simply not enough money in this practice to be worth their time. The Liberian Bar Association does not seem to have programs focused on agribusinesses.

Business support services. A number of accountants work in larger businesses in Liberia, and a few CPA firms operate in Monrovia. As with law firms, the accounting firms do not appear to be focused on SME agribusinesses since they too do not see this as a significant fee-generating practice area. The Liberian Institute of CPAs exists but it has only a small number of members—in fact there are fewer than 50 CPAs in the entire country. Overall, it appears that no business service firms provide appreciable legal, accounting, and tax services to SME agribusinesses: they are underserved.

Donor-supported business development and farmer organizations. With varying degrees of success, donors have devoted considerable effort toward encouraging farmers to work together to do business. During the course of this AgCLIR assessment, however, we found no evidence of successful farmer groups that have emerged and thrived without significant donor involvement. On the other hand, it seems that some successful businesses are emerging with the help of donor organizations. For example, an agricultural product processor appears to have been successfully started with the assistance of USAID's Food and Enterprise Development Program (FED), and several other businesses have launched with the assistance of the USDA-funded Livelihood Improvement for Farming Enterprises project (LIFE) and USAID'S S Smallholder Oil Palm Support program (SHOPS).

The key ways to promote the proliferation of yet other successful SMEs are providing expertise in (1) developing the particular crops they intend to grow and (2) formulating viable businesses plans, including the availability of seed money and other funding sources. In this regard, USDA and USAID support several agricultural sector development programs:

- LIFE focuses on establishing successful cocoa farming enterprises in Liberia. It seeks to train and organize cocoa farmers into commercially profitable cocoa farming cooperatives and similar organizations.
- SHOPS engages in similar training and organizing activities relating to the oil palm farming industry.
- Other programs support staple crops and build market linkages, including USAID's FED, Liberia Agriculture Upgrading Nutrition and Child Health (LAUNCH), and USAID's Health, Agriculture and Nutrition Development for Sustainability (HANDS) programs.²⁰

Also working in this arena are Building Markets, an NGO, and the Swedish International Development Cooperation Agency (SIDA). SIDA has initiated a project to examine the value chain of a variety of potentially commercially viable farming areas. Among other crops, SIDA has reviewed the production of palm oil, rubber and vegetables. SIDA expects to be in actual operation with local farmers in one or more of these areas in 2014.

²⁰For a summary of USAID programs in Liberia, see "Current USAID FTF-Funded Agriculture Programs in Liberia" (2013), <http://crsps.net/wp-content/uploads/2013/07/USAID-Liberia-Agric.-Proj.-Presentation I KH.pdf>.

Support for women’s entrepreneurship. In addition to general SME support programs, the international community has increasingly found that investments in women’s entrepreneurship produces compelling results. This is because women typically spend more of their incomes than men on the health, education, and well-being of their families. In Liberia, the Africa Women Entrepreneurs Program – Liberia (AWEP-L),²¹ established in 2012, helps women transition from “table to shop to store” and connects women to markets. Having started with just 20 members, the program now has approximately 100 in Monrovia and more than 1,000 across the country. With funding from the Chevron Corporation, AWEP-L chapters were formed in 14 counties; the program conducted in “train the trainer” workshops for 26 members, offered another workshop on added-value capacity-building, and provided agro-processing machines (solar dryer, grinding machines, and full rice-milling plant including de-stoning and polisher) for mini-processing centers in Lofa, Nimba, and Bong counties.²² The training included 750 women and focused on customer care, basic bookkeeping and record-keeping, food security and multiplier; how to form a cooperative, access to finance, and business communication and marketing skills.

A similar and partly overlapping program is the Goldman Sachs-funded “10,000 Women” initiative in Liberia, implemented by Global Communities (formerly CHF). Now completing training for its 9th group (with each group consisting of more than 30 women), this program will have trained 280 women by the time it ends. The intention had been to create an ongoing program by incorporating it into Cuttington University’s MBA program—but require that women pay to attend. Cuttington University and Goldman Sachs have also discussed launching a network of graduates and offering some services through it, as well as sector-specific advanced training.²³

21 African Women’s Entrepreneurship Program (AWEP) is a US State Department-led outreach, education, and engagement initiative that targets African women entrepreneurs to promote business growth, increase trade both regionally and to US markets through the African Growth and Opportunity Act (AGOA), create better business environments, and empower African women entrepreneurs to become voices of change in their communities. <http://www.state.gov/p/af/rt/awep>.

22 AWEP-L has encountered a setback that is not unusual for development work, but is a reminder for initiatives in Liberia: having failed to anticipate and seek funding for generators, they are not able to operate some of their machines until the electricity/energy hurdle is overcome.

23 Apparently, in 2006, the Women’s NGO Secretariat of Liberia (WONGOSOL), a network of 104 organizations committed to ending violence against woman and achieving gender equality in Liberia, developed a training guide for financial and business management and managing money. If of interest to the reader, more information should be pursued from Madam Mapu Speare, of WONGOSOL.

These programs are working. Time and again, increasingly successful agro-processing businesswomen in Liberia report that they have been trained either by AWEP-L or by 10,000 Women.

SOCIAL DYNAMICS

Perceptions of opportunity. Overall, the Liberian population displays only a limited amount of entrepreneurial spirit for starting new agribusiness enterprises. In part, this lack of enthusiasm may be attributable to a simple reality: Liberia’s decimated infrastructure, and the weakness of its implementing and supporting institutions, make it almost overwhelmingly difficult to start up and succeed at a new enterprise. It may also be attributable the prevailing view that farming is not a “real” business.

These negative attitudes about engaging in farming enterprises can be changed, but only if the government succeeds in improving and delivering the needed infrastructure and only if the key implementing institutions become more forceful in supporting agriculture-related programs. In particular, the MOA needs to move forward with the programs laid out in LASIP. This effort will create a fertile environment for numerous successful new SME agribusinesses that can be touted as exemplars, thus encouraging others to follow—and over time, changing the national conversation about entrepreneurship.

Effective government presence. Because of a lack of funding, insufficient personnel, and failed leadership in some instances, the Liberian rural population perceives the national government—including its executive, legislative, and judicial institutions—as both inept and corrupt. This may or may not be a fair perception, depending on which agency or office is considered. It would help to dispel this perception if the government successfully implemented a number of infrastructure projects and if government agencies established a greater presence in rural areas. More specifically, the MOA could greatly improve the perception of its performance if it deployed more, and more competent, extension agents in the field that actually provided relevant guidance not only about production generally, but also achieving quality standards and connecting goods to markets. Moreover, more effective communication concerning government programs and the current role of certain government agencies, particularly the Liberia Produce Marketing Corporation (LPMC),²⁴ would be helpful.

24 LPMC is a parastatal (government-affiliated or government-owned) organization integrally involved in licensing. More detail on the LPMC appears later in this report.

Lure of the informal economy. Many SME businesses simply do not see the advantage of operating in the formal economy. Particularly in rural areas, these businesses see few services being provided by the government, so for them to register their business with the Liberian Business Registry generally means that they will be required to pay taxes but will receive no tangible benefits in return. The government attempts to get businesses to register by only permitting registered businesses to do business with the government in any form. For example, a business that has not registered cannot import farm implements into the country or contract with the government. Still, in light of the apparent scant benefit for entering the formal economy, many Liberian businesses remain unwilling to make their presence known to the government.

Gender considerations. The role of women in Liberia's agricultural economy is of critical importance. In many cases, they are the ones running the subsistence farms. Frequently, they are also the ones taking the lead in setting up new agribusinesses. That said, there are still many gender-related issues concerning starting new businesses.

Although women can and do own and inherit land, this is neither common nor customary in many rural areas. In many locales, tribal practices still predominate, and mandate that men own the land or that the land be communally held, which as a practical matter means that men will decide how land is allocated.

Numerous savings clubs (traditionally called susu clubs) exist in Liberia. In many instances, these clubs have become more formalized as VSLAs. By providing financing, these clubs have the potential to help women establish their own agribusinesses or join with their husbands in doing so. The ultimate goal is to bring these new ventures into the formal economy and make women "bankable."

The market role of women, who are often somewhat derisively called "gobachop" or "go-buy-chop," is of considerable importance as well. Their integral market role often traces back to the war years, when they were among the few who managed to keep agricultural trade alive. These days, these "gobachop" market women tend to dominate the stalls at markets run by the Liberian Marketing Association (LMA)—which is essentially a GOL entity—and command considerable bargaining power at several stages of the value chain. These women often purchase from farmers directly in villages or at wholesale or retail markets, and may be responsible for transporting goods to larger markets. Or, if farmers bring crops to

the markets, these women operate as a cartel of sorts, and often are able to purchase from farmers at depressed prices, without negotiating from a pre-agreed purchase price. The formal and cultural power of gobachop women means that farmers are often left with few other options for selling their goods. As a result, gobachop women seem to exert an undue influence over prices and practices in many markets. The practices of the gobachop women may not always be laudable, but they clearly have the capability and potential to play a productive role in marketing farm produce in Liberia's evolving and reforming economy.

Infrastructure and market conditions. Other chapters in this report discuss infrastructure issues in detail. Nevertheless, the need for passable paved roads during the rainy season, and for reliable sources of electricity, are critical for entrepreneurs to establish commercial farms. Simply put, it makes no sense to grow vegetables if there is no way to get them to market before they rot. Moreover, local merchants will not buy locally produced produce if they cannot rely on a steady supply of it.

For example, Lebanese merchants in Monrovia now import almost all of the vegetables they sell in their markets. Vegetables could easily be grown in rural areas outside Monrovia and supplied to local markets if the road system allowed for their ready transport to the market. Today, this is not the case, for many reasons, economic and cultural. For example, Liberia has a long tradition of importing food, as well as a cultural belief that it is unbecoming for an urban person to grow his or her own food—or even food for sale.

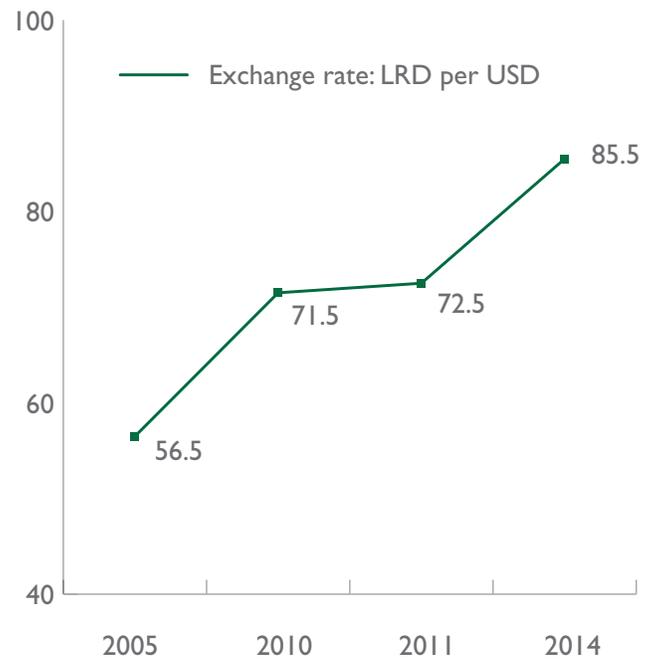
Moreover, many of the markets in Liberia are in deplorable condition. The LMA, which as already noted is essentially a GOL entity, is supposed to maintain the local markets and charges every merchant using them a fee for doing so. However, by all accounts the LMA is ineffectual and should either be reformed or replaced by a new, effective organization.

The ability to import agricultural implements and to export cash crops is severely compromised by bureaucratic practices at the ports and near monopolies on the import and export of certain products. Again, these topics are discussed in greater detail in other chapters, but are mentioned here because they weaken the incentive to establish new businesses where the needed inputs are hard to come by and because they impede the sale of cash crops.

Dual currency problems. The use of dual currencies in Liberia—the US dollar as hard currency and the Liberian dollar as the local currency—has created financial hardship for many local agribusinesses and considerable distress in rural communities. The government has an understandable desire not to tie the local economy to the US dollar; doing so does not make sense considering Liberia’s state of development. On the other hand, the US dollar is a useful and stable currency for international trade.

The hardship for local businesses arises from the fact that their revenues and assets are often reflected in Liberian dollars, but their liabilities in US dollars. As result, when the Liberian dollar weakens against the US dollar, these businesses are whipsawed and find themselves poorer through no fault of their own. This is exacerbated by the government charging in US dollars for many of its services, including licensing functions, many costs of public education (including university entrance examinations), and for electricity. The long-term cure for this problem is to have the local economy grow and prosper and thus generate a strong Liberian dollar. In the short term, some of the strain on individuals and local businesses might be eliminated if the government charged for some of its more sensitive services in Liberian dollars. For example, the tuition to the University of Liberia could be payable in Liberian dollars instead of US dollars as is now the case.

FIGURE 1: THE RISE IN THE COST OF THE LIBERIAN DOLLAR (2005-14)



RECOMMENDATION I: Enhance the existing process for establishing and registering a new business, update the law dealing with the Cooperative Development Agency and complete the updating of the law covering Liberian associations.

Why is reform needed?	There is a confusing overlap of authority between the Liberian Business Registry and other GOL agencies about where businesses need to go to be established. Local LBR offices have their own registration systems and practices. Some of the provisions in the Associations Law, most notably those dealing with cooperatives, are out of date. Also, the law governing the Cooperative Development Agency was enacted in 1936 and needs to be brought up to date to meet current standards.
Impact of problem	The current situation needlessly complicates the process of establishing and registering new businesses. Businesses seeking to incorporate and register with the government are uncertain of whether they should go to the Liberian Business Registry or to the Ministry of Foreign Affairs or both to do so. Lack of consistency in local LBR offices means the GOL cannot accurately track and assess overall business registrations and specific types of businesses being formed. Groups seeking to form a cooperative need to go to the Cooperative Development Agency to do so and then go to the Business Registry to register. This scenario generates needless waste and confusion, and actually deters formal business registrations.
Benefits of reform	<p>Except for noted local variations, the Liberian Business Registry functions efficiently today and provides businesses with “one stop shopping” in that they can register simultaneously with the Registry, the Ministry of Finance, the Social Security administration and several other GOL agencies. The suggested reform will further increase the efficiency of this process and benefit both the businesses and the GOL.</p> <p>Updating the Cooperative Development Agency law and sections of the laws dealing with associations will enable the Cooperative Development Agency and cooperatives (and certain other types of associations) to operate under current standards.</p>
Constraints	The major constraint is simply a lack of political will to get this done. Also, some of the GOL agencies involved may not wish to give up powers they historically have enjoyed.
Fit with other donors	This reform should make it easier for NGOs working to establish new local business ventures to do so.
Best practices	Many countries have updated their laws dealing with various forms of doing business and with the powers of their governmental agencies. A single, clear template for a “one stop shop” relevant to the unique needs in the Liberian context does not exist.
Cost of reform	The costs of preparing the needed legislation and related regulations should be small. The GOL can draft the legislation or enlist a donor with legislation drafting skills to either assist the GOL or undertake the drafting work.
Action Steps	The GOL needs to prepare the needed legislation (or have a donor do so on its behalf) and have it passed by the legislature and enacted into law. The agencies that have jointly written the regulations establishing the Liberian Business Registry need to broaden its authority in accordance with the new legislation.
Time Frame for reform	This reform can be undertaken immediately.
Feasibility	The feasibility for the suggested reform is high. It will cost little and be of benefit to businesses and the GOL.

RECOMMENDATION 2: Encourage the creation of cooperatives and similar organizations to increase farm productivity. Adopt land use directives to aggregate production and promote local bulk purchase of similar produce types to facilitate warehousing and transport to markets.

Why is reform needed?	Most Liberian farming entities are too small to produce commercial quantities of output. Moreover, in many cases, the farms that produce similar output are not geographically connected; as a result, produce cannot easily be aggregated for efficient warehousing and transport to relevant markets. These two factors taken together mean that merchants and exporters cannot rely on the local production to meet their needs.
Impact of problem	Except for large concessionaires, there is a dearth of successful commercial farming in Liberia. Most farming is subsistence level and pursued in the informal economy. The overall effect: The agricultural economy underperforms. The GOL is deprived of the revenue that could be generated by robust agribusinesses operating in the formal economy.
Benefits of reform	The recommended reform will help to create many more commercially viable farming entities in the formal economy. This will increase the wealth of the farmers involved and generate increased tax revenue for the GOL.
Constraints	Forceful leadership by some key GOL agencies may be lacking. Also, the recommended policies appear to be contrary to established norms and may conflict with local tribal customs.
Fit with other donors	The recommended reform is consistent with programs being conducted or funded by some donors, including ACIDI-VOCA (implementing partner) and SIDA.
Best practices	The government of Rwanda has successfully implemented a “Crop Intensification Project” that in many respects is similar to the reform being advocated here, though not without its own issues relating to state-directed crop planting.
Cost of reform	The cost to create land use directives should not be significant. If the GOL cannot produce the needed legal documents, existing NGOs with the appropriate skills can be asked to do so. In order to encourage the greater use of cooperatives, the Cooperatives Development Authority will have to be reinvigorated and properly staffed. This may take several million USDs, but the cost should not be prohibitive.
Action Steps	The Cooperative Development Agency must be reinvigorated and establish offices in appropriate rural areas. It should work with existing donor organizations to create commercially viable farming cooperatives. The GOL then needs to adopt land use directives calling for the production of crops in areas where they can flourish and, equally important, in areas where their produce can readily reach appropriate markets. The directives should also call for a range of similar crops to be produced in geographically contiguous areas to facilitate their (i) production through the use of irrigation and fertilizers, (ii) warehousing, and (iii) transport to market. For example, vegetable production should take place in designated areas near Monrovia. The intention should be to create a logical framework of regulations and not to dictate specific rules to be followed by individual farmers.
Time Frame for reform	In order to create the necessary rules and regulations and to reinvigorate the Cooperative Development Agency the program should be phased in over a period of a few years.
Feasibility	The expense of the program should be feasible for the GOL to manage. However, because the suggested reform may call for a change in established norms, overall feasibility appears to be medium.

RECOMMENDATION 3: Continue to invest in programs that provide adequate financing along the entire agribusiness value chain.

Why is reform needed?	There is little reason to train people on how to create commercially viable farms and give them incentive to do so if they will not have access to financing that will permit them to move forward. The lack of such financing today impedes many potential new ventures.
Impact of problem	The lack of financing means that fewer new commercially viable agribusinesses will be established than would otherwise be the case.
Benefits of reform	The recommended reform will benefit agribusiness entrepreneurs. It will also benefit the government by creating more businesses in the formal economy and by increasing tax revenues.
Constraints	Liberia is a poor country, so most entrepreneurs lack their own funds to start a business. Few commercial banks want to make loans to agribusiness. Hence, the funding must come from alternative sources, and the funding now available to those sources is limited.
Fit with other donors	A number of donors are working on programs to encourage new agribusinesses. USAID has analyzed the problems relating to lack of funding in several position papers.
Best practices	There is no one magic solution to the problem of financing new agribusinesses in developing countries. A number of countries have instituted successful microfinance programs, and a number of countries have created successful programs to establish VSLAs and cooperative credit unions. Innovative government approaches to supporting new enterprises can be found in Malaysia and several Latin American countries.
Cost of reform	The cost of reform is hard to calculate because over time, successful programs should pay for themselves.
Action Steps	<p>Short-term: The GOL and donor organizations should encourage the creation of local non-financial institutions, such as VSLAs and cooperative credit unions, to provide funding to their members. Funding for these institutions can come from the Central Bank of Liberia, various donor organizations, and possibly from the private foundations of one or more multinational banks.</p> <p>Longer Term: The GOL should:</p> <ul style="list-style-type: none"> • Complete work on the commercial code to allow security interests in farm produce and implements. This will attract more commercial banks to make loans to agribusinesses. • Explore creating bonded warehouses that could issue warehouse receipts to be used as collateral for loans from commercial banks. • Explore creating an institution similar to the Export-Import Bank of the US to provide working capital guarantees, export credit insurance, loan guarantees, and some direct loans. <p>The Central Bank of Liberia, acting by itself or more likely in cooperation with an international financial institution, should explore ways to extend the maturity of local bank funding by giving local banks limited guarantees of longer-term funding. This will permit local banks to make the longer-term loans needed by agribusinesses.</p>
Time Frame for reform	The short-term initiatives can be started immediately. The longer-term ones will need to be phased in over a period of 2 to 5 years.
Feasibility	Much work has already been done on the shorter-term initiatives. Hence, their feasibility is high. The feasibility of the longer-term initiatives is high to medium because some of them are simple to complete but others are quite complex.



DEALING WITH LICENSES

This chapter addresses Liberia's licensing regime as it pertains to doing business in agriculture-related products and services, whether as a producer, processor, trader, transporter, or professional. It encompasses regulations and other mechanisms that can make the critical difference in whether entrepreneurs can successfully launch and move forward with their enterprises. As in all countries, there is no single business license in Liberia that ensures compliance with all legal requirements. Some companies may be subject to several requirements, while others may not be subject to any. Licenses and regulations relating to agriculture-related enterprises range from annual "re-registration," to certification and licensing of agricultural inputs (such as seed, fertilizer, and pesticides), to licenses and permits required for transport and marketing of agricultural products, environmental protection, and the health and safety of certain products.

Numerous issues set the scene for dealing with licenses in Liberia, now and in the future. First, against a backdrop of near overwhelming infrastructure constraints—chiefly, Liberia's lack of roads and electricity—"dealing with licenses" is almost never the first complaint articulated by entrepreneurs. Smaller producers and processors do not generally complain of being "hen-pecked" by government institutions, although, upon examination, it appears that many simply have become accustomed to informal work-arounds within an opaque and chaotic licensing regime. If anything, Liberia's licensing environment may be interpreted as too permissive and lacking consistent enforcement, such that public health and safety could be compromised—particularly with respect to the import and sale of food.

Second, Liberia's business environment generally, including conditions for dealing with licenses, may prove fluid over the next decade. As the country's infrastructure undergoes significant upgrades—primary roads are now being improved at a steady pace—abundant opportunities for domestic, regional, and international commerce will be unleashed. Through the Liberia Agriculture Sector Investment Program (LASIP) and other initiatives, the government and donors alike will encourage new enterprises to join the formal sector. To sustain the current tilt

toward easy business licensing, the government must anticipate and plan for a potential rush of new businesses. Efforts to avoid duplicative regulatory functions and administrative backlog should be made now. To that end, a critical priority is delineating and publishing the actual licensing authority of various government agencies. The absence of transparency in most areas of licensing in Liberia is pronounced and dismaying: until agencies identify and post their authority, commerce will take place in an environment of opacity and even impunity.

Third, another critical licensing issue in Liberia has not yet fully taken shape. In January 2012, the Liberia National Decentralization and Local Governance (LNDLG) policy took effect. This policy aims to substantially transfer political, fiscal, and administrative powers from the national government to the country's 15 counties and other administrative units. Although decentralization, in theory, could bring greater authority, responsiveness, and accountability to public institutions, its practical implications have been slow to emerge.

Finally, as discussed at the conclusion of the previous chapter, the fact that some government-issued licenses require payment in US dollars has an exclusionary impact on the country's enterprising poor. As the Liberian government seeks

to address widespread anxiety over the high cost of dealing in US dollars, it should consider accepting Liberian dollars as payment for all licensing services.

LEGAL FRAMEWORK

A regulatory regime for licensing, along with related tools of regulation such as permitting and certification requirements, keeps unsafe food off the table, dangerous pesticides out of the field, and untested seed varieties away from valuable farmland. Licenses, permits, and certifications are typically earned after the applicant has demonstrated an understanding of appropriate conduct to carry out the activity. (Such knowledge can include how to safely butcher meat, dispose of waste, produce seed, operate heavy machinery, or practice law.) Also, licenses generally provide for sanctions in the event of non-compliance. They can be suspended or withdrawn if their terms are violated. Provided they do not unduly restrict access into a sector, and do not stifle innovation and investment, licenses have a legitimate place in a country's regulatory system. Thus, the goal of an AgCLIR inquiry about licenses pertaining to agricultural enterprise should not be interpreted

as advocating the reduction or elimination of all licenses. Rather, the objective is to establish a transparent, sensible, honest, and effective framework for promulgating legitimate licenses.²⁵

Access to licensing and permitting requirements in Liberia. More than a decade has passed since the United Nations arrived in Liberia to provide security after 14 years of war, and Liberia continues to move forward. Notable progress has been made in licensing and permitting, including significant revisions to the general commercial law regime and laws pertaining to specific areas of commerce such as agriculture, domestic transport, food safety, and trade. (See box for a list of Liberia's key policies, laws, and regulations.)

However, the government's work to update policies, laws, and regulations is work in progress. It remains difficult to discern what binding licensing and permitting authority is actually in place. Liberia does not maintain a current, definitive list of commercial and sector-specific laws and regulations, either within its own institutions or via an international resource such as the World Bank's Doing Business Law Library or the Cornell University international on-line repository of laws. Liberia needs a reliable, routinely updated online source (or set of sources) of commercial laws and regulations, including legal and regulatory authority over enterprise, agricultural production, food safety, and other agriculture-related issues. In the recent past, Liberia's National Assembly virtually disregarded USAID-sponsored efforts to develop online resources for access to laws.

Business licensing. As of early 2014, the best sources of commercial law are the websites of the National Investment Commission and the Liberian Business Registry (LBR). These sources reference the **General Business Law** (1973) and the **Associations Law** (1976, as amended in 1997, 1999, and 2002) as the broad authority pertaining to establishing and licensing companies (as discussed at this report's chapter on Starting a Business). In the past, these laws have been implemented by the Ministry of Commerce and Industry (MOCI).

Although the General Business Law references the operating licenses of enterprises (with registration as a precondition to receiving such a license), MOCI eliminated the operating licensing requirement in June 2012 as part of its effort to lower the cost of starting a business. Specifically, MOCI did

KEY POLICIES, LAWS, AND REGULATIONS

- Agriculture Law (1973)
- Associations Law (1976, as amended)
- General Business Law (1973, as amended)
- Investment Act (2010)
- National Investment Commission Act (2010)
- Various draft policies, including draft seed policy and regulations, draft cocoa policy, and draft livestock policy
- National Public Health and Safety Law (1975, as amended)
- Monrovia City Corporation Ordinance on Public Health and Sanitation (1988)
- Environmental Protection Act (2002)
- General Construction Law (1970)
- National Policy on Decentralization and Local Governance (2012)
- Draft Local Government Act
- Anti-Corruption Commission Act (2008)

²⁵This introductory language is taken from the USAID-sponsored paper, "BizCLIR Insights: Dealing with Licenses," prepared as a summary of lessons learned from CLIR-related inquiries on the topic in 12 countries between 2007 and 2010.

away with the annual business license fee of 4,200 Liberian dollars (LRD or L\$), about US\$50 at January 2014 exchange rates. Enterprises are still required to pay a fee of L\$2,000, L\$3,000, and L\$4,000, respectively, for annual re-registration of sole proprietorships, partnerships, and corporations. Re-registration also requires proof that annual taxes have been paid. There no longer appears to be separate licensing requirements imposed by municipalities, although this may change through the process of decentralization. The Liberian Business Registry, established by MOCI in 2012, operates not only as the central business registry for starting a business, but also as the facilitator for annual re-registration of companies.

Policy backdrop for licensing agricultural products. In recent years, an effort has been made to review and comprehensively update the policy backdrop for Liberia's agriculture sector. Working with a host of local stakeholders (such as government, private sector, and NGOs) and donor institutions, the Ministry of Agriculture (MOA) has endeavored to delineate Liberia's "enabling environment" for doing business in

agriculture and to propose specific reforms. As noted in Table 1 below, a number of these policies—among them, those pertaining to land, seeds, plant protection, livestock, and quarantine—involve creating new institutions and extending government authority, which require an Act of the National Assembly to initiate. The remainder only require the consent of the President's Cabinet.

MOA representatives profess their commitment to private-sector participation in the agriculture sector. But Liberia's policy-development process is slow and laborious, with a raft of complaints about "too much talk, not enough action." There is also widespread concern that proposals generated within Monrovia-based institutions have little tangible connection to the rest of the country. Still, the business of establishing new policy takes time, as participants strive to balance international and regional best practice with local context.

Table 4 summarizes the MOA's major policy initiatives.

TABLE 4: MINISTRY OF AGRICULTURE, NATIONAL POLICY MATRIX 2013

Policies	Reviewed and analyzed - workshop	Drafted and presented for public/ stakeholder consultation - workshop	Cabinet approval obtained for Strategy Documents	Presented for legislatures/ decree	Passed/ approved by National Assembly
Food and Agriculture Policy & Strategy	Completed	Completed	Completed	Pending preparation of document into Act for submission to Legislature	
Liberia National Seed Policy & Regulatory framework	Completed	Completed	Completed	Consultant hired to draft policy document into Act for submission to Legislature	Pending ratification
Liberia National Plant Protection Policy	Completed	Completed	Completed	Pending preparation of document into Act for submission to Legislature	Pending ratification
National Policy for Agriculture Extension and Advisory Services	Completed	Completed	Completed	Not applicable	Not applicable
Strategy for Mainstreaming Gender	Completed	Completed	Completed	Not applicable	Not applicable

Food and Nutrition Strategy	Completed	Completed	Completed	Not applicable	Not applicable
Liberia National Rice Development Strategy	Completed	Completed	Completed	Not applicable	Not applicable
Liberia National Cassava Sector Strategy	Completed	Completed	Completed	Not applicable	Not applicable
Liberia National Cocoa Development Strategy	Completed	Completed	Completed	Not applicable	Not applicable
National Livestock Policy	Preliminary (veterinarian/ GOL) workshop held May 6 – 10, 2013	Workshop planned	Pending	Pending	Pending
Social Protection (Social Safeguards) Policy	Preliminary work under consideration	Pending	Pending	Pending	Pending
Land Policy	Completed	Completed	Completed	Pending preparation of document into Act for submission to Legislature	Pending
National Fisheries Policy	Consultant hired – “first draft” under review in house	Pending	Pending	Pending	Pending
National Aquaculture Strategy	Preliminary work under consideration	Pending	Pending	Not applicable	Pending
Quarantine Policy	1948 Act to be revised – preliminary consultative forum being planned	Pending	Pending	Pending	Pending

Certification of seeds and licensing of seed dealers.

As indicated in Table 1, many if not most of the MOA's draft policies are intended to be just that: statements of principles and objectives that will serve as the foundation for future legislation and regulation. Among the exceptions is the draft

National Seed Policy and Regulatory Framework

completed in April 2012, which integrates a proposed scheme for certifying seed. Seed certification involves assuring varietal identity and purity through generation control—that is, control of origin and class in the multiplication from breeder seed to basic seed—as well as inspection and labelling. In addition to seed certification, the draft policy addresses licensing and registration of individuals or organizations engaged in the production and sale of certified seed, albeit with insufficient detail.

The draft seed policy contains two sections: (1) a statement of overall seed policy, including general policy recommendations; and (2) a summary of the overall regulatory framework, including general provisions; a summary of administrative bodies; delineation of seed production, quality, and control; the certification process; issues of marketing; disposal; and other various requirements. Although the provisions for these regulatory functions had not been finalized by early 2014, MOA representatives report that implementation has nevertheless started, particularly with respect to the production and certification of seed for rice and cassava, two crops regarded as national priorities. Seed is certified through a department of within Liberia's Central Agricultural Research Institute (CARI).

According to the draft seed policy, there are currently just two "registered and functioning seed companies in Liberia:" Green Star and Arjay Farms. Notably, under the draft policy, these companies are not subject to Liberia's seed certification protocol. They are exempted because they "source their foundation seeds directly from international research institutes—Africa Rice and IITA for rice and maize, respectively." In

addition to special treatment for these two private producers, the draft policy notes a number of domestic institutions engaged in producing distributing certified seed: CARI and various NGOs, including BRAC (the micro-lending facility).²⁶ In Liberia, seed is distributed chiefly through government sources, NGOs, or donors. "The distribution of seeds through agro dealers, which is emerging in many parts of sub-Saharan Africa, does not exist in Liberia," the draft policy states.

The draft policy also provides for creating a National Seed Board (see box) and a National Seed Council. The latter is standard mechanism in many countries for ensuring seed quality and safety. On the advice of its Crop Variety and Release Committee, the Council would be the "sole body responsible for the registration of new seed varieties in Liberia." According to the draft policy, CARI and other institutions engaged in research and development "will nominate varieties to the National Seed Council for registration after satisfying conditions for adaptation and acceptance."

Less clear from the draft policy is the process for licensing private seed providers and marketers. The draft policy states that there "shall be maintained a register of persons and organizations licensed to engage in seed production and marketing under the following classification[s]: (a) seed production company; (b) seed enterprises production or contract for seed company; (c) breeder seed production agency (research institutes and private); (d) foundation seed grower (research institutes and private); (e) enterprise seed processor; and (f) seed dealer whether as wholesale or not." Yet the draft policy contains no provisions or guidance for how the actual licensing of these companies is to take place. The Seed Standards Department within the National Seed Council is charged with

²⁶BRAC originated as Bangladesh Rehabilitation Assistance Committee in 1972, and later expanded to other countries. BRAC was registered in Liberia in 2008. <http://www.brac.net>

Among other provisions, the draft seed policy creates an 11-member National Seed Board, charged with overseeing the "the overall policy guidelines and monitoring of the development of the national seed system." Under the draft policy, membership on the board would consist of the following: a chairman to be appointed by the President of Liberia; the Executive Director of the National Seed Council; one technical representative ("relevant professional") from the Ministry of Agriculture; two persons nominated by Farmers Union of Liberia, one each representing large-scale farmers or seed company group and the small farmers group; one person to be nominated each by the University of Liberia and Cuttington University; one person representing CARI; one representative selected by universities with agricultural colleges; one person from the private sector; one representative of a civil society group; one representative from Environment Protection Agency (EPA); and one representative from the Ministry of Commerce. Membership on the Board is anticipated for four year terms, subject to renewal (with no apparent term limits for individuals).

creating and enforcing standards; granting “certificates including tags, labels, seals, etc.; and maintaining the list of registered breeder, foundation, and certified seed producers.” This language suggests that the Seed Standards Department may be the definitive licensing authority, but it is not entirely clear. Section VIII of the draft seed policy establishes an appeals process for those aggrieved by regulatory decisions; the Seed Council is charged with setting up an Appellate Committee, the decisions of which are subject to final approval by the Minister of Agriculture.

Unfortunately, the vagueness of the process for licensing purveyors of certified seed, both within the draft policy and in practice, creates an apparent bottleneck that delays or deprives farmers’ access to the seed they need. Moreover, as already mentioned, only a handful of entities, including CARI, are licensed or registered to sell certified seed. In fact, as discussed in this report’s chapter on Competing Fairly, as of January 2014, CARI was Liberia’s sole licensed importer of foundation seed rice. It is not clear how these few entities became licensed seed dealers, how much a license costs, why there are so few licensees, or why CARI—a state-operated research institution—plays such a large market role. This lack of transparency is the source of confusion and suspicion among individuals interviewed for this assessment, both inside and outside the capital.

As of early 2014, the draft seed policy had been prepared with the input of various individuals, experts, and institutions; submitted for public review and feedback; and approved by the national cabinet. As of February 2014, it was in the process of being transformed into an Act for ratification by the legislature.²⁷

Licensing fertilizers, herbicides, and pesticides. Except for limited organic interventions (such as the use of compost or animal manure), and except for larger-scale agricultural concessions in palm oil and rubber, it appears that Liberian farmers rarely use commercial fertilizers or pesticides. This is because commercial fertilizer, in particular, is prohibitively expensive and unlike other countries (such as Ghana and South Africa), the GOL does not subsidize fertilizer—in fact, GOL taxes it. In contrast, the palm oil and rubber concessionaires are allowed, under their concession agreements, to import commercial fertilizer duty-free.

A small number of other companies have been licensed to import important fertilizers or pesticides via the national system of Import Permit Declarations (IPDs), implemented by the Ministry of Commerce and Industry. This is discussed later in this report’s chapters on Competing Fairly and Trading across Borders.

The Environmental Protection Act (Section 5) anticipates the creation of an inspectorate for monitoring and using agricultural chemicals. To the extent that Liberia’s Environmental Protection Agency (EPA) has fulfilled this mandate, it does so mainly by overseeing the country’s large palm oil and rubber concessions.

Licensing and regulation of livestock and animal products. Regulation of livestock is also the subject of a draft policy prepared by the MOA (referenced in Table 1 above), still in its early stages. Liberia’s current regime for licensing imported livestock and animal products is derived from the Agriculture Law of 1973, and is likely supported by regulations that are not available online. The Animal Health Service (AHS), a division of the MOA, currently regulates the import of animals on the hoof and live chicks by issuing import permits from its central office. According to AHS representatives, 1,500 import permits are issued each year, covering about 100,000 head of cattle and 150,000 chicks.

Domestic animals are even less regulated. Although efforts are underway (within the MOA, universities, and the donor community) to encourage proper rearing of small ruminants, sheep, and cattle, most livestock is bred and raised without shelter or veterinary care. In fact, some rural farmers travel to neighboring countries to purchase medicines they consider important to poultry and meat production.²⁸ Domestically raised animals are usually slaughtered under the most casual, unregulated conditions, rather than at licensed abattoirs with certified equipment and monitored health and safety practices. Most meat, including imports, is sold in outdoor, semi-sheltered markets without the benefit of sustained cold storage or protection from pests. As underscored in a 2010, World Trade Organization-sponsored assessment, “controlling the spread of animal diseases, particularly in poultry, is difficult because most live animals are sold through informal, often mobile markets (for poultry, often on bicycle).”²⁹

²⁸The Observer (Liberia), “Veterinary Medicine Scarce in Liberia” (Jan. 13, 2014).

²⁹Londa Vanderwal, International consultant for the Standards and Trade Development Facility (STDF), “Assessment of the biosecurity/Sanitary and Phytosanitary (food safety, animal and plant health) situation in Liberia” (2010).

²⁷See Table 4, Ministry of Agriculture, National Policy Matrix (2013).

Food safety oversight. Although there does not appear to be a stand-alone licensing regime for food safety, a number of institutions have some regulatory authority over the sale of food, including the Ministries of Health, Agriculture, and Commerce and Industry. Also, the Monrovia City Corporation, which by definition regulates food sales only in the capital, nevertheless impacts food sales for the majority of the country's population. To date, efforts to streamline overlapping regulatory functions, particularly for food inspection, have not been perceived as effective. Like other regulatory regimes, the regulations themselves are difficult to access.

Since 1971, Liberia has been a member of the Codex Alimentarius Commission, the international body overseeing a harmonized system of food standards, but Liberia's National Codex Committee has remained essentially inactive since the country's war years.

The Monrovia City Corporation's Ordinance No. 1, Section 2 (a), states that "no selling of foodstuff on the street, sidewalk or through Government offices within the City shall be permitted. Items affected by this Ordinance include such edible[s] as oranges, bananas, corn, cassava, peanuts, sugarcane, avocados (butter pear), coconuts, candy, cigarettes, chick lets, fish and other seafood, etc. Anyone found guilty of violating this provision shall be subject to a fine of not less than \$200.00 for each offence." This section is widely ignored among traders but has been used in the past less as a means for providing for food safety, and more as grounds for thinning out the informal markets and enterprises that crowd the streets.

Environmental licensing. Beginning with the creation of an **environmental policy** in 2002 and the enactment of the **Environmental Protection Act in 2003**, Liberia has progressively been incorporating a new awareness and sensitivity toward the environment into its national regimes for land use, construction, agriculture, industry, water management, and general development. The Act introduced the requirement that environmental impact assessments be conducted prior to ground-breaking on major commercial activities that may affect the environment, including in agriculture. Among businesses with larger investments, this requirement was one of the few permitting regimes cited to the AgCLIR team as definitively affecting whether activities such as food processing (and its implications on waste water) or construction could proceed.

Construction permits. Although Liberia purportedly has a system of permitting and inspections for construction and occupation of buildings, administered under the authority of Ministry of Public Works (MPW), access to the precise legal and regulatory authority is, once again, limited. It appears that the primary source for zoning in Liberia are the land use provisions found in **Title 14 of the Liberian Code of Laws**, which dates back to 1957. According to the MPW's website, "Anyone seeking to construct or alter a structure in Liberia must first apply for a Zoning or Occupancy Permits at the Ministry of Public Works through its National Zoning Office (NZO). Upon review of request and subsequently performed inspections, the Ministry will then issue the final certificate of occupancy or construction." This function is tempered by the Act creating Liberia's Environmental Protection Agency, which, at Section 37, prohibits any licensing or permitting agency from issuing a license for "any project for which an environmental impact assessment is required under the Act."

In May 2013, the Minister of Public Works reportedly suspended all building permits indefinitely in an attempt to bring order to the country's long-neglected system of zoning.³⁰ Businesses seeking construction permits, particularly in Monrovia, continue to be stymied, due to years of unregulated building of unplanned, unsafe structures, and the long-term desire to bring order to the chaos. Thus, Liberia's modest ranking in the World Bank's Doing Business report for Dealing with Construction Permits (including steps and costs) —129th out of 189 countries surveyed—seems somewhat optimistic.³¹ As of February 2014, the Ministry appeared stalled in its reform efforts, with public reports averring that the agency is mired in internal conflict and functioning, albeit just barely, without electricity.³² The MPW website has not been updated since 2012.

As will be discussed later in this report, the Liberia Marketing Association (LMA) is the sole authority granting permission to sell goods at LMA-run markets, which dominate the country. LMA has revised its own bylaws to state that all petty traders in the country must register with the LMA.

Licensing and regulation of transport. The authority to grant driver's licenses, which are a critical but often overlooked aspect of doing business in agriculture, is jointly held by Liberia's Ministry of Transport (MOT) and the National Police.

³⁰All Africa, "Liberia Suspends Building Permits, Works Minister Clamps Down on Zoning Violations" (May 13, 2013).

³¹See World Bank, Doing Business in 2014, Liberia (2013), available at www.doingbusiness.org.

³²All Africa, "Public Works Ministry in Darkness" (February 14, 2013).

Before 1987, the duties of the MOT were held by the Ministry of Commerce and Industry (MOCI).³³ In fact, with respect to its licensing authority, in contrast to several other authorities in the country, the Ministry of Transport sets an excellent example by posting the specific terms and costs for obtaining a personal or commercial driver's license (see box).

On the other hand, the posted requirements do not include either an eye test or a driver's test conducted by the Ministry of Transport, and this is cause for confusion and concern. In practice, The National Police—the institution regarded by the public as the most corrupt in the country³⁴—determines whether an applicant is a “qualified driver.” And according to several drivers interviewed for this report, getting a license commonly does not involve passing a test, but passing small bribes to government personnel.

Ultimately, the process of obtaining a driver's license or licensing a vehicle (another function of the Ministry of Transport) is not particularly cumbersome in Liberia—at least for people who live in Monrovia. The process is challenging for just about everyone else. Reportedly, the only way for a person to become licensed or register a vehicle is to appear in person at the Ministry's headquarters in Monrovia. But approximately 80% of the population live outside Monrovia³⁵, and for them, travel is difficult, expensive, and time-consuming. Not surprisingly, a great many people outside Monrovia drive without licenses. Doing so, however, leaves them vulnerable to police “shakedowns” at the country's ubiquitous traffic stops. (Shakedowns are also a particular problem for taxi drivers, who play an important part in helping producers transport goods to market. Costs of transportation are invariably higher due to the costs of paying off police officers in Liberia).³⁶

In the long run, decentralization of government functions (discussed below) may make it possible for Liberians living outside Monrovia to obtain licenses and register their vehicles closer to home. As a matter of practicality and urgency, however, the government should act now to provide these services.

Licensing of agricultural imports and exports. Simply put, the process for obtaining licenses for import and export is highly opaque and chaotically applied, and is discussed in this

³³See website of the Ministry of Transport for Liberia, <http://64.37.57.130/~motgov/index.php>.

³⁴Human Rights Watch, “No Money, No Justice: Police Corruption and Abuse in Liberia” (2013).

³⁵CIA World Factbook, Liberia.

³⁶Human Rights Watch, “No Money, No Justice: Police Corruption and Abuse in Liberia” (2013).

STEPS TO OBTAIN LIBERIAN DRIVER'S LICENSE

1. Obtain a Police Clearance from the Liberia National Police Headquarters certifying that you are a qualified driver or possess an old driver license.
2. Proceed to MOT and complete applicant data form and receive bill for the payment of fees for the category of driver license;
3. Proceed to MOF for Bank Payment slip and pay the license fees to the GOL General Revenue Account at the CBL and obtain official Revenue flag receipt.
4. Proceed to MOT for validation of the official revenue flag receipt.
5. Proceed to MOT numbering clerk and receive number.
6. Numbered document is sent to Director of driver licenses for signature and subsequently forwarded to the Assistant Minister for Land & Rail Transport for approval.
7. Applicant takes photograph in the MOT Driver's License Production Room and receives license within 30 minutes at the Dispatch Desk.

CATEGORY OF DRIVERS' LICENSES:

- a. Heavy Duty Driver's License-----USD \$ 95.00
- b. Commercial Driver's License-----USD \$ 35.00
- c. Ordinary Driver's License-----USD \$ 25.00

report's chapters on Competing Fairly (imports) and Trading across Borders (exports and imports). Nominally, under the Agriculture Law, and in order to safeguard domestic stock and ensure public safety, the MOA is charged with overseeing imports and exports of live plant material and animals. However, the Ministry of Health holds similar authority, and the Ministry of Commerce and Industry also has power to issue permits for importing and exporting certain sub-categories of those commodities. Thus, seed import permit declarations are often issued by the MOCI without consulting with the MOA. A similar situation exists for agro-chemicals.

These overlapping functions, and the inability to resolve them thus far, has hindered creation of an effective food safety program and eroded the government's ability to apply international sanitary and phytosanitary standards (SPS) to traded goods. Although there has been some discussion that Liberia might accept the SPS standards of neighboring countries in order to reduce costs and respect international best practice, the agency responsible for applying and enforcing those standards has yet to be identified.

Anti-corruption law. The opacity and erratic administration of the business licensing environment in Liberia is at the foundation of the prevailing, pervasive mistrust of Liberia's public officials. There is hard and ample evidence—along with a sea of rumor and supposition—that government officials at all levels use their licensing and permitting authority for private, and often significant, personal profit. The Anti-Corruption Commission Act of 2008 created a five-member Anti-Corruption Commission to combat corruption. Pursuant to the Act, the Commission has a number of specific functions, including to:

- Investigate all acts of corruption discovered or reported to have occurred in the public, private, and civil society sectors of Liberia, with the aim of identifying the guilty person(s), and the resulting extent of loss of or damage to public or private property.
- Investigate the conduct of any person(s), regardless of office or status, natural or otherwise, if that conduct constitutes corruption.
- Examine and investigate any information, matter, or report that indicates or raises suspicion that the conduct, action, or decision of a public or private official in line of official duty fits the Act's definition of corruption.
- Prosecute, within the Ministry of Justice (MOJ), all cases of corruption in the manner provided in the Act.
- Develop and adopt appropriate measures consistent with law to identify, trace, freeze, and confiscate the assets and proceeds of corrupt acts.

The Anti-Corruption Act gives the Commission the power to create “policies, procedures, and systems” for implementing its mandate. To date, the Commission has charged a number of public officials with corruption. However, even when the Liberia Chamber of Commerce (LCC) recommends certain issues for prosecution by the MOJ, action appears to be negligible. Moreover, the MOJ is also apparently not required to publish its formal reasoning for deciding whether or not to prosecute.

Decentralization. In January 2012, Liberia enacted a National Policy on Decentralization and Local Governance, which aims to guide the process of decentralizing power, authority, functions, and responsibilities from the central government to local governments. In conjunction with the Policy, a Liberia Decentralization Implementation Plan (LDIP) has been created, which provides further prioritization for advancing decentralization. As of late 2013, various stakeholders, led by the Governance Commission, were involved in preparing a

draft Local Governance Act. If and when the Act becomes law (thus overcoming significant political impediments), the change could greatly influence how enterprises interact with their local governments, including with respect to business and driver's licenses, permits to serve food, and construction permits. It should be noted, however, that many of these reforms, although referred to as *decentralization*, often are more precisely *deconcentration* of service delivery, and could be enacted without amending Liberia's 1986 Constitution.

So far, the movement toward decentralization remains highly amorphous, and its objectives unclear.³⁷ There is an evident lack of consensus on the specifics of how decentralization would reshape the structures of local governance. Most pressing—and telling about the extant indecision—is the question of whether decentralization will entail elections of county superintendents and other local officials. The National Agenda for Transformation (Poverty Reduction Strategy (PRS) II) of the Government of Liberia does not answer this question, nor does the National Policy on Decentralization and Local Governance. Currently, under Liberia's Constitution, all country superintendents must be appointed by the President of Liberia. Additional aspects of decentralization are discussed later in this chapter.

IMPLEMENTING INSTITUTIONS

This section provides information about key implementing institutions to the extent not addressed elsewhere in this report and to the extent relevant to Dealing with Licenses. (See box for a list of those institutions.)

Ministry of Agriculture (MOA). The MOA oversees the policy agenda for the agriculture sector, which ultimately includes delineating the responsibilities (including licensing functions) of its own agencies and other agriculture-related institutions. Although the MOA tracks the progress of the Liberia Agriculture Sector Investment Program (LASIP) and its own policies, there is no work plan, there are no benchmarks or specific responsibilities, pertaining to the progress of this agenda. In fact, in late 2013, the MOA's Deputy Director for Planning and Development shut down an **Agricultural Coordinating Committee** due to its lack of meaningful action and coordinating impact.

³⁷Specific ambiguities are delineated at IREX/Actions for Genuine Democratic Alternatives (AGENDA), “National Decentralization & Local Governance Policy: an Essential Step Toward Popular Participation” (2013).

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Agriculture
- CARI
- Ministry of Commerce and Industry
- Liberia Business Registry
- Liberia Marketing Association
- Liberian Produce Marketing Corporation
- Ministry of Public Works
- Ministry of Transportation
- National Police
- Environmental Protection Agency
- Bureau of Customs and Excise

Various sector-specific technical committees, consisting of public and private-sector representatives, as well as donors, meet periodically to discuss their respective areas of interest, including cocoa, coffee, palm oil, rubber, fruits and vegetables, tubers and cassava, rice, fisheries, and general inputs. An

Agricultural Donor Working Group also meets periodically, but is not perceived to be sufficiently in step with the MOA's own policy agenda or system of committees.

Central Agricultural Research Institute (CARI). Prior to the war, CARI played a significant role in promoting the safety and quality of Liberia's agricultural products and, in particular, exerted considerable control over seeds used by the country's farmers. However, CARI's facilities in Bong County and its staff were decimated by the civil war, and CARI has not yet regained its prewar status. CARI today "is all about getting the seed to the farmer," according to one MOA representative. The leadership of CARI is especially interested in the certification and distribution of seed for rice, a highly politicized and strategic product. CARI aims to serve as National Seed Bank, and already has generated foundation seed for rice and cassava for multiplication and distribution. As of 2014, CARI is the sole importer of foundation seed rice into Liberia. Only CARI, and two or three other entities, are apparently licensed to sell certified seed rice grown from its foundation seed. In the absence of a seed law and regulatory framework,

the process for licensing seed importers and distributors remains unclear, including how these entities became licensed and the costs and conditions for receiving a license.

CARI is supported by a number of donors, among them the UN Food and Agricultural Organization, the World Food Program, the Africa Rice Center, the International Institute of Tropical Agriculture, the Chinese government, and USAID.

Environmental Protection Agency (EPA). Established in 2003, the EPA is the principle authority for implementing Liberia's national environmental policy and sustainable management law for protecting Liberia's natural resources. The EPA became a fully functioning entity in 2006 and is governed by a board of directors and Policy Council. The EPA has executive authority over all environmental activities and programs relating to environmental management in Liberia. At first glance, the EPA sets a positive tone for transparency and efficiency by setting forth on its website its enabling authority, information about environmental impact assessments, and other information of interest to individuals and companies seeking to comply with the law. Unfortunately, like many donor-sponsored initiatives, this strong beginning at transparent communications has been allowed to lapse. As of February 2014, the website seems to have been neglected for over a year. Thus, crucial communications about EPA's important licensing function are not timely or effectively disseminated.

Bureau of Customs and Excise (BCE or Customs). As detailed in this report's chapter on Trading Across Borders, BCE is charged with licensing all customs brokers in Liberia.

SUPPORTING INSTITUTIONS

The supporting institutions that, in theory, contribute to Liberia's environment for Dealing with Licenses include several of those described under Starting a Business: business associations, the Bar Association, and various other business support services (see box). Notwithstanding the presence of these institutions, the opacity of Liberia's licensing environment is accepted as a fact—a convenient fact, and a convenient cover, especially for those individuals and enterprises more accustomed to asking for forgiveness rather than permission, or to "greasing palms" as a way of overcoming meddlesome licensing scenarios. The following supporting institutions are mentioned for their potential ability to support transparency and effectiveness in licensing.

KEY SUPPORTING INSTITUTIONS

- Business associations (Liberia Chamber of Commerce, Liberian Business Association, Liberian Women's Chamber of Commerce, etc.)
- Liberian National Bar Association
- Liberian Association of CPAs
- Liberia Anti-Corruption Commission
- Various NGOs and donor-supported programs

Liberia Anti-Corruption Commission (LACC).

Established in 2008, the Commission has broad powers on paper, but limited enforcement capacity and weak cooperation from empowered constituents. For example, an effort by the Commission in October 2013 to get certain public officials to disclose their assets, based on unexplained evidence of wealth, was met with apparent scorn and inaction.³⁸ Similarly, as detailed in the Legal Framework section of this chapter, LACC's 2011 effort to address alleged corruption in the Liberian Marketing Association (LMA) appears to have gone nowhere.

Donor support for decentralization. In support of decentralization, the United Nations has commissioned a Liberia Decentralization Support Program (LDSP) for 2013 to 2017, a successor to a previous Liberia Decentralization and Local Development (LDLD) program and the County Support Team (CST). However, the design of this program is still underway and as yet there is no donor consensus on using the UN design for joint programming. Other outside support for decentralization—generally in the form of stakeholder consultation and communications—comes from the Swedish International Development Agency (SIDA) and Search for Common Ground, an international NGO.

Despite the current stasis, donors seem relatively optimistic about the prospects for decentralization in Liberia. For example, in January 2014, the International Monetary Fund (IMF) sponsored a delegation of 15 Liberian government officials (13 men and 2 women) to participate in a two-week program at Duke University on "Implementing Fiscal Decentralization." Participants in the program included representatives from Liberia's Ministry of Finance, the Office of Internal Audit, and the national Governance Commission, all of whom are expected to be involved preparing future iterations of the draft Local Governance Act.³⁹

³⁸Voice of America, "Liberian officials accused of resisting anti-corruption probe" (Oct. 8, 2013).

³⁹Duke Center for International Development, "Liberian Officials Trained in Fiscal Decentralization," (Jan. 16, 2014).

SOCIAL DYNAMICS

This chapter's Legal Framework section refers to the underlying social dynamics that relate to dealing with licenses: specifically, the overall inaccessibility, incoherence, incompleteness, and opacity of the licensing environment for agribusinesses. This section offers additional social dynamics-related opportunities for reform.

Women and licensing. In general, the cultural and traditional gender differences identified elsewhere in this report do not apply to the same degree with respect to Liberia's confounding agricultural licensing regime and access to licenses. For the most part, the noted systemic problems impact female and male entrepreneurs alike. On the other hand, women are disproportionately burdened by the Liberian Marketing Association (LMA). This is because the LMA collects significant revenues from merchants for little more than a license to use public space to sell their goods (at the exclusion of others), and LMA's primary constituency is women—the “gobachop” women referred to above. Liberian women are also likely to suffer disproportionately with regard to the conditions of informal agricultural work that tend to be ignored by government authorities, including issues of farm health and safety and the use of pesticides. Poor regulation of food quality may further disproportionately impact women and children, who are culturally accustomed to ceding better quality food to the men.

Decentralization. According to United Nations Development Programme (UNDP), which has supported decentralization efforts in Liberia for a number of years, aspirations of decentralization in Liberia include the following:

- Enhancing sensitive, responsive, capable, and accountable local governments.
- Accelerating effective and efficient service delivery and poverty alleviation by (1) developing and strengthening local level planning, monitoring, and management capacity and (2) providing access to national and local resources through fiscal decentralization.
- Increasing equitable distribution of the nation's resources so as to ensure a more holistic process of development and democratic governance.
- Enhancing participatory decision-making to engender peace-building and reconciliation.⁴⁰

These intentions may be laudable, but they are vague. Reports from a multi-stakeholder conference in October 2013 underscore the absence of consensus and understanding.⁴¹ Multi-stakeholder discussions and conferences continue on the matter of decentralization, and participation appears to be broad, but the “all talk, no action” flavor of this multi-year dialogue has fed the entrenched cynicism about the intentions of empowered groups as well as the productivity and usefulness of donor-funded policy initiatives.

In theory, decentralization can be an important policy approach toward post-war reconciliation, improving local governance, and reducing poverty. In a country such as Liberia, decentralization can offer more local control in communities and regions that have little in common with one another—or with Monrovia, the capital city that dominates the economy.

On the other hand, absent deliberate, transparent, and accountable implementation, decentralization efforts may backfire, creating new layers of bureaucratic rent-seeking or duplicative, unnecessary interventions that, at the local level, undermine private sector growth. Rwanda, Sierra Leone, and Uganda have adopted decentralization programs—each with strengths and weaknesses—that offer models to Liberia. Still, experience from other countries shows that implementing decentralization initiatives can complicate and disrupt the normal course of business. Certain post-conflict countries (such as Papua New Guinea and the Democratic Republic of Congo, each assessed by AgCLIR in the past) have experienced diminished services and weakened structures for economic development, including through rampant corruption.

⁴⁰See UNDP, The Liberia Decentralization Support Program (LDSP), available at <http://www.lr.undp.org/content/liberia/en/home/operations/projects/democratic-governance/the-liberia-decentralization-support-program--ldsp-.html>.

⁴¹See, e.g., All Africa/The Inquirer, Liberia: Multi Stakeholders Dialogue on Local Govt Act (LGA) Begins (Nov. 8, 2013).

RECOMMENDATION 1: Create a catalogue of licenses and permits, posted online and distributed through the LBR, MOCI, and/or MOA, that are required of agricultural enterprises across the spectrum of the sector – production, processing, trade, etc. The catalogue should identify the licensing authority, the necessary steps to obtaining the license or permit, the duration of the license or permit, costs associated with the process, etc. In addition, require licensing agencies to publically identify online all applicants to which they have granted a license, and the expiration date of each license identified.

Why is reform needed?	Multiple ministries and agencies (for example, MOA, MOCI, LBR, LMA, LMPC, MOT, MPW, and EPA) have licensing authority, but information about the details of this authority is difficult to find and inconsistently applied. Also, there is considerable overlap in licensing authority.
Impact of problem	Businesses are either uninformed about requirements or dissuaded from getting licenses because of difficulties in understanding the system. The lack of transparency in the system likely leads to unchecked and unscrupulous licensing decisions and exclusion of qualified enterprises from the business community.
Benefits of reform	Transparency in licensing will increase accessibility, reduce costs (including in time lost trying to navigate the system), and improve accountability of licensing agencies.
Constraints	Untangling the web of licensing requirements often proves more difficult than it sounds. Conflicts and overlaps need to be addressed. It is rare that a licensing agency will release its authority to another agency. Moreover, although licensing and permitting requirements have been posted online in the past, those online resources are routinely not maintained and allowed to lapse. Keeping the catalogue of licenses current and accurate will be very challenging.
Fit with other donors	Because so many donor agencies are involved in supporting Liberian agencies with licensing authority, this recommendation should be routinely discussed through the Agriculture Donors Coordination group.
Best practices	Two countries, Kenya and Jamaica, have put significant effort into cataloging their licensing regimes, as detailed in prior AgCLIR reports. For those countries, the process proved cumbersome but illuminative. Moreover, both countries ran into problems enacting the necessary regulatory reforms contemplated by these efforts.
Cost of reform	Although many stakeholders would be involved, an initial cataloguing project would take the equivalent of one professional working full time for 4–6 months.
Action Steps	<ul style="list-style-type: none"> • Identify the universe of agriculture-related licensing and permitting requirements, across the spectrum of agricultural production, processing, and trade. • Create a single catalogue that sets forth all the existing and anticipated licensing requirements, including the authority for the requirement, the licensing agency, and the cost of the license. • Post the catalogue online and prepare hard copies for distribution through appropriate outlets. • Identify those requirements that are duplicative or contradictory, and propose legal or regulatory reforms as necessary. • Establish a system for routinely reviewing and updating the catalogue.
Time Frame for reform	The cataloguing process would take around 6 months. The posting of all licensing information, including the identity of licensees, would likely take another 3–6 months. The regulatory reform process would take 9–18 months.
Feasibility	The feasibility of preparing a catalogue of licensing and permits is high. The feasibility of getting licensing authorities to reconcile their requirements with one another is moderate.

RECOMMENDATION 2: Without waiting for key questions about decentralization to be answered—particularly in light of the political sensitivity of unanswered questions—identify and implement ways to bring necessary licensing and permitting functions into the rural areas.

Why is reform needed?	For most rural Liberians, key licensing and permitting functions are inaccessible or expensive to undertake, beginning with costly and time-consuming trips to the Monrovia, the capital.
Impact of problem	For businesses located in rural communities, informality remains the norm, because of inaccessibility to certain licensing functions. However, those who attempt to conduct business without a license risk routine police shakedowns for ignoring the law. Moreover, entrepreneurs often choose to remain small so as not to attract the attention of police and licensing authorities.
Benefits of reform	With greater access to licenses, enterprises will become increasingly formalized, and therefore stronger candidates for receiving credit and participating in more lucrative value chains.
Constraints	Greater access to licenses may be resisted by entrenched, empowered groups that benefit from weak competition. Monrovia-based institutions may have a hard time supervising their representatives in rural areas.
Fit with other donors	There is little evidence that donors are encouraging the transfer of ministry authority to the counties. This recommendation should be routinely discussed through the Agriculture Donors Coordination group and other donor coordination groups.
Best practices	As detailed in this chapter, decentralization has been tried in other countries with mixed results. The limited approach recommended here may prove more successful. Implementers should examine experiences from Rwanda, Ghana, and Uganda.
Cost of reform	Unknown.
Action Steps	<ul style="list-style-type: none"> • Through stakeholder consultation and cost-benefit analysis, identify priorities for local licenses (with a likely emphasis on driver's licenses and construction permits). • Work with 2–4 agencies on a pilot basis; monitor the results of reform. • Publicize reforms and encourage greater public discussion about the benefits of decentralization.
Time Frame for reform	6–12 months
Feasibility	With agency cooperation, this action is highly feasible.

RECOMMENDATION 3: Commit resources and political will to reforming the Liberia Marketing Association and study the potential of deconcentrating market authority to local bodies.

Why is reform needed?	The LMA, an institution of huge importance to Liberia's female-dominated subsistence farming community, is routinely criticized for a lack of transparency, accountability, and effectiveness. Yet nothing ever appears to change. To build confidence in agriculture as a meaningful economic opportunity, the functions and authority of the LMA should be reviewed for their purpose, relevance, cost-effectiveness, and overall usefulness to society.
Impact of problem	The cynicism with which stakeholders all over the country, as well as the donor community, regard the LMA is harmful in itself. Prolonged tolerance of an authority that significantly lacks public confidence can undermine reform efforts across the economy.
Benefits of reform	Reforming the LMA, including through improved transparency, governance, and use of resources, may directly benefit the hundreds of thousands of Liberians who are affected by LMA's activities and services.
Constraints	The traditions and authority associated with the LMA may be perceived by some constituencies too entrenched to be challenged.
Fit with other donors	All donors that interact with LMA stakeholders should survey those stakeholders about what changes, if any, should be made to the LMA.
Best practices	Among African countries, South Africa has had the most success in developing the quality and distribution of its agricultural products. Therefore South Africa may be offer a strong model for demonstrating the potential of domestic marketing authorities.
Cost of reform	Unknown.
Action Steps	<ul style="list-style-type: none"> • Survey stakeholders, including through mechanisms that protect their anonymity. • Reach out to LMA concerning its own vision for the future, including with respect to governance and service to its members. • Conduct a cost-benefit analysis. • Based on that analysis, propose a set of reforms that will improve (a) public confidence in Liberia's system of domestic markets and (b) economic opportunities for the nation's farmers.
Time Frame for reform	6–12 months
Feasibility	High, so long as the LMA is receptive and responsive to inquiries about its governance, policies, finances, and objectives.



INTEGRATING GENDER

To this point, this report has described the legal and regulatory framework for starting and licensing a business in Liberia's formal agricultural economy. Before moving to other technical aspects of doing business in the agriculture sector—many of which can be addressed through comprehensive legal and institutional reform—this chapter addresses issues of meaningful inclusiveness. That is, the very purpose of a legal system is to guide and structure the behaviors of *people*, and institutions are not buildings, but are the *people* (men and women) responsible for implementing laws, allocating resources, and supporting economic activities.

Fundamentally, the start-up and development of agribusinesses depends on *people* who are inspired, capable, and determined to grow, process and sell agribusiness products. Although this chapter focuses on gender, and particularly on women, it underscores the people dimension, since the overarching purpose of a business-enabling environment is to support human economic activity.

For these reasons, this chapter has three objectives:

1. To present a complete picture of *all* human actors who are assets for building Liberia's agribusiness sector; paying explicit attention to women's contributions.
2. To employ gender analysis to understand both obstacles and opportunities for women's engagement in agribusiness.
3. To suggest a strategic perspective for why focusing on women is a valuable approach for strengthening Liberia's agriculture and agribusiness sectors.⁴²

⁴²Taking a gender perspective means paying attention to both women's and men's roles, as well as how they relate to one another, and then identifying areas requiring attention. This chapter builds on what is already well-recognized reality in Liberia: men tend to seek employment from concessions relating to rubber, timber, cocoa or mining, but women are the primary actors in Liberia's MSME farming and agribusiness.

The importance of this chapter stems from the reality that women are critical players in Liberia's agricultural economy. Women plant and harvest, sell and trade, and process and promote agricultural products. They are also vital contributors to the professional support systems for agricultural enterprise, as government leaders and administrators, educators, lawyers, accountants, statisticians, food scientists, and other professionals.

Another noteworthy factor in Liberian agriculture is the country's conspicuously "missing middle." Specifically, there are few people occupying the wide gap between poor Liberian farmers struggling for subsistence and large, wealthy company owners and concessionaires. Much of Liberia's middle class fled during the many years of conflict and war, and it seems that relatively few of the returnees have interest in or experience with agriculture-related business.⁴³

Who, therefore, has experience with agriculture, the determination to invest time and labor, and a willingness to take risks and make it all work? In Liberia, those characteristics can be found among women who already are engaged in agriculture, work tirelessly, and are determined to increase their revenues in order to pay children's school fees, improve their homes, pay to access health facilities, and ensure their children's

⁴³This may stem partly from historic gender roles among Americo-Liberians: as descendants of emigrants from the US where slaves were employed in back-breaking agricultural work, "proper women" were not to dirty their hands with such mundane tasks as growing their own vegetables!

success to care for them in their older years. Because women are assets for the agribusiness sector, failure to engage them and build their capacities overlooks opportunities to support the sector's growth.⁴⁴

Women represent much of the hard work and industry, resilience, and risk-taking—the “fire in the belly” to build their economic activities, create enterprises, and earn profits. But to involve and strengthen women effectively, it is essential that Liberians and donors regard women as economic actors with business needs, rather than as poor people who are needy. To be effective, policies or programs to strengthen agriculture or agribusiness must recognize that women's backgrounds, experiences, resources, motivations, and expectations often differ from those of men. Investments in Liberian women's agribusiness activities are among the most promising for those wanting to see agribusiness advance in Liberia, but they require an enabling environment that purposefully supports women enterprise.

Gender-based roles of women (and men) in agriculture and agribusiness. This chapter is not intended to be a general treatment of women and gender in Liberia. Nor, frankly, does it offer a balanced discussion of women and men, because of the particular obstacles women face and the potential, if such obstacles were removed, for them to contribute to the agribusiness sector. This background section discusses women in agriculture and women in agribusiness.

One caveat is important, however, before looking at “women.” Because of differences of education, capacities, exposure to the region and world, and tolerance for risk (among other factors), “Liberian women” is not a homogeneous demographic category. This chapter generally covers five groups of women in the continuum of agricultural enterprise: (1) women farmers; (2) market women; (3) women traders; (4) SME businesswomen (including food processors, retailers, and service providers); and (5) women professionals.

⁴⁴“A great deal has been documented about the obstacles faced by women farmers but not enough about the economic gains that could come from removing these obstacles. A 20 to 30 percent increase in yields and hundreds of millions of people lifted out of poverty globally could be delivered.” Mercy Karanja, senior program officer and senior East Africa regional advisor for agricultural development at the Bill & Melinda Gates Foundation, <http://allafrica.com/stories/201401290606.html>.

Women in agriculture. Typically, women farmers and many market women live in what Liberians call the “hinterlands.” This is attributable to two factors: the history of social, cultural, and economic detachment from Monrovia, and the virtually total destruction of infrastructure from 14 years of war:

Women farmers living in remote and isolated areas have only rare access to electricity or paved roads, limited access to schools or clinics, and few connections to information or know-how. Most of them operate in a world that remains traditional in terms of roles, practices, and expectations.

Furthermore, for Liberian women, literacy and numeracy are extraordinarily low. Women born before 2006 lack education for three reasons: (1) because education rarely reached rural areas before the war; (2) because schools virtually ceased functioning during the 14 years of war; and (3) because families did not regard education as important for girls. Among Liberian women, 42% (compared with 18% of men) have never attended school.⁴⁵ In rural areas, literacy rates are only 26%, and 60% of women ages 15-49 are illiterate (as compared with 30% for men). These data are relevant for the agriculture and agribusiness sectors because they demonstrate pronounced impediments to women's capability to access information and improve their skills.

The World Bank underscored this challenge in *Liberian Women in Agriculture Value-Chains*:

Generating appropriate market information requires means that are likely to increase gender equality in access and use. For example, given the high illiteracy rates mentioned earlier, radio messages in local languages are more equitably accessible to both men and women than printed information requiring literacy. However, recent data indicate that between 2006 and 2008, radio ownership in Liberia increased from 28 to 36 percent among rural male-headed households, but has stagnated at about 15 percent for female-headed households. Cell phone ownership, which has enabled new channels for sharing market information in other countries, increased from 3 percent among both male and female-headed households in 2006 to 16 percent among male and 9 percent among female-headed households in 2008. ... Efforts to increase the availability of data on market opportunities should be

⁴⁵According to the recent (2012) Demographic and Health Survey (DHS), for the cohort of ages 15-49, 33% of women and 13% of men have not attended school—a slightly better outlook for the future but still challenging. Liberian Institute of Statistics and Geo-information Services (LISGIS), 2013 DHS, p. 7.

complemented with education campaigns and a strategy to increase the ownership of communication devices among female farmers.

Yet there is another cohort of women: those with some education, modest means, and exposure to a broader world of possibilities. While many live outside Monrovia, in Liberia's towns, they have capabilities and determination. Some are engaged in cross-border trade, traveling not only to Sierra Leone and Guinea, but also as far as Togo, Ghana, Nigeria—and even China. There are some in Monrovia who remain connected to the towns and villages. For example, Liberia's Association of Women in Cross Border Trade now has more than 4,000 members. Through gumption and mobility, those women are entrepreneurial: they take risks, identify opportunities, overcome challenges, and aspire to do and have more.

Finally, there are women in Monrovia (and some in larger towns) who, having left Liberia during the war years, have seen other countries and economies and have gained both education and significant experience. Many are professionals, and may work for the government. Some, however, are entrepreneurial and starting businesses, though only few focus on agribusiness. The Liberia Women's Chamber of Commerce reportedly has 250 members, 80% of whom reside in Montserrado County.

Women as farmers/producers: hardworking, ready, and willing. As is the case throughout Africa, the majority of farmers in Liberia are women. Women represent 52.2% of Liberia's farmers and 57% of its "farmhands."⁴⁶ Further, women reportedly produce more than 60% of Liberia's agricultural output.⁴⁷ A gender analysis of agriculture-related roles and responsibilities of men and women reveals that although men typically prepare areas for agriculture, undertaking the brushing, felling, clearing, and fencing, they then prefer to work on cash crops, including rubber, palm oil, and cocoa (income-generating areas that are quite limited for women). Given increasing pressures and opportunities for girls and boys to attend school, children contribute less labor to agriculture. Hence an unintended consequence is that independent production of food crops, with all the attendant burdens, now lies predominantly in women's domain: Women plant, weed,

IN LIBERIA, WOMEN GROW:
• Rice & Cassava
• Beans
• Bitter balls
• Cabbage
• Collard greens
• Corn
• Cucumbers
• Eggplants
• Melons
• Okra
• Small tomatoes
• Sugar cane
• Sweet Potatoes/yams

and harvest. They grow rice, both upland and lowland in swamps, cassava, and a limited range of vegetables (see box).⁴⁸ And of course they also grind, cook, and sell.

Yet the results of women's hard work tend to be quite modest, a factor that limits them to subsistence agriculture. Women's access to assets and inputs is limited, beginning with land. Only 10% of women own land, compared with 44% of men.⁴⁹ When women do not own land, their chiefs or communities may provide land they can farm, but it is typically of lower quality, and far from their villages and feeder roads.

⁴⁶Liberia 2008-09 Crop Assessment Report, http://www.ligis.net/page_info.php?&7d5f44532cbfc489b8db9e12e44eb820=MzQ3

⁴⁷ Liberia: Gender Aware Programs and Women's Roles in Agricultural Value Chains, A Policy Memorandum, The World Bank and Liberia's Ministry of Gender and Development (May 2010), p. 1.

⁴⁸According to the Agriculture Sector Rehabilitation Project, "women contribute to 36% of the total labor in rice and cassava production while men provide most of the labor for clearing and preparing the land; and women do 80% of the weeding, harvesting and process of the crop" (from Ministry of Agriculture (MOA) Gender Strategy, 2012).

⁴⁹MOA's Gender Strategy (2012).

Women's productivity is also limited by either a complete lack of any tools, or access only to the most rudimentary, such as hoes.⁵⁰ Women who grow rice in swamplands urgently need boots, because of leeches and the risk of schistosomiasis (a disease caused by parasitic worms). Women also have only rare access to inputs like fertilizers or seeds. Most importantly, women farmers have little exposure to, and little or no information regarding, alternative approaches. Women need information, seeds and tools, and capacity-building.

The Ministry of Agriculture's (MOA) 2012 Gender Strategy sums up the challenges:

- Women are less trained, less organized, and do not have access to farm tools.
- Most females do not have access to agricultural inputs,⁵¹ such as loan, fertilizers, and drought-resistant seeds.
- There have been weak measures to integrate gender training, organization, gender access to farm tools and inputs.

Beyond the challenges of production, women encounter a number of challenges in the value chains of their produce, starting with transport. Because women rarely know how to drive or own their own vehicles, they typically depend on men to transport them with their produce or to buy as intermediaries. Transportation costs already cut into prospective profits, and women have little bargaining power. There are two approaches with intermediaries: women either accept very low prices or give their produce to the intermediary and await payment after he has sold it ("sell and pay"). This system is problematic; the limited number of women interviewed for this study reported constant anxiety about whether they would ever see payments as promised.

Further, even if women were able to bulk their products and get them to markets, they lack access to storage.

Apparently some of the male farmers who sell in Monrovia, who tend to sell higher-value products, have arranged for storage with Lebanese-owned facilities. Not only do women's crops typically promise profits too low to afford storage, but as a matter of gender relations, it can be expected that few Liberian women would be likely to do business with Lebanese businessmen.

⁵⁰"Among the most binding constraints for women farming cassava is the lack of adequate tools for field clearing, land preparation, and weeding. These are crucial where male labor is scarce and difficult or impossible to hire. Field production practices, including the timing of field activities and planting techniques, are also important determinants of yield differentials." World Bank, LWiAVCs.

⁵¹ MOA Gender Strategy (2012) at 13.

Nevertheless—and this is the critical piece—women work to generate modest surpluses that they try to sell along the roads or in markets. Those markets are filled with many women selling the same crops, for low prices with barely any profit margin. A 2007 study of 83 markets in Liberia reported a total of 204,430 marketers.⁵²

As discussed previously in this report, one worrisome factor for women eager to increase profits selling in markets is that the markets are organized and controlled by the Liberian Marketing Association (LMA), a semi-autonomous government organization formed by act of the legislature in 1979.⁵³ The LMA collects fees for use of market tables and storage chests (again, cutting into women's meager profits). Although those fees supposedly pay for management by superintendents, some of whom are reportedly quite good while others are terrible, the LMA appears to do little to maintain or protect the physical premises, or provide garbage or sanitation services. Whether this is a result of poor management or corruption the result is the same—the market women suffer. Further, when rural women seek to sell their produce at the large Monrovia markets of Redlight and Duala, they must sell to wholesalers—"market sharks"—both women and men who buy directly from the market women, underpay them for their produce, and sell for much higher prices in the market. The market women sell to the sharks because they desperately need the money to survive.

Nevertheless, women producers and market women doggedly seek ways to improve their yields and generate greater profits. There are also many examples of these women working together, both in farmers' organizations and as *susus*, through which they pool small savings and lend to members of their groups to obtain basics like seeds and tools. Others, with training, have gained the sophistication of VSLAs (Volunteer Savings and Loan Associations).

Women in agribusiness: the dynamic view. Of course, poor women who generate marginal profits growing and selling their agricultural products in local markets seem a far cry from the objective of a thriving agribusiness sector teeming with strong SMEs.

⁵² And reflecting the ratio of women to men, of 1,737 marketers interviewed, 85 percent were women.

⁵³ The LMA was given the sole authority over the establishment, building, and operation of local markets in Liberia. The Act specifically states that, "no person or persons shall establish, build, operate, and administer any local market or markets within the counties, territories, and statutory districts, the Republic of Liberia, who is not the member or members of the Liberia Marketing Association." Although the LMA became independent about two years ago and held elections, the result was continued management by its long-term President.

THE PROMISE OF LIBERIA AGRIBUSINESS: BUSINESSWOMEN PARTNERING WITH WOMEN GROWERS

Pasama sells cooking oil to local markets. Its owner, a woman, started the business from scratch in 1996. Back then, she could barely feed her family a full meal each day. She received and completed training with 10,000 Women (an international initiative supported by Goldman Sachs) in 2010, and since then her business and her family have prospered.

Pasama's owner has graduated from buying product from individual women and now works with groups of 15–20 collaborating women (about 135 in all); she obtains machines for these groups from Winrock International. On the sales side, her business has increased from 10 customers in 2003 to more than 200 now. She sells primarily in Monrovia because the roads elsewhere are deplorable, but she aspires to expand. She knows there is demand for cooking oil in Maryland and Grand Kree, and will sell in those places if the roads improve. She would also like to begin exporting regularly to customers in Boston and New York. However, in order to expand, she knows she needs more than better roads; she needs packaging and labels for selling to supermarkets, linkages with more customers, and exporting know-how.

Over time, this one-woman business into an enterprise of 11 workers (about half women). In the old days, she would run away when the tax collector came by. Now, her business generates enough revenue to qualify for formal bank loans, to feed her family twice a day, and to send all of her children to school.

Falama (with its associated NGO, Lifting Farmers). Falama primarily produces flour from plantains and cassava, although it also uses taro and sweet potatoes and is launching a new initiative producing chips. Falama's female owner took a training course on food processing from the US State Department, and a course on financial management from the African Women Entrepreneurship Program.

The company works with groups of farmers in Bomi and Nimba counties, and offers competitive prices for cassava and plantains to increase the incentive. The company provides processing machines and training, and pays the farmers to process, peel, and clean. The company's next step, if it can find a partner, is to produce breads and cakes. Constraints include transportation, electricity for machines, and packaging (which must be purchased from Ghana with US dollars).

Yet there is a continuum, and it is dynamic. Evidence of positive potential can be found in two ways. First, some of the women now engaging in informal, subsistence activities have the determination to evolve into SMEs. In a competitive arena where the fittest will survive and succeed, some will be winners. This is borne out by results from the UN Joint Programme on Food Security and Nutrition, which demonstrate that even when implementation is unreliable (including supplies of dead seeds, deliveries too late to plant, and machines soon requiring spare parts), women's farmer groups increased their incomes by 25–30 percent.⁵⁴ As the Ministry of Gender and Development (MoGD) has noted, the "majority of SMEs are women" though we have "not yet seen the graduation from subsistence to micro to SME's."⁵⁵

Second, an incipient cohort of businesswomen are beginning to partner with women producers for value-added processing and sales, including cassava and plantain flour; garri, chips, cakes, pepper sauce, starch, palm oil, and fruit salads. More than five years ago, it was recognized that "while the majority of the population engages in agriculture, twice as many women as men (50 percent versus 25 percent) diversify into agro-processing activities."⁵⁶ According to the MOA's Gender Strategy, the World Bank Resource on integrating gender equality issues into Liberia's Poverty Reduction Strategy Papers (PRSP) states that 20% of those working in agribusiness for export industry in 2010 were women.

These days, some promising developments in Liberia's agribusiness sector include partnerships between businesswomen and growers: small businesses or agro-processors in Monrovia or large towns that provide women farmers with equipment and

⁵⁴UN/GOL Joint Programme Food Security and Nutrition Evaluation Mission Debriefing: Preliminary Findings and Recommendations, May 2013, by Dr. Benjamin Badjeck, International Consultant, p. 17, 19–25.

⁵⁵Interview with MoGD

⁵⁶Small Scale Gender and Agriculture Survey (2007).

TABLE 5: WORLD BANK ENTERPRISE SURVEY, 2008-09

INDICATOR	LIBERIA	SS-AFRICA	ALL COUNTRIES
Percent of firms with female participation in ownership	53	33.1	36.6
Percent of firms with a female top manager	29.9	15.3	18.5
Proportion of permanent full-time workers that are female (%)	22.9	24.9	31.6
Proportion of permanent full-time non-production workers that are female (%) (manufacturing firms only)	–	7.4	10.1

training, and then purchase the growers' production for their own businesses. See the box below for two notable, successful examples of this partnering approach.

The above discussion yields several core conclusions about Liberia's women-led SMEs. First, training is critical—a game changer. For example, it has been shown that by participating in 10,000 Women or African Women's Entrepreneurship Program (AWEP) women gain empowering know-how for managing and growing their businesses, as well as much-needed exposure and visibility.

Second, successful women-led SMEs can have beneficial multiplier effects. They can serve as fair intermediaries, providing machines and training to groups of women framers, and linking them to markets, helping them prosper.

Third, women-led SMEs are hit particularly hard by Liberia's dual currency system and the steady decline of the Liberian dollar against the US dollar. For example, locally produced packaging is scarce and must be purchased outside Liberia with US dollars; this means SMEs must sell some product for US dollars or lose profit. In fact, many women—ranging from market women to restaurant owners to cross-border traders—complain vehemently about this problem. Typically, they sell their goods for Liberian dollars, but must use US dollars to pay for electricity and traded goods, and to make loan payments (if they have managed to obtain US dollar-denominated loans).⁵⁷

Fourth, women-led SMEs—at every level—need financing to flourish. Informal, micro-size, and small-profits SMEs often seek funding from susu, money changers, or microfinance. But even then, they can barely get ahead, because the loans they get are

⁵⁷Also adding to the hardship: women work tirelessly to put their children through school, but university fees in Liberia must be paid in US dollars.

short-term and have high interest rates. The recent emergence of Village Savings and Loan Associations (VSLAs) has opened up additional funding sources. Encouraged and supported by the MoGD and the Central Bank of Liberia, with technical and financial support from UNWomen, VSLAs now offer funding mechanisms for groups of cross-border traders and others.⁵⁸ Despite these positive developments, getting financing is still a major impediment for SMEs; even if they have formally registered to become legally eligible for a loan, they typically cannot meet collateral requirements. SMEs also seek benefits from the new Mutual Fund for African Women in Liberia (MUFFA)⁵⁹ or assistance from the USAID-funded Liberia Investing in Business Expansion Project (IBEX).⁶⁰

Finally, Liberian women have an abundance of highly visible role models, but have not yet achieved their full potential in skilled, management-level, and professional pursuits that support the infrastructure of agricultural production and agribusiness, and the pipeline is less than robust. For example, in University of Liberia's agricultural program, which trains professionals in crop science, livestock, nutrition, agricultural economics, and forestry, only 10–12% of students are women. At the selective and prestigious Booker T. Washington Technical Institute, which has a strong and extensive connections

⁵⁸An illustration of the increasing wealth and sophistication of cross-border traders is that by their standards, the CBL contributions are small. One group of cross-border traders angrily characterized the CBL loan as disgraceful and insulting - and opted to return within one year rather than two. Another group has opted to use the CBL funds to lend to poor market women because the amounts are insignificant for their needs.

⁵⁹MUFFA, sponsored by Afriland First International Bank, is a newly established women's organization in Liberia created for the purpose of empowering women by providing all-inclusive financial planning solutions, especially for those working in the informal sector: <http://www.liberianobserver.com/business/muffa-elects-new-board-members>

⁶⁰Among other things, IBEX offers encourages lenders to lend to SMEs in the agriculture sector by offering those lenders loan guaranties, and also aims to decrease lender risk by providing technical support and capacity building for SMEs. For a summary and a case study, see <http://www.africaag.org/2014/07/30/case-study-vega-liberia>.

throughout Liberia's private sector management channels and with government officials, girls represent only 25% of the students studying agriculture. And just 5 of the 100 faculty members are women. However, as indicated in the box, Liberian women have a more pronounced presence in non-agricultural enterprise. According to the World Bank's most recent enterprise survey for Liberia (which by now is five years old)⁶¹, women are better represented as top managers and owners of business than they are in the rest of the world. With so relatively few formally established private enterprises, however, the base (150 companies) is very small.

LEGAL FRAMEWORK

Gender considerations are inherent to a discussion of Liberia's laws and policies because after all, women in the agribusiness sector need the same systemic benefits as men. They need predictability so that they know the rules of the game and can calculate the risks and costs of doing business; standards and mores for what is regarded as right and wrong in business transactions; and reliable mechanisms for resolving disputes. Whether or not laws explicitly preclude women from engaging in business activities or fail to protect their interests, if the laws do not reach or cover women engaged in agriculture-related business, then they fail as an enabling environment for the growth of agribusiness. (See box for key laws and policies relating to women.)

KEY LAWS AND POLICIES

- Constitution, Art. 22: ("Every person shall have the right to own property ...")
- Constitution, Art 23 (Rights of inheritance and descent for spouses of both statutory and customary marriages)
- Decedents Estates Law - Title 8 - Liberian Code of Laws Revised, Ch. 3 & 4
- Strategy for Mainstreaming Gender Issues in Agricultural Programs and Projects in Liberia
- Liberia National Action Plan
- Liberia National Gender Policy 2010–2015

Gender and the commercial law. Typically, Liberia's commercial laws and regulations, including those discussed in this report, are *gender neutral*, meaning that they address people in

general, without distinction by sex. A review of the World Bank's Women, Business and the Law database for Liberia reveals that in contrast to some countries, Liberian women—married or unmarried—have full rights to contract, own and inherit real property, and access courts and other institutions. When questioned about statutory rights for women, most Liberians say "no problem," because on its face, the legal framework gives women and men equal opportunities, in general and for conducting business.

But technical rights are only part of the story. Laws in some countries or cultures may nominally enable and empower women equally with men, but are systemically implemented or enforced to discriminate against women, no matter their education or wealth. In Liberia, although individuals may be biased, women have held significant positions relating to the law, ranging from Minister of Justice to justice on the Supreme Court or commercial court, and Commissioner of the Law Commission.⁶² For those who actually function within the formal legal system, there were few examples of or complaints about treatment of women as plaintiffs or defendants in regulatory or judicial contexts. Therefore, with regard to licensing and registering a business, businesswomen quite consistently report that the system has improved substantially and posed few problems (none of which linked particularly to their sex).

That said, however, several caveats must be considered. First, there are few records, and particularly no gender-disaggregated data, relating to use of the courts. The second caveat is hard to measure and not publicly discussed: the extent to which corruption affects men and women differently when it involves demands for sex rather than (or in addition to) money from women seeking to exercise their legal rights or comply with the law. Third, although the justice system may technically be available to women, cost typically puts it out of their reach. Because lawyers' services are expensive, they are entirely beyond the economic possibilities not only of the poor, but of small businesses just struggling to get off the ground. It often is less expensive to "eat a loss" than to try to gain justice.

The essential inconsequence of statutory law. But for Liberian women, including those in agribusiness, the most important aspect of the legal framework is *how little it touches or regulates her economic activity*. Outside of Monrovia, and

61 IFC, Liberia Country Profile 2009, available at <http://www.enterprisesurveys.org/~media/GIAWB/EnterpriseSurveys/Documents/Profiles/English/liberia-2009.pdf>.

62 Another example: In 2006, Beatrice Munah Sieh served as Police Director of the National Police. She is a former long-time Riot Control officer and former Deputy Director for Operations of the Liberia National Police, and a member of the International Association of Chiefs of Police for a little over 10 years.

except for the affluent, statutory law does not provide predictability, establish norms, or provide dispute resolution. Instead, the “law” for most Liberians refers to customary law, practices, or traditions,⁶³ reflecting little of what is drafted and passed by the legislature in Monrovia or delineated by the Executive Branch.

One way that this affects market women and women in agribusiness concerns agreements or contracts. Reportedly, few women engage in the formal process of writing a contract—never mind ensuring that it has been notarized. Instead, most contracts are oral, witnessed by a tribal chief, local authority or LMA superintendent. In case of a dispute, *and if a woman is willing to pursue it*, witnesses are gathered and local leaders are charged with resolving them. Yet the norms that are applied, or the attitudes toward women, vary. If a woman is not satisfied by the process or the outcome—and again if she has the confidence to challenge it—she may seek support from the county’s Gender Coordinator, from the Association of Female Liberian Lawyers (AFELL) or, sometimes, from a magistrate.

The weakness of the customary system lies in both the vagueness and variability of the process. Although in theory, a woman can stand up for herself and publicly confront a man, in reality this is often harshly deterred by local gender attitudes. Moreover, women seeking traditional redress are uncertain whether the arbiters will deal with her fairly.

The gender dynamics of land ownership. Another issue is land ownership, as further discussed in this report’s chapter on Registering Property. Land ownership is part of the enabling environment for women’s agribusinesses not only in cases where women are growing crops on and investing in land, but also as collateral for access to finance. Issues relating to women’s ownership of land have been fully reviewed and articulated in a February 2012 study on Women’s Land Rights by the Land Policy and Institutional Support Project.⁶⁴ Again, what is problematic is not the formal, statutory law, but the failure to apply it, thereby perpetuating the pervasive influence of and reliance on customary law and practice. More knowledgeable women report having “private deeds,” meaning they

own property through family inheritance, or “public deeds” resulting from purchase and legal transfer. All too frequently, however, land that has been properly titled and registered, even when women have contributed to purchase or improvements, has been put in their husband’s name.⁶⁵ In rural areas, customary land practices predominate, under which women are given use of land but often have no ownership rights—meaning that they often have little incentive to invest.

The impact of customary legal systems. Some initiatives have addressed the conflicts between statutory and customary law, access to justice, and the lack of legal literacy. The James A.A. Pierre Institute at the University of Liberia has trained professionals in the judiciary and paralegals, and new decentralized courts have been constructed in counties which previously had no access to judicial services. The Carter Center has provided small grants to organizations that have roots in local communities (including women’s groups, an interreligious group, youth groups, human rights groups, and drama clubs) to use drama, community forums, and radio programs to “tell the story” of the country’s rule of law to rural Liberians. To date, this program has reached over 15,000 people.⁶⁶ The Association of Female Lawyers of Liberia (AFELL) has promoted women’s legal literacy relating to family issues and gender-based violence through workshops, training of trainers (TOT) in local dialects and drama, and brochures about rape and inheritance rights.⁶⁷

Yet, notwithstanding the AgCLIR focus on women’s legal literacy as it related to agribusiness, it is important to recognize that AFELL’s outreach work has not extended to economic rights. No apparent consideration has been given to working with market women or partnering with organizations like the Sirleaf Market Women’s Fund, a high-profile NGO that supports market women.

IMPLEMENTING INSTITUTIONS

Laws and policies alone do not establish an enabling environment. Institutions must implement and enforce them. For this chapter, the key institutions are those essential to “gender mainstreaming.” (See box for a list of key institutions.)

63 There are five ethnic groups in Liberia: Mel (gola, kissi), Kwa (dei, bassa, kru, krahn, grebo), mande-fu (kpelle, gio, mano, lorma), mande-tan (vai, mande, mandingo), and “the repatriated” (americo-liberian, congo, or Caribbean).

64 See, e.g., “The laws which govern women’s rights to property lack clarity, are internally inconsistent, do not achieve their intended purpose of treating all ‘wives’ equally, do not treat men and women equally or equitably, do not cover all categories of land, and do not cover all relationships where property rights matters arise. Those charged with applying the law are left to their own discretion to fill the gaps not adequately addressed by the law, often relying on customary norms about property rights.” LPIS, Executive Summary, p. 1.

65 The right to inherit land is another issue. One case reported by AFELL involved a woman in Monrovia who was kicked out of her home and her shop. A man from the family came and just sat himself down in her shop behind the counter. Fortunately for her, she received help from AFELL and the Court, but others do not. Women in Law and Development Africa (WILDAf) has done some training of chiefs and Zoes regarding women’s right to own land.

66 https://cartercenter.org/peace/conflict_resolution/liberia-civic-education.html.

67 Though AFELL is primarily based in Monrovia, it now has chapters in Montserrado, Bong and Magribi counties, and its work plan includes introducing mobile courts.

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Agriculture
- Ministry of Commerce and Industry
- Ministry of Gender and Development

In order to assess how well Liberia's institutions implement policies and laws relating to women in agribusiness, or to recognize gender-based disparities in opportunity or contributions, two types of institutions must be considered: (1) "mainstream" government institutions; and (2) women- or gender-focused government offices.

The rationale for reviewing the practices of mainstream institutions is not as much about equity as it is a matter of effectiveness—determining whether they have the vision, data collection, analysis, and strategic planning to ensure that resources reach all critical contributors, including women.⁶⁸ Paying attention to women's capabilities should be part and parcel of identifying key partners, and enabling them to contribute.⁶⁹ In fact, the key mainstream institutions discussed below—the Ministry of Agriculture and the Ministry of Commerce and Industry—have not institutionalized an awareness of the importance of reaching women, or mechanisms for incorporating gender analysis within their policies, or monitoring and evaluating the ability to reach and support women and men. Upon the conclusion of the donor-funded and donor-led programs, there is little evidence of a legacy, of having established learning and focus on which to build. Neither Ministry offers a strategic focus on women as farmers or entrepreneurs, nor has targeted resources for investing in their enterprise.⁷⁰

⁶⁸Further, what is lacking for women reveals broader, more systemic failings:

Weaknesses of mainstream institutions in relation to women tends to reveal weaknesses overall - such as whether policies are based on well-founded data and analysis, or whether resources are sufficient for implementing policies.

⁶⁹While a focus on "youth" was not included in the AgCLR scope of work, the same principles of mainstreaming should apply to focusing on young people. While the Ministry of Sport & Youth may develop specialized programs for young people, the MOA and MoCI must support young people in their areas as well - and overlook them to their peril with the predicted results of failing to achieve their objectives.

⁷⁰The Liberian Institute of Statistics and Geo-Information Services (LISGIS) is critical government institution for establishing an effective enabling environment for women in agribusiness. To its credit, some of its more recent data-collection instruments include sex-disaggregated data. Yet two caveats are important: First, insofar as the processes were funded and structured by donors, the disaggregation of data was presumably required. Beyond the particular studies, it is important that the practice be fully integrated into LISGIS standard procedures. But beyond that, data itself is virtually meaningless unless it is used: analyzed and understood, and then used as a basis for policy formulation, program design and resource allocation.

Ministry of Agriculture. The MOA has developed a Gender Strategy that is credible and complete, laying out objectives, action, steps and indicators. The Strategy spells out the following key institutional challenges:

- Lack of knowledge on using gender mainstreaming tools impedes agricultural programming and implementation.
- No gender-disaggregated data is available to inform planning for the agriculture sector planning, and the LASIP includes less than a paragraph on gender.
- Agricultural programming tends to be male-dominated, thus leaving out the females who play vital roles in agriculture production; also, women are usually not included in the leadership of agricultural programming and intervention.
- Little money has been budgeted for gender-centric agricultural programming.

These challenges stand in the way of achieving one of Liberia's National Budget objectives for 2013–14: "to capacitate farmers specifically women and youth association/cooperatives to enhance income generation activities." Achieving the MOA's objectives and "capacitating farmers" requires purposeful attention to reaching and strengthening women's contributions, but the MOA does not have any special programs targeting women. In its Gender Strategy, the MOA acknowledges that "by 2010 30% of those enrolled in and graduating from agriculture institutes were women but it is observed that female extensions workers are less than 20% in 2011 and there are no clear structures or systems in place to meet increase % by 2012."

In fact, the MOA now has approximately 70 extension staff, of which only 8 are women for the entire country. Admittedly, beyond the issue of resources and political will, there are gender issues that make it difficult to train, recruit, and field female extension agents. This includes the low levels of women's education and foundational capacities, cultural difficulties for women to travel and work alone, and their physical security. Yet NGOs manage to field women extension agents, and there is a need for national determination to overcome the obstacles.

Furthermore, as is often the case, the failure of women or gender mainstreaming is indicative of larger, more systemic issues. The MOA's limited budget and capacities result in failure to implement what has been analyzed or promised in the LASIP. To the extent that the MOA is underfunded (2.5% rather than 10% of the national budget, as contemplated by

LASIP) and struggling with limited capacity, MOA is not meeting its objectives on many levels, with men or with women. As MOA begins to improve, however, it is essential that its capacity for gender-based analysis and targeting be incorporated from the outset.

Ministry of Commerce and Industry (MOCI). As already noted, minimal attention is paid in Liberia to women in agribusiness. Women tend to be relegated to their roles as farmers rather than as businesses.⁷¹ There is little evidence of any strategic or programmatic focus on women by the Ministry of Commerce and Industry; MOCI has no Gender Office or Gender Advisor.

There are two exceptions, however, which might be called “enclave initiatives” because they have outside funding and are outside the “mainstream” of the MOCI’s strategy, programming, and resources. First, the UN’s Joint Programme on Gender Equality and Women’s Economic Empowerment includes the “Next Level Programme” that worked with 4,000 market women from 2010–12 to provide skills training, expand their businesses, and access credit. Second, the African Women’s Entrepreneurship Program is housed at that MOCI, and the MOCI website includes it as if its own, but the AWEP is independent and receives funding from the Chevron Corporation. Absent purposeful attention to women as founders and leaders of MSMEs, the MOCI is likely to overlook the particular needs but also contributions of women seeking to launch agribusinesses.⁷²

Ministry of Gender and Development (MoGD). The complementary institutional piece for gender mainstreaming is “national machineries” that focus on women, such as Liberia’s Ministry of Gender and Development.⁷³ Since 2005, MoGD has received exceptional donor support and has developed

some valuable capacities. It has focused on gender-based violence and girls’ education, and has been a critical partner for the UN’s Joint Programme on Gender Equality and Women’s Economic Empowerment (GEWEE). That program has included an adult literacy program that has reached 4,000 rural women, and the “Next Level” program that enabled 4,000 market women “to access business skills training in the workplace to enhance their ability to access credit, save money and expand their businesses.” GEWEE also partnered with the Central Bank’s Loan Extension and Availability Facility (LEAF) that enabled traditional *susus* to become Savings and Loan Associations (SLAs), and trained 10 NGOs and 35 rural women to serve as SLA extension agents.

On the other hand, even in pursuing a gender mainstreaming approach, the MoGD should not be responsible for ensuring that women benefit in all sectors, nor that all ministries are employing sex-disaggregated data and gender analysis for optimal results. Instead, the MoGD must provide technical support to mainstream ministries and to remind, promote, and encourage others to engage in gender analysis and incorporate awareness of and attention to women.⁷⁴ Having taken extraordinary steps to address the ever-challenging scourge of gender-based violence, the MoGD must extend its reach and resources to ensure that women are engines of Liberia’s agriculture and agribusiness sectors. This requires resources and skillful collaboration.

SUPPORTING INSTITUTIONS

Supporting institutions are critical in any country or economy, but are particularly essential in Liberia, where resources are limited and government institutions lack the requisite will or capacity. Non-governmental organizations (NGOs), international NGOs and donors, and local self-help organizations (SHOs) provide critical support for women as farmers, market women, traders, and agribusinesses. The institutions supporting women’s agribusinesses in Liberia may be divided into three categories: (1) local groups that support and organize women; (2) national organizations seeking to promote women’s needs and solidarity; and (3) institutions focused on providing access to training and financing.

Local groups. The first category is locally led, promoting solidarity among women, opportunities to share information, and organization to engage in agriculture-related work together. Most tend to have determined, talented leaders (“I thank God

71 An example within USAID, given the production and value-chain focus of Feed the Future (FTF), can be found in the 2010 FTF Strategic Review, which said that it addressed “Key Gender Issues by...building on and expanding women’s role in the four value chains, most particularly by increasing women’s knowledge and use of improved agricultural technologies and practices. Introducing improved rice planting, harvesting, and post-harvest practices including improved processing equipment. Focusing on cassava processing. Intensifying vegetable marketing linkages. Expanding goat husbandry.” p. 25.

72 The Ministry of Justice is another critical implementing institution to ensure the legal and institutional enabling environment for agribusinesses. On the one hand, MOJ, with clear support from the President, has a strategic and purposeful focus on women. Yet ironically, despite because of the focus on gender-based violence, there are risks that the “mainstream” business of justice may fail to engage and protect women who seek to build businesses. In fact, as noted above, there are indications of a need to reach women with information and capacities relating to law and access to justice more generally.

73 Despite its name, it should be noted that MoGD is de facto a Ministry of “Women and Children.”

74 Note that while the EU, JICA and the Africa Development Bank have focused on capacity-building for the MOA (see USAID’s 2010 Strategic Review, p. 17), it is not at all clear that they include gender mainstreaming as a critical capacity.

first, and then Ma!" or "Leadership is a gift from God!"), some of whom are politically connected. Some may have launched or benefited from international assistance, but they appear to be genuinely indigenous organizations formed from the bottom up. Although no one knows how many of these groups operate across Liberia, they are numerous and are clearly significant for the women involved and represent a valuable conduit for reaching women with information and training

The box below gives some examples of local groups, their purpose, and their contributions.

payment of a fee, and local government involves a case and investigation. For many women, the Peace Huts are a viable and effective solution.⁷⁵

A new but impressive institution for women traders is the Association of Women in Cross Border Trade (AWICBT). (See box.) Formed with the support of UNWomen, AWICBT is now anticipating its third country-wide, annual meeting. The organization has created a sense of solidarity and enabled the exchange of information and ideas regarding safety. Just as important, AWICBT is now a credible advocacy agent, taking

LOCAL SUPPORTING GROUPS: FILLING THE VOID TO HELP LIBERIA'S BUSINESSWOMEN

Margibi Women's Development Association. Launched in 1998; has 12 branches and a central facility, Has trained women to form village groups.

Bassa Women's Development Association ("Bawoda"). Dates back to 2003 and focuses on rights and counseling. Has approximately 300 members that have gained skills from UNICEF.

Old Timers Organization (OTIMO). Organized in Ganta by five women leaders returning to Liberia post-conflict in 2004. They started by organizing men and women to clear the land after all had been destroyed, but focused on getting women on board. OTIMO now has almost 250 women members, each owning her own business, primarily in the agriculture sector. Together they focus on raising poultry, cocoa, and sharing mills for rice and gari. With support from the FAO, OTIMO has trained women to care for poultry, store beans, and manage their funds.

United Sisters of Nimba County Another organization in Ganta. Formed to bring together women of different tribal or ethnic groups after the conflict and forge bonds through economic advancement. For example, they have aggregated their land deeds as collateral, and the group obtained a loan of USD\$30,000 at 8% interest for 22 months from the Liberian Bank for Development and Investment (LBDI). The loan funds have distributed to approximately 30 women, each of which now has a shop and an LBDI bank account.

National groups. A variety of organizations have national or at least multi-county resonance. Originally focused on peace, but now more broadly concerned with dispute resolution and mechanisms by which to maintain peace, Women in Peacebuilding Network (WIPNET) brings women together at the local level, often as many as 150 in each community, to ensure peaceful coexistence by building solidarity and to resolving conflicts in Peace Huts. Sometimes such mechanisms are useful for women engaged in economic activities, such as a dispute regarding a crop sold for market and nonpayment when the WIPNET women may invite the man to the hut and ask him, "When is she going to get her money?" While an alternative may be to go to the Town Chief, that requires

issues to government. For example, AWICBT engaged the Customs & Immigration Service to expose practices of sexual harassment and demand changes at the borders—and had some success.

Another organization supporting market women is the previously mentioned Sirleaf Market Women's Foundation (SMWF). Launched and led by prominent and relatively affluent women in the United States and Liberia, and using funds privately raised and provided by UNWomen (and UNDP), the SMWF focuses on the physical repair of decrepit and unsafe market buildings. Aiming to restore and upgrade 50 buildings, SMWF

⁷⁵Because WIPNET also regards susus as a mechanism for forming bonds and building trust, it has supported about 1,500 of them in 10 counties. They rely on the women's own limited funds and "in-kind" contributions.

has so far renovated 17 to include sanitary facilities, toilets, and childcare. SMF also offers training in business skills and access to finance (in partnership with UNWomen).

THE ASSOCIATION OF WOMEN IN CROSS BORDER TRADE

AWICBT is officially registered as an NGO in Liberia, has nearly 4,000 members, and serves as an advocacy organization. Presenting a united front via AWICBT, traders have raised their concerns with the Ministry of Commerce and Industry, Bureau of Immigration and Naturalization, and Bureau of Customs and Excise. Through AWICBT:

- 1,300 members have improved skills in business planning, record keeping, financial management and literacy.
- 1,660 women have obtained credit from AWICBT Savings and Loans Associations.
- To increase the security, economic gains, and sustainability of cross-border businesses, two warehouses have been constructed (in Bo Waterside, Grand Cape Mount County).

Entrepreneurship, finance, and training. Two important programs supporting women's entrepreneurship, and 10,000 Women, are discussed at this report's chapter on Starting a Business. But starting a business is one thing, succeeding at it another: As already mentioned, women's business prospects depend on training and access to finance—which go hand-in-hand.

The Foundation for Women offers Grameen-type⁷⁶ microfinance lending, injecting some outside money into the economy. The loans are always coupled with training to help borrowers prosper and repay, and oversight to check how they are doing.

Often, however, the issue for larger women-owned agribusinesses is not the availability of financing, but the ability to meet lending requirements, especially with respect to collateral. IBEX was established by USAID to help, by providing essential brokering and technical assistance. For example, one woman

⁷⁶The Grameen Bank is a Nobel Peace Prize-winning microfinance organization that makes small loans (known as microcredit or "grameencredit") to the impoverished without requiring collateral. http://www.nobelprize.org/nobel_prizes/peace/laureates/2006/grameen-facts.html

sought a loan but lacked a deed with her name on it. By obtaining a letter from her sister pledging her sister's property, the woman was able to get the loan. In another case, a women's group sought credit but did not have proper title to their warehouse. With IBEX support, the group obtained the requisite documentation that qualified it for a loan.

SOCIAL DYNAMICS

The telling social dynamics for Liberian businesswomen are those that define or structure how they can, or cannot, operate within the agribusiness sector. Therefore, this section will go beyond the discrete roles and responsibilities of women, as previously described, to explore how women and men in Liberia relate to one another—including on family farms, as business contacts in the value-chain, as business partners, or as customers. This section also addresses the fundamental respect that women need in order to function freely and effectively within their communities.

Literacy, education, and access to information.

A discussion of gender-related social dynamics in Liberia must include, and perhaps begin with, re-emphasizing one of Liberia's most fundamental social deficits: literacy, education, and access to information. The deficit has greater negative impact over time: girls who were 5–12 years old in 1989 received virtually no formal education during the next 14-plus years of conflict (that is between ages 19–26), through 2003; now, a decade later, those education-starved girls have matured in illiterate women of ages 29–36, raising families and trying to make a living in business. These adult women need literacy training and overall education to build on their agricultural experience and contribute more fully to Liberia's economy. In this regard, the classes offered to market women by UNWomen and the Sirleaf Market Women's Fund are invaluable.

But even educated market women, in order to succeed, need access to accurate information. For example, they need reliable current market prices. They need to monitor the exchange rate between the Liberian dollar and the US dollar. Radio may be the most sensible medium, and a variety of initiatives are bearing this out. Women might also gain access to information by connecting with women's groups and organizations, or perhaps through their churches.⁷⁷

⁷⁷The low levels of literacy and education may explain the failure to establish an SMS system for women in Liberia. The Angie Brooks Institute tried a system to reach women with mobile phones, called "Trade at Hand," but it reportedly ran into difficulties. As more young women gain an education, however, this may again become an approach worth trying.

Moreover, as already noted, there is an appreciable gap between the laws as stated on paper (*de jure*) and the real-world experience of the average woman farmer or trader (*de facto*). The two overarching impediments for women (and for many men as well) relating to the law are (1) how little information they have about law, and (2) how little capacity, or “legal literacy,” they have to make use of the law.

Regional differences. Sex is biologically determined, but gender roles and behaviors are grounded in social and cultural influences, national, regional, and local. Therefore, gender-related social dynamics in Liberia vary considerably, depending on educational levels, urban or rural locale, and region and ethnic affiliation.⁷⁸ Those varying dynamics influence, if not dictate, the particular tasks a woman undertakes in agriculture, such as whether she manages family money, whether she participates in public decision-making, and sometimes, even where she goes. For example:

- It has been reported that in the southeast portion of the country, men who belong to the *Poro* secret society are taught that if they encounter a woman relieving herself in the woods, it is permissible to force her to have sex. This is certainly not acceptable behavior among other groups in Liberia.
- Generally, it is not acceptable for rural market women to travel alone to Monrovia to sell their produce; the community “whispers” about them and what they are doing while away from home. On the other hand, female cross-border traders travel far afield.

Expectations of caring and sharing. Perhaps the most pervasive issue impacting women’s economic participation in Liberia is their central role as family caretakers. The extent of their business activity is dictated by the time and energy they need to tend to the needs of their husbands, children, and extended family—preparing meals, cleaning, and doing laundry. Not surprisingly, therefore, the most successful businesswomen, ranging from affluent women in Liberia to struggling women in small villages, are those who have the support of their husbands, are single or without children, or have hired help.

But a woman’s family responsibilities extend beyond tending to the basic, traditional needs of her family, to how she manages her business funds. Typically, women provide money for school fees, medical costs, and other household necessities—and if a member of the extended family needs money, women feel obliged to share what they have. The business impact is that women often give away the small profits that might otherwise be used to build their businesses. To protect against this—as confirmed by an remarkable and overwhelming consensus of graduates of UNWomen’s “Next Level” and CHF’s 10,000 Women courses—women are separating their personal and business funds. They have learned that this not only appropriate, but virtually imperative if they hope to grow their business. By re-investing some of their profits and achieving greater business success, businesswomen may change familial gender expectations and impart a realization that allowing a woman to control and reinvest her earnings will eventually benefit the family as well.

Gender and risk. To build a business, a successful entrepreneur must be willing to take chances. Yet Liberian families expect that to care for her family, a woman should not risk limited resources; Liberian communities frown upon women who take risks. Furthermore, what in other places would be considered the normal risks of dealing with strangers, or might be mitigated by a reliable system of contracts, is considered riskier in today’s Liberia, which is embroiled in the above-noted a shift from a “culture of war” to a “culture of mistrust.” In sum, for many women the social dynamics of risk aversion, coupled with expectations that mothers and wives should be conservative, may constrain entrepreneurial behavior.⁷⁹

It would seem, therefore, that deploying conventional ways to reduce risk might enable women to take actions otherwise frowned upon by Liberian society. But here another social dynamic sets in: Liberians worry that mechanisms for managing risk, such as insurance, may “invite the bad.” Also, past experiences with insurance scams have undermined the trust required for such a system to work. Based on two first-person reports of loss obtained during the course of this analysis—one loss from theft in Nigeria and the other from a major fire, it seems that some women are willing to tolerate risks and losses, and then pick up and resume their businesses.

⁷⁸From Wikipedia: “There are officially 16 ethnic groups that make up Liberia’s indigenous African population, making up maybe 95% of the total: Kpelle, the largest group; Bassa, Gio, Kru, often fishermen; Grebo, Mandingo, often in trade and transport; Mano, Krahn, Gola, Gbandi, Loma, Kissi, Vai, and Bella.” http://en.wikipedia.org/wiki/Demographics_of_Liberia.

⁷⁹There is, however, a countervailing social dynamic: the “positive deviation” of women engaged in cross-border trade. Is therefore important to understand what gives them greater freedom, or the different social dynamics of their families or marriages that empower them to take chances and succeed economically. Perhaps they are single and gutsy, but often they may be single or have a supportive spouse who understands the business mentality—which suggests the importance of reaching out to village chiefs and men.

Overall, this section illustrates how a general social dynamic may have distinct impacts on a particular group—here, women in business—based on gender roles and expectations, with potential negative consequences for business growth.

Women and security. This chapter has avoided discussing gender-based violence, but it is so common in Liberia—some say epidemic—that it has become a social dynamic relevant to women’s business performance and success. Understandably, threats to personal safety deter women from serving as teachers or extension agents, which in turn limits the ability of girls and women to gain much-needed education and know-how. Fears of violence also prevent women from protecting fields from theft at night. Fields that are communally managed by men organize shifts of males to guard crops, but women growers must spend precious funds to pay males to guard their fields. There are also reports of women who have sought transport to markets from men on motorcycles, and ended up being raped.

Commerce and transactional sex. The desperate poverty characteristic of post-conflict Liberia has generated a practice of “transactional sex.” From prospective employers and potential customers, to supervisors with authority to give promotions and teachers to give grades, to officials at border crossings, it is not unusual that a woman be expected to offer herself as “payment.” Many women have the “fire in the belly” to build an agri-business, seek inputs and finance, and promote their products—and many are willing to do “whatever is necessary” to succeed. But the price can often be a make-or-break deterrent for others.

Youth and agriculture. Lastly, there is a social dynamic that involves both men and women: specifically, young people in Liberia see few economic benefits from the grueling hard work of agriculture or agribusiness, and therefore migrate to Monrovia seeking other economic opportunities. Young women reject a future modeled by older women shouldering the physical burdens and long hours of agriculture and agribusiness for terribly small economic rewards. Young men have few role models or examples of what they might achieve by engaging in agriculture or agribusiness, but can see the obvious rewards of jobs with mining or cash crop concessions. The latter has gained some attention as a gender-specific issue; UN’s Joint Programme on Youth, Liberia’s Ministry of Sport and Agriculture, and now the FAO, are working on how to engage young men in agriculture.

RECOMMENDATION I: Legal literacy: design and launch a business-related legal literacy campaign targeting women in agribusiness.

Why is reform needed?	Very few women engaged in agribusiness are able to rely on either GOL or customary legal systems to support their agreements/contracts or resolve their conflicts with predictability. The state legal system is not reaching and protecting them; the customary laws do not anticipate, cover, or fairly address women’s business needs.
Impact of problem	Women engaged in agribusiness transactions, in the informal sector or as registered SMEs, operate without the certainty or security of a legal system to protect their enterprises. This increases their risks, distorts their cost-benefit calculations (not formal, but often instinctive), and deters them from investing and expanding, all of which limits their profits and business expansion.
Benefits of reform	Women inclined to enter agribusiness or expand their economic activities will have greater certainty and confidence to do so--and will not have to simply “eat” unanticipated expenses of breached contracts or cheating. Their businesses will benefit, as will their families, their communities, and the local/national economies.
Constraints to reform	Low levels of literacy and education require that the campaign be designed and structured to reach women with those limitations. If men are not also engaged, they are likely to oppose. It is important to gather male leaders (such chiefs and local authorities), as well other men in the community, to explain why it is so important for women to understand how the laws and institutions may support their economic agreements. This is not about women’s rights, and it is not at all about women versus men; rather, it is about giving women additional tools for expanding the economic activities that contribute to well-being of families and communities.
Fit with other donors	<ul style="list-style-type: none"> • Seek fit with USAID’s Democracy programming. • The Carter Center, https://cartercenter.org/peace/conflict_resolution/liberia-civic-education.html. • Local organizations: AFELL (women lawyers) for legal literacy and WIPNET for dispute resolution and Peace Huts.
Best practices	See WIEGO, http://www.karat.org/programmes/social-economic-justice/economic-literacy-2/
Cost of reform	n/a
Action Steps	<ol style="list-style-type: none"> 1. Engage different cohorts of women in agribusiness in focus groups to assess areas of need and confusion. 2. Open competition for legal professionals to propose approaches to reaching rural women with low levels of education. 3. Undertake baseline study by which to measure impacts. 4. Initiate pilot program in 2–3 counties.
Time Frame for reform	Six months for design; 1 year for pilot; 2 years for country-wide outreach.
Feasibility	High; parallels with successful adult literacy and business skills training for women: there is interest and need from women aware of vulnerability and risks. However reform initiatives must (1) be designed for rural women and for women with limited education and (2) must address not only technical knowledge, but the readiness to use the available systems. This means addressing the cost of lawyers and also establishing access to more affordable paralegals.

RECOMMENDATION 2: Information: Systematize dissemination of agribusiness-related information to rural women and women’s SMEs

Why is reform needed?	There is a paucity of information in Liberia relating to agribusinesses. Neither government institutions, such as the Ministries of Agriculture or of Commerce and Industry, nor the media are providing agribusiness-related information in ways designed to reach women farmers or SMEs in agribusiness. Although some supporting institutions have begun small initiatives, more is needed, and it should be strategic and systematized.
Impact of problem	Without agri-business-related information, women are not able to improve their methods of production, gain fair prices, or negotiate effectively. Further, women engaging in economic activities, and seeking ways to sell and profit, cannot be inspired without information about what can be done. Without information, they cannot “dream”. They cannot improve or innovate. The potential for them to build businesses and succeed is restrained by their extremely limited access to information.
Benefits of reform	The key beneficiaries will be women farmers, market women, women traders, and women-owned/managed SMEs. The women will gain information regarding “the possible” and opportunities to dream and reach--realistically. Final benefits will be manifested in expanded, more successful agri-businesses.
Constraints to reform	<p>High levels of illiteracy and limited channels for information dissemination impede the flow of information. Traditional demands on women’s time make it difficult to convene information sessions.</p> <p>Mobile phones have been used for price information in other countries. One attempt in Liberia, “Trade at Hand,” has reportedly not had much success. Given low levels of literacy and numeracy, the time for this high-tech approach is likely still not right.</p> <p>Again, it is important to ensure that men understand the value of women in agribusiness—not just for the women, but for family incomes and community economics. However, at some point, if men do understand the potential benefits, there might be opposition from the LMA or from the “go-buy-chops” who would lose some of their current advantages from dealing with women who lack information or negotiating power.</p>
Fit with other donors	<p>Radio programs or drama may be ways to reach women with basic information. Radio programs have been undertaken by International Alert re Security Council Resolution 1325 and by the Carter Center regarding the rule of law and access to justice.</p> <p>With funding from USAID, in 2011 The Liberia Women Media Action Committee (LIWOMAC) and International Research and Exchanges Board (IREX) launched the “Advancing Women in the Media Strategy” to, among other things, increase women’s access to information and at the same time motivate them to be active media users.</p>
Action Steps	<ol style="list-style-type: none"> 1. Bring together the MOA, MOCI, and MoGD to identify key groups and content. 2. Engage young people to undertake a study to determine priority information needs for the five categories of women directly engaged in business/agribusiness (that is, (1) women farmers; (2) market women; (3) women traders; (4) SME businesswomen (including food processors, retailers, and service providers); and (5) women professionals, and to investigate different channels for disseminating information (beyond radio) to identify existing or potential supporting institutions (possibly even churches). 3. Design RFP for 4–5 small pilots to test approaches.
Time Frame for reform	Six months for preliminary collaboration and research/focus groups; 2 months for RFP or identification of implementing partners; 18 months for pilots and assessing relative reach.
Feasibility	High: fits in with existing work by Foundation for Women, African Women’s Entrepreneurship Program, and IREX.

RECOMMENDATION 3: Support hiring/sharing of gender advisors from Ministry of Gender and Development, the Ministry of Agriculture, and Ministry of Commerce & Industry, along with project resources, to support capacity-building programs and encourage collaboration among ministries as well as partnerships with supporting institutions.

Why is reform needed?	Ministries have policies on paper, but lack either political will or capacity to implement. Rhetoric about women is not translating into support for women engaged in agriculture or agribusiness. Need for greater collaboration among the ministries for overlapping objectives and authority relating to women in agribusiness.
Impact of problem	Women struggle without technical know-how or inputs; women-led agribusinesses fail to link more often or more effectively with women producers. Business support is not reaching women's agricultural SMEs, thereby hampering their growth and success.
Benefits of reform	Enhanced capacity for key implementing institutions; sustainability beyond enclave programs that leave little lasting impact on staff and know-how of the institutions; institutionalized collaboration among ministries.
Constraints to reform	Lack of resources and political will. Some potential backlash to "women focus" in Liberia. General lack of understanding about how a strategic and collaborative focus on women in overlapping agriculture and business realms may benefit all--the "mainstream"—rather than only women- in-development objectives.
Fit with other donors	Should fit with follow-up to UN's Joint Programme on Gender Equality and Women's Empowerment and the "Next Level" courses; implementation of Ministry of Agriculture's Gender Strategy; implementation of next steps for World Bank's report on women in agriculture; and follow-up to Goldman Sach's 10,000 women. Consistent with capacity-building support for MOA by EU, JICA, and African Development Bank.
Action Steps	<ol style="list-style-type: none"> 1. Consult with UN's Gender Working Group with the Swedes, and with other donors that support gender mainstreaming. 2. Recruit strong, highly professional and experienced gender advisors, one for each Ministry (MoGD, MOA, and MCOI). 3. Convene planning meetings of the three Ministries. 4. Meet with supporting institutions to solicit their experience and recommendations. 5. Review strategies and decide priority needs. 6. Connect the gender advisors with USAID's FED project, the WFP, FAO and UNDP, and with business organizations to mobilize "mainstream resources."
Time Frame for reform	2 months to recruit/identify advisors; 1 month for first meetings; 1 month to prepare realistic, targeted work plan; 12 months for initial implementation with careful and purposeful discussion with gender advisors about possibilities and challenges (not leaving them alone, but giving them strong institutional backing).
Feasibility	High: initial steps are in place in the Ministries. Now is the time to collaborate and implement—with guidance and clear benchmarks.

RECOMMENDATION 4: Promote business development services supporting linkages between women-led agribusinesses and women farmers.

Why is reform needed?	As one women owner of an SME stated, the extant environment is “OYO” or “on your own.” There is a missing middle: linkages between women-owned or managed SME agribusinesses and women agricultural producers. Without support, women-led SME agribusinesses are not growing as readily as they might—to the detriment of both sides. A first round of courses, such as Next Level and 10,000 Women have enabled some women to build their businesses and gain access to credit, but they need an another level of mentoring, business services, and support to partner with farmers.
Impact of problem	Despite the pervasive role of women as farmers, and the fledgling agribusinesses of women who have now had business training, the SMEs are not expanding and creating the win-wins. Women interested in and pursuing agribusinesses have limited means of reaching and supporting producers, and limited customers (e.g. supermarkets, restaurants, and export markets) to sell whatever product might result from connecting with producers.
Benefits of reform	Producers gain incentives/markets for what they can grow--greater certainty and profits; agribusinesses gain more consistent supply; agribusiness sector has capacity to grow. (Note: this recommendation is not intended to focus on access to finance. If agribusinesses are registered and if they have steady suppliers and the right business model/business plan, they will be able to seek financing.)
Constraints to reform	Limited number of reliable, qualified business specialists to advise women-owned agribusinesses on developing business plans and identifying customers. Still limited capacities of producers, as well as lack of tools, equipment and power to run them. Lack of packaging; difficult transport pending completion of main roads.
Fit with other donors	World Food Programme’s P4P (Purchase for Progress) is modeling the work with producers, but not the SME side. SME-side initiatives may fit with Building Markets’ USAID Sustainable Marketplace Initiative Liberia (SMI-L); with IFC’s Ventures Fund (providing equity and technical assistance to smaller businesses, while the Business Edge training program is helping Liberian businessmen and women gain the skills they need to succeed); or with 10,000 Women training follow-up and partnership with Cuddington University.
Action Steps	This recommendation calls for going beyond the limited number of agribusinesses reached in this AgCLIR study to identify more of them, and to hear from them about what more they could do if they had support to link with the producers. They know what they need; the first step is to listen to them. They are businesses and have had some business training. This is about BDS and some government assistance with information and access to resources.
Feasibility	Medium: This recommendation is feasible because it builds on what is already happening, but seeks to help businesses overcome hurdles with which they have limited experience.



REGISTERING PROPERTY

The right to access and use land is the most fundamental and critical component of an enabling environment for agriculture. But as already mentioned in this report, Liberia’s land scheme falls short. Recognizing this, the government of Liberia (GOL) has since 2009 pursued comprehensive land reform. The ongoing reform campaign has included (1) redefining and creating new categories of land that may be held a person, community, business, or the government, and (2) rewriting the legal framework related to land and concomitant changes to the institutions that deal with land.

However, an enabling environment for economic growth in general, and agriculture in particular, also requires a workable legal framework for owning and creating security interests in other, non-land types of property, including intellectual property and movable property (such as farm equipment and even harvested crops). To that end, GOL’s reform program has included initial measures relating to these other kinds of property.

Liberia’s legal framework for real property (land) consists of two distinct systems: a traditional communal property system governing lands in the rural interior, and a formal property system primarily governing the lands in urban centers and along Liberia’s coastline (see box). These two concurrent property systems in Liberia have never been wholly reconciled, which has caused pervasive uncertainty in transactions involving agricultural lands. Worse yet, customary law and with it, customary land tenure and land security rights, have eroded over time, as ruling elites claim even greater swaths of customary property for personal, but more often for commercial, use and economic benefit.

This chapter will analyze the constraints in Liberia’s real property system that disproportionately affect rural agricultural land users. The chapter will also briefly review intangible and intellectual property constraints affecting the agricultural sector; the relatively low level of sophistication in Liberia’s intangible and intellectual property systems precludes deeper analysis.

LAND LAWS AND REGULATIONS

- Constitution of Liberia (1986)
- Revised Laws and Administrative Regulations for Governing the Hinterlands, originally published in 1949, then repealed, then republished as a regulation within the Ministry of Internal Affairs, most recently in 2001.
- Aborigines Law (1956)
- Property (aka “Land”) Law (1956)
- Public Lands Law (1956)
- Local Government Law (1956)
- Executive Law (regarding, inter alia, the creation of the Center for National Documents and Records Agency (1977))
- Natural Resources Law (1956)
- Registered Land Law (1974)
- An Act Creating the Forest Development Authority (1976)
- National Forestry Law (2000) as revised by the National Forestry Reform Law (2006)
- Community Rights Law with Respect to Forest Lands (2009)

LEGAL FRAMEWORK

Liberia's legal framework for real property is a dual system of customary law and common and statutory law (from now on referred to as "civil law"), introduced in the 19th century. The customary law system pre-dates the civil law system, and is the primary legal system used by indigenous communities.

As already mentioned, Liberia's property law scheme establishes numerous categories of land that in practice creates confusion and contradictions. Those land categories include:

- **Customary, tribal, or communal lands.** Once conceptually distinct, these terms have merged to now interchangeably signify all land in indigenous communities that is held by families or smallholder farmers living primarily in Liberia's interior (that is, the hinterlands). Although individuals can technically own and formally register communal land, the process of separating out individual parcels is, as a practical matter, nearly impossible to complete and rarely done. In common law terms, individual rights in communal land resemble a usufruct—that is, the right to enjoy the use and benefits of another's property.
- **Privately held land,** which is primarily found in the coastal region. Individual private property rights originated with Liberia's colonists and are generally reflected in formally recorded title and ownership documents, such as a deed.
- **Government lands** are lands used for government functions.
- **Public lands** are considered government land and are therefore at the government's disposal, although historically this land may have been, and still may be possessed by individuals as customary land. This category has been the most frequently used, and abused, vehicle for taking customary lands from communities. For example, if the government needed customary lands for a concession agreement, it would argue that since there was no deed to the land—as is predominately the case with customary lands—the land was in fact "public land" and therefore under government control.

Not only have the land definitions evolved, but they are also inconsistently applied. The single constant: those who hold and use land under norms of customary law and land tenure—specifically, rural indigenous Liberians who depend on land and agriculture for their survival and well-being but generally

possess land without formal title—have not had equal property rights and protections under the law. In fact, their land rights have eroded over time.

THE CONSTITUTION, CIVIL LAW, AND CUSTOMARY LAW

The Constitution of Liberia sets out a number of provisions regarding real property. Among them, Article 22 states that only Liberian citizens can own real property. Article 27(b) of the Constitution adds an additional layer; however, stating that "only persons who are Negroes or of Negro descent shall qualify by birth or by naturalization to be citizens of Liberia." This racial requirement is one of the most restrictive of its kind in Africa, and makes it impossible for "non-Negros" to own property in Liberia, let alone seek its registration.

With respect to the dual systems of law, Article 65 of the Constitution provides that both customary law and civil law are the law of the land, a concept that has been reinforced by Liberia's courts. Given the relative lack of records in the various regions dominated by customary law, it is unclear if there are common standards between the two systems, or even within customary law itself.

Regardless, in practice, when the two systems have collided, the customary law system and associated property rights have given way to the civil system. Typically, this happens when the state has expanded to take land from the customary system and its communal owners.⁸⁰ This has led to a slow but steady erosion of the traditional communal land ownership structure, and in some instances to outright land grabs by well-connected elites.

This situation was one of the reasons for creating the Land Commission, charged providing secure and equal land rights for customary/communal landholders. The Land Rights Policy of the Land Commission,⁸¹ issued in 2009 and officially adopted by the President in May, 2013, sets out the principles upon which land reforms will be based. This document has been carefully vetted and has been broadly accepted in the

⁸⁰Interviewees related that if the government needed approvals from local authorities to acquire communal land—as required by the Revised Rules and Regulations for Governing the Hinterlands of Liberia—they could be procured by bribing tribal leaders. Such transactions were expressly illegal and automatically void under customary law, because the decision of the tribal leader was not taken with the best interests of the community as a whole in mind. As a practical matter, however, communities were left little recourse because of unequal bargaining positions relative to the government and inadequate resources to navigate the court system.

⁸¹The mandate of the Land Commission is due to expire in 2014. However, its mandate may be extended and will eventually be absorbed into whatever governing body is created as a result of its efforts.

country, and a draft of a new land law based on its principles is expected in 2014. Subsequent reforms are expected for related institutions.

To address confusion about the treatment of communal land, the Land Law Policy sets out clear definitions of the four kinds of land (described above), and expressly states that communal lands will enjoy the same rights and protections as private lands. Communities will be able to formalize ownership of their lands within the civil system by issuing a deed. This deed can be issued in the name of a community, including *all* members of the community—women, youth, and minorities. Moreover, the Land Law Policy states that communities will be legal entities able to enter into contracts, buy and sell some or all the land, and have full ownership of natural resources on the land.⁸²

Although the Land Law Policy marks a significant step toward empowering customary landholders, it also raises risks that must not be ignored. For example, interviewees expressed concern that those in the rural population with greater understanding of the system or greater power within the community may prey upon rural poor and illiterate, and fraudulently register customary lands away from the actual customary/communal owners. Nonetheless, until the Land Law Policy becomes law, the current customary and civil law systems and norms remain in force.

As stated, customary lands are not held through individual ownership. The majority of customary lands are held by a community, although under current law, only in few circumstances can a community formally register its customary property.⁸³ On the other hand, as one interviewee (who grew up on communal lands and is now a lawyer dealing directly with land issues) stated, quite plainly, “Liberians know their boundaries.” Communal property is often subdivided for individual family and smallholder use, but norms of customary land tenure do not convey an ownership interest to the those users. The land remains the property of the community.

82According to the Constitution, “rights of private property ownership do not extend to mineral resources on or beneath any land or lands under seas or waterways of the Republic.” (Article 22(b).)

83In other discrete cases, primarily during the 1950s and 1960s, a few communities purchased collective title to their lands by buying the land back from the government. To do so they had to first transfer their own land so that it then became public land under control of the government, which could then be purchased back at reasonable rates. These titles, however, provided little actual benefit except that a community could then request the government’s permission to divide the land into 25-acre lots for family use. This title did not allow the community to sell or transfer the land.

TRIBAL LAND CERTIFICATES

In one instance of intersection between customary and civil law, there is—in theory—at least one procedure for an individual to separate out a portion of community lands and eventually attain individual ownership that can be registered. This process is begun by the issuance of a “tribal land certificate” by a paramount chief. Under the civil law system that created this device, however, the tribal land certificate is only permission from the chief, on behalf of the community, for the individual to survey the parcel of land in question. The certificate does not, as commonly believed, confer a legal interest in the land.

If the permitted survey is completed, the community must then approve it. It must go through a period of public notice, and numerous other steps ensue before actual property registration can occur. Most smallholder farmers do not have time, finances, or even the motivation to see this cumbersome process through to the end.

On the other hand, informal interview with smallholder farmers and additional research indicate that the lack of formal property registration is not necessarily a problem. Most farmers indicated that land is easily transferred from one generation to the next, with little question. Moreover, based on analyses of five counties performed in 2007–2008, rural land disputes are relatively few and usually resolved locally, without the need of recourse to formal courts.⁸⁴ In sum, left to its own devices, the system of customary law, communal ownership, and highly informal “property registration” works; it seems that hinterland Liberians do, in fact and law, know their boundaries.

All that said, for Liberia as a nation, the situation is far more complex and evolving. After all, customary land tenure does not exist in a vacuum; the superimposed civil law system has changed the customary system. And although a detailed discussion of all laws affecting land registration and tenure is beyond the scope of this report, key areas of the law that merit emphasis are discussed below. This is done for two reasons: First, to bring some historical perspective and order to the chaos of the legal land tenure framework in Liberia. Second, until changed by specific laws to the contrary, the laws described below remain, literally, the law of the land.

84See Wily, “So who owns the forest?” [http://www.sdiliberia.org/sites/default/files/publications/2008_So_Who_Owns_the_Forest%20\(FullReport\).pdf](http://www.sdiliberia.org/sites/default/files/publications/2008_So_Who_Owns_the_Forest%20(FullReport).pdf).

THE ABORIGINES LAW

Perhaps no law did more to erode the status of customary law and communal lands than the Aborigines Law of 1956. Prior to this law, as codified by the Revised Laws and Administrative Regulations for Governing the Hinterlands (1949), tribes held “title to the land against any person or persons whosoever.”⁸⁵ In fact, Liberia had traditionally recognized customary land rights and legally speaking, had treated a community as an individual legal entity. Formal Aboriginal Land Grants were issued for tribes on what was then called “public lands.” Such treatment of indigenous populations was rare in Africa.

The Aborigines Law, however, changed the status quo. It stated that tribes “shall have the right to possession of the land” and that each tribe is “entitled to the use of... public land.”⁸⁶ This change occurred with little fanfare, consultation or acknowledgement, and proved a harbinger of things to come. Reasons for this change range from innocent mistake to a desire to more easily allow investors to procure Liberia’s resource-rich lands for commercial use. Regardless, it significantly altered the legal landscape for communal property.

FORESTS AND FORESTRY LAND LAW

Forests are an integral part of community domains and are not only sources for timber and tree crops, but are also used for farming food crops. Under the Hinterlands and Aborigines Laws, tribes held customary ownership interests in forest lands and resources. The National Forestry Law (2000) and the National Forestry Reform Law (2006) changed this.

Under this law, prior communal ownership of forestry lands, whether held by customary ownership or by formal collective title (although seldom the case), was simply disregarded. Instead, the communities were allotted specifically defined, state-proclaimed communal forests—most commonly, a smaller area than before adjacent to a tribe’s other communal lands.

In addition, the Reform Law distinguished forest *land* from forest *resources*. According to the law, forest *resources* were now the property of the state. Customary ownership of the *land* was still recognized, but the trees and other resources growing on them was not, thereby depriving Liberians of much of the value of their property—that is, the forest itself. This taking of forest rights may well be unconstitutional, since

⁸⁵Article 66(a), Revised Laws and Administrative Regulations for Governing the Hinterlands (1949).

⁸⁶Sec. 270, Aborigines Law (1956).

theoretically, ownership of real property in Liberia includes anything on the land that is not a mineral resource, but this has never been adjudicated.⁸⁷

In a further erosion of communal rights, the Forest Development Authority, a pro-business body in charge of forest management, was not required to consult with communities before issuing concessions on tribal lands.

On a positive note, the National Forestry Reform Law does give local communities a 30% share in the land rental fees paid by concession holders. The fee, however, does not include any gains from the resources of the land. The law also guarantees that concession holders will provide social benefits, such as schools, to affected communities. In other African countries, however, similar provisions have yielded less than satisfying results.

More recently, in response to the damaging forestry laws, the Community Rights Law with Respect to Forest Lands (2009) was passed. It provides a legal framework that empowers local communities located in or near forest lands to access, manage, use, and benefit from forest resources on those lands for sustenance and livelihood improvements as well as for community development. Unfortunately, despite inquiries, no information was found about how these laws are operating in practice; more will be learned during the ongoing USAID PROSPER project.⁸⁸

PUBLIC LAND USE

The prohibition against foreigners owning land in Liberia is strictly enforced, but foreigners can lease “public lands” directly from the government. Generally, such leases are the favored device for concessions and require the President’s approval.

With respect to citizens, in December 2013 GOL imposed a moratorium on public land sales. Before the moratorium, Liberians were able to purchase public lands directly from the government.⁸⁹ Like concession-related leases, these purchases—regardless of size or use—require the President’s approval.

⁸⁷Constitution of Liberia, Article 22(b): “Private property rights, however, shall not extend to any mineral resources in or beneath any land or to any lands under the seas and waterways of the Republic.”

⁸⁸PROSPER, which stands for People, Rules and Organization Supporting the Protection of Ecosystem Resources, is a five-year community forest project launched in June 2012.

⁸⁹Liberia: Moratorium Declared on Public Land Sales, December 27, 2013 (<http://allafrica.com/stories/201312290072.html>).

Presidential approval for large concession-related leases seems reasonable. However, AgCLIR interviewees stated that requiring presidential approval for land purchases of any size is an impediment to investment. They argue that smaller investors, seeking to purchase far smaller tracts than those used in concession leases, may not have the resources to wait out the extended period it may take for the Presidential to approve—and approval is not guaranteed.

REGISTERED LAND LAW

The 1974 Registered Land Law formalizes the land registration system, and like other laws already mentioned, its treatment of customary lands is unclear. In general, the law emphasizes individual property rights and is relevant primarily to concession holders and to coastal and urban Liberians.

With respect to communal property, the Registered Land Law in effect allows the government to take whatever land it needs regardless of existing customary land tenure. In short, the government can decide unilaterally that communal lands are public lands, and simply appropriate them and lease them out as part of a concession. The law does not require that the government investigate if land is unencumbered, and states that absent evidence to the contrary, all unclaimed land is considered public, not communal or tribal, land.

The law offers more protection if public land in the hinterlands is to be *sold* rather than leased. There is a stronger presumption that the land in question is tribal land, and it must be investigated for encumbrances. If the land is found to be tribal, the purchaser must assure the tribal chief—through a token payment of part of the crop produced on the land—that he will live peacefully with the tribe. Actual payment for the land, however, goes to the government.

GENDER AND LAND TENURE

Perhaps one positive result of imposing civil law on the customary law is the expressed rights of women in land. That said, in practice, women remain far less land tenure-secure than men, and have fewer rights.

Under customary law, women's access to land is derived through their husbands, creating tenuous rights at best. A woman who marries outside her own tribe often has even more tenuous rights if her husband dies; it is not uncommon for the widow to be kicked off the land by other members of the family. While the Constitution provides that women retain rights to land that they brought into a marriage, in practice, this provision is not strictly observed. For example, in the

event of a divorce the woman most likely *will* be given back land if she brought land into the marriage; if her land was more valuable than the husband's, however, she may not recover the *same* land.⁹⁰

Civil law provides clearer protections for women, and the Equal Rights of the Customary Marriage Law (1998) has given giving women in customary unions the same legal status with respect to property and inheritance rights as women in civil marriages. With the passage of this law, a widow will now inherit one-third of her deceased husband's property if he dies intestate, regardless of the regime under which they were married. In addition, the widow is entitled to stay on the land, but must vacate if she takes another husband. Daughters are also allowed to inherit land from the estate. Importantly, the law allows men and women married under customary law to make a Last Will and Testament.

Although the civil law is an improvement over customary norms, changes to the law itself are still needed. For example, if a woman predeceases her husband, the entirety of her lands brought into the marriage vest in the husband, not just one-third. Moreover, it is unknown if the law is being equitably enforced in the hinterlands or if customary norms are still followed. For example, the assessment team was told of cases where widows would be given the least valuable lands of the estate—for example, land furthest from water or roads. The inheritance of daughters may be similarly restricted, and is often left to the good will of her brothers.

INTELLECTUAL PROPERTY

Protection of patents, marks (trademarks and service marks), and other intellectual property is in its infancy in Liberia. The Industrial Property Act of 2003, although intended to align with standards of the African Regional Intellectual Property Organization (ARIPO) and international practice, thus far only allows for registration and protection of industrial property. The law created the Industrial Property Office, which registers patents, trademarks, and other marks related to industrial property.

A draft law to protect plant varieties has been completed. The law was drafted with the assistance of ARIPO and the International Union for the Protection of Plant Varieties (UPOV), but has not yet been adopted. Interviewees expressed optimism that it would be adopted during 2014.

⁹⁰Liberian Constitution, Article 23.

In addition, because all constituent acknowledge that in time, Liberia will need laws for the full protection of all intellectual property rights (IPR), there is ongoing discussion about creating an omnibus IPR agency in the near future.

COLLATERAL LAW

Using movable property for loan collateral, while understood conceptually in Liberia and allowed for in the law, is rarely done in practice. But this is about to change. In 2010, with the assistance of the International Finance Corporation (IFC), and with the participation of all relevant stakeholders, Liberia adopted a new commercial code largely based on the Uniform Commercial Code and Canadian Property Law. In 2013, regulations were promulgated for creating a secured transactions/collateral registry, and it was expected that the registry would be functional by mid-2014. Until then, moveable property interests will continue to be registered with the court system.

IMPLEMENTING INSTITUTIONS

The services of government institutions related to registering property currently are limited and of low quality, but they continue to improve and capacity continues to expand. The Liberian Land Commission, along with drafting new laws and implementing regulations to effectuate the Land Rights Policy, will also be providing detailed policy recommendations addressing how land should be administered. As a result, there is a strong possibility of significant changes to the implementing institutions related to land, including, for example, the creation one larger land ministry which envelopes many of the functions held by different ministries and agencies described in this chapter.

With respect to almost all government institutions, interviewees consistently cited a lack of capacity and training, as well as too few resources, including human capital, for these bodies to successfully implement their mandates.

CENTER FOR NATIONAL DOCUMENTS AND RECORDS AGENCY (CNDRA)

The primary institution with the legal mandate to manage the deed registration process is the Center for National Documents and Records Agency (CNDRA), an autonomous bureau. In September 2012, CNDRA opened a new customer service center in Monrovia. CNDRA now uses a modern registration system and its customer service is generally viewed positively. Its fees are reasonable, and while many of the

Liberian government's ministries and agencies have below average websites, CNDRA's website provides a significant amount of needed information.

In addition to creating digital records of all newly registered properties, CNDRA is in the midst of a multi-year project to digitize past records. Previously, land records were kept manually, a process that allowed for significant levels of fraud. On the other hand, because the registration process is still cumbersome, many individuals do not register their deeds. This has the unfortunate effect of allowing, for example, multiple sales of the same land, or an individual selling land that he or she does not actually own.

Various aspects of CNDRA's services that have not yet come online. Among them include the ability to use geographic information systems (GIS) data to prepare a precise legal descriptions of the property covered in a registration deed. Currently, survey drawings and general descriptions are used, which are limited and lead to inaccuracies, especially since topography in Liberia changes as rapidly as vegetation grows. Moreover, these descriptions rarely reference or otherwise account for neighboring lands, increasing the likelihood that the land described includes someone else's property.

Although CNDRA has offices in all counties of Liberia, those offices are not yet able to link their records with the central office in Monrovia. The hinterland offices transfer their registrations to the Monrovia headquarters annually, which by definition means they are less than current. This may become more important to tribal landholders if the forthcoming land law allows for the registration of communal property. In sum, CNDRA's services have simplified the actual deed registration process, but other steps must follow in order to improve Liberia's poor "Registering Property" showing in World Bank's Doing Business ranking (181st out of 186 for 2014).

SURVEYORS

Surveyors are integral to the land registration process. Each time a parcel of land is transferred or sold, or otherwise needs to be registered, that parcel must be surveyed.

Surveys are provided by private surveyors who are regulated by the Surveyors Licensing and Registration Board, which works in collaboration with the Ministry of Lands, Mines and Energy. At present, there are only 45 licensed private

surveyors in all of Liberia⁹¹ and the wait to have a survey completed for the sale of land can reportedly be a month or more. The lack of capacity among licensed surveyors has resulted in reports of widespread fraudulent surveying by unregistered and often unqualified surveyors.

The fact that surveyors occupy a pivotal position in registering deeds, coupled with the shortage of licensed surveyors, has created an access point for corruption. For example, interested parties seeking a favorable survey or faster service offer bribes. Surveyors extort money under the threat of an unfavorable survey. Prominent recent criminal cases have imposed sentences for surveyors found guilty of making intentionally improper surveys to support illegal land transactions.⁹²

MINISTERIAL AND OTHER GOVERNMENT AGENCY INVOLVEMENT

Numerous Liberian ministries and agencies are involved with property and property registration. They are as follows:

- **The Ministry of Lands, Mines, and Energy** has a broad mandate. It administers public and private lands, including aspects such as land tenure and land reform, land use and planning, and standards for conducting land surveys. The Bureau of Land Surveys, which is part of this ministry, will become more important as the land law reforms continue. For example, according to the interviewees for this report, no accurate data is available about the location and quantity of public lands, private lands, government lands, customary lands, or even concessions. As land reforms continue, this information will be needed.
- **The Ministry of Internal Affairs** oversees local governance, including interaction with traditional authorities regarding land. The Ministry's Land Commission and Tribal Lands Appellate Court assist in resolving land disputes. Decisions of these bodies are highly respected and are rarely appealed.

- **The Ministry of Agriculture** oversees the agricultural lands sector and negotiates concessions in palm oil, rubber, and other agribusinesses.
- **The Ministry of Public Works** is responsible for land-use zoning.
- **The Ministry of Finance** implements real property taxes and is responsible for collecting fees in connection with property registrations. In addition, the Ministry's Bureau of Revenue checks for outstanding taxes on a property that is being sold or transferred (and accordingly registered).
- **The Ministry of Foreign Affairs** retains older registered land deeds and provides certified copies of them. These deeds are needed to complete, for example, title searches when land is sold.
- **The Forest Development Authority** is the main forestry management institution. It (1) provides forestry planning, (2) develops policy, and (3) administers forestry laws, concession agreements, and national parks. It has broad legal authority over forests and forest land. It is described as pro-business and as noted above, has the authority to convert customary lands into public lands without notice for inclusion into a concession agreement.
- **The Environmental Protection Agency** administers rules and guidelines for protecting wetlands, wildlife, and biodiversity, which impact land use in some areas of the country.
- **Probate Courts** are required in the deed registration process to confirm the validity of transfers or sales deeds out of a decedent's estate.

CUSTOMARY LANDS DISPUTE RESOLUTION AND THE COURTS

The Hinterlands law establishes a layered system of local authorities on customary lands that has proved effective in resolving customary land disputes. Within a town, disputes are mediated by a Town Chief; disputes between towns are resolved by Clan Chiefs; disputes between clans are resolved by a Paramount Chief, a county level authority. Even though this system generally works smoothly, because the boundaries of lands in question are unclear, there can be overlap and confusion with respect to jurisdiction of the various levels of chieftaincies.

If additional expertise is needed, the parties to a dispute—that is, towns or clans—may employ the services of the County Land Commissioner to mediate. The costs of the services of the Land Commission are paid equally by the

91 A public notice dated January 15, 2014 and issued by the Surveyors Licensing and Registration Board of the Ministry of Lands, Mines, and Energy has listed the names and contact information for all 45 surveyors currently licensed and registered in Liberia. The public notice is available online at the following link: http://www.landlib.org/doc_download/REGISTERING%20PROPERTY%20FLOW%20CHART.pdf?fa4705305cd27e04fb1f66830e7e0ef9d=ODE%3D.

92 For example, a criminal court recently handed down a 5-year sentence for, and the Surveyors Licensing and Registration Board summarily revoked the license of, a surveyor who illegally surveyed and sold 500 acres of land. Azangomaeazango, Mae, "In Illegal Sale, Surveyor Gets 5Yrs., License to be Revoked," Front Page Africa (April 2, 2014).

disputants.⁹³ Decisions of these bodies may be appealed to the circuit courts. Disputes that involve parties who are not part of the same town or clans areas must be brought to the circuit courts.

Generally speaking, the chieftaincy system is the dispute resolution mechanism of choice in the hinterlands. The circuit courts, while accessible to persons in those regions, are not trusted and the costs and the time involved with going to court are prohibitive. As a concept, other forms of alternative dispute resolution such as independent arbitration and mediation exist in Liberia, but these methods are rarely used, particularly outside urban centers.

SUPPORTING INSTITUTIONS

ATTORNEYS

The legal services in Liberia are generally unavailable for small agricultural producers and other rural agricultural enterprises. Lawyers and firms frequently limit their practices to the coastal, urban segment of society, and few service those that live on the small farms in the interior of the country. There are few, if any, providers of free or low-cost legal services to the poor or underserved.

Lawyers in Liberia are regulated by the Liberian Bar Association. The Liberian Bar Association is poorly funded and is not able to offer many of the services usually associated with a bar association. For example, providing continuing legal education is part of the Bar Association mandate, but because of a lack of funds it has stopped this service, limiting the ongoing training and development of practicing attorneys.

In the interviews conducted for this report, law schools were described as inadequately preparing new lawyers for the actual practice of law. Law school graduates must complete a licensing test administered by the Bar Association, but this test is not rigorous and reportedly all who take it pass. Most commonly, new lawyers seek work in an extended apprenticeship with an experienced attorney.

⁹³Interviewees stated the forthcoming land law may contain provisions that will create a new system of dispute resolution for land disputes, although it is unclear if this system would replace or somehow operate with the current "chief-based" system.

NON-GOVERNMENTAL ORGANIZATIONS (NGOS)

NGOs in Liberia are somewhat different than typically conceived. Most NGOs maintain the image of an issue-driven organization. But according to interviewees, in Liberia, NGOs are often just another vehicle for doing commercial business without the formal costs—such as registration and taxation.

People also create NGOs obtain funding. Most lack the collateral or capital needed to obtain a business loan, and NGOs can be positioned to obtain grants.

For these reasons, Liberia's NGO sector, while many in number, lacks depth—although there are exceptions, such as with respect to women's issues.

COOPERATIVES

Cooperatives are groups of farmers banded together in an effort to become more commercially viable enterprises—more specifically, to achieve efficiencies of scale in obtaining agricultural inputs and to enable larger transaction sizes when selling their crops. Some smallholder farmer cooperatives can be found in Liberia, but the sector is small. Most farmers in the hinterlands seemingly operate within their community structures. And according to interviewees, the main cooperative association, the Cooperative Development Agency, does little more than maintain a list of cooperatives. However, if the reforms and initiatives described in this report gain traction, and more people in agribusiness link and combine, cooperatives could well become a significant segment of Liberia's agriculture economy.

SOCIAL DYNAMICS

LAND TENURE, DEVELOPMENT, AND EQUITY

The main engines of economic growth and development in Liberia are those related to land, principally mining, timber production, palm oil, and rubber. At present, however, these domains are generally beyond the reach of the smallholder farmers that make up the majority of Liberia's agriculture sector. As a result, momentum is building for finding ways to increase the capacity of Liberian farmers and in turn the overall agribusiness sector. Growth in these areas, however, will be difficult to achieve absent secure land tenure systems.

Secure land tenure mitigates doubts about access to and control of land. This issue is of great significance in a post-conflict society such as Liberia, where encroaching on the wrong lands raises the specter of violent conflict. Moreover, a system of

secure land tenure can improve equities as property rights are recognized equally by all parties, thereby reducing social polarization, friction, and violence.

Absent secure land tenure, investment in property is stunted. Landholders are hesitant to improve lands that they are not certain they will possess from one season to the next. A secure land tenure system paves the way for increased government revenue, for example via land taxes and land transfer fees—revenues that could fund much-needed public improvements. And that revenue stream would be somewhat predictable, which in turn would allow for more realistic government planning.

Private land markets are important generators of economic growth because they allow land to appreciate in value more quickly. Moreover, in private markets, land is more likely to be transferred to productive users, discouraging speculative accumulation of land that traps the land in a nonproductive state. But meaningful private land markets depend on secure land tenure. Simply put, with secure title and appropriate safeguards, land can be made more efficient and productive in terms of use and value, thereby setting the stage for greater food security and economic growth.

Today's Liberians are not oblivious to this reality. They recognize, more than ever before, the pivotal economic importance of a clear and effective land policy and improved security of title. That recognition has helped drive growing interest in stabilizing land rights. But Liberia straddles two land systems. Contrary to notions of individual land ownership common in the developed world, Liberians have traditionally emphasized—and many today seem to be re-emphasizing—the idea that the community or town is the basic societal unit and that customary tenure is the primary means of securing ownership rights in communal lands. That said, more and more small-holder farmers and other communal landholders are recognizing the need for a formal civil land system. Although it may be true that “Liberians know their borders,” they are realizing that for their own benefit, those borders must be more definitively described and secured.

Liberia's land tenure problems are exemplified by two particular, widely known maladies:

- The government has taken large areas of land from local communities and handed them over to concessionaires without so much as consultation, let alone just compensation. Adding to the frustration: much of these lands have remain underutilized, if not unused.
- Dislocations caused by the war have allowed outsiders to seize and occupy customary lands.

At present, the court system—widely reported to be perceived as inefficient and mistrusted—remains the only formal mechanism to address these takings.

Creative solutions are needed to address the challenges described in this section, and to restore public trust.⁹⁴

WOMEN AND THE CUSTOMARY COMMUNITY

Despite the relative isolation of many hinterland communities, there appears to be greater interest in land reform. Community members interviewed for this report have expressed interest in participating more actively in customary land matters, and in holding community leaders more accountable for their decisions. In many cases, women are leading the way in creating this accountability.

However, in the villages and towns that form the core of hinterlands society, the role of women is still very much dependent first on their husbands and then on the other men in their community. Overcoming generations of accepting discriminatory practices—such as forcing a widow to marry the deceased husband's kin—does not happen easily.

Gender roles manifest themselves in other ways. Women tend to have more responsibility for seasonal crops and men the longer-term tree crops. Upon a husband's death, sons tend to control distribution of the estate, and the tree crops and the best-located lands tend to pass from father to son. This has the effect of excluding women from the most agriculturally productive lands. Women's issues advocates met during this assessment made clear their desire to become active participants.

⁹⁴For example, long-term land leases (perhaps even as long as 99 years) can be used to balance the interests of rural farm families and tribal governance. Rural farmers can be given secure, transferrable, financeable, and title insurable rights to the land that are the virtual equivalent of fee ownership. The community can get compensation through rent, and although giving up control of the leased land, can still impose certain controls that benefit and protect the community.

RECOMMENDATION 1: Consider alternative approaches to undertake surveying and property solutions for customary land user associations.

Why is reform needed?	Reforms to Liberia’s land law are coming soon and will include a fuller recognition of customary/communal lands. Without a process in place to clearly establish claims and effectively resolve disputes, the result of the necessary land reforms could be greater uncertainty and increased strife.
Impact of problem	Without clearly defined land boundaries, conflicting claims to land between communal groups, between the government and communal groups, and communal groups and concessionaires, are common and are adding to social unrest, inequality, and make using the land for anything but subsistence farming far more challenging for communal landholders.
Benefits of reform	Although land conflicts in Liberia are endemic and their root causes will not be resolved overnight, there are opportunities to create a system that better enables communities to benefit more directly, over time, from peaceful dispute resolution.
Constraints	<p>Constraints to this reform are numerous and easy to underestimate, yet the need for an effective solution is paramount.</p> <p>Externally driven land reform is almost certainly doomed to fail. The solution must first and foremost be community-designed and community-led. A comprehensive process must first establish a foundation for reform by specifying the legal requirements for establishing a community claim to lands, and prescribing a credible way to adjudicate claims. Donors can supplement reform activities, but community-level engagement will be necessary to ensure that the effort to clarify customary land ownership and land rights is organic and community-led.</p> <p>Existing and entrenched disputes over land boundaries, particularly where boundaries are established based upon a changing landscape (i.e., a tree line, body of water, or other changeable landmark) will not be easily resolved, regardless of the process undertaken, and will likely remain a feature of Liberia’s property system for the foreseeable future. The key challenge is how to create and implement a system that allows communities to get more benefit from resolving a property dispute than from continuing it.</p> <p>There are also practical constraints to a reform effort. Roads are poor, and establishing communications between community leaders, the government, and concessionaires—who now have tenuous relations at best—would be challenging, at least initially.</p> <p>Additionally, concessionaires are likely to pose a challenge to reform. Many believe they have valid legal claims to land—in some instances in good faith. They will resist any erosion of their land tenancies. Concurrently with establishing clear rights within the communal land ownership structure, a systematic approach must be taken to consider and regulate land tenancies, particularly as they relate to communal land, concessionaire rights, and potential damage awards for breaching a concession.</p>
Fit with other donors	Land and property issues, particularly in relation to traditional communal governance, are front and center in Liberia. Many donors are already working on reforms.
Best practices	Recent reforms in Papua New Guinea (PNG) present an interesting approach to consider with respect to the surveying and formalization of traditional, informal land claims. In Papua New Guinea, where nearly 95% of the land is held via customary, communal ownership, the government has encouraged the creation of formal community-level Incorporated Land Groups, which provide an added layer of formality and protection for communal land owners. By creating incentives to communal titling (such as clearer ownership, increased opportunities to lease land, and the ability to collateralize land tenancies), the government of PNG has created a system of voluntary surveying. Under this system, communities must voluntarily petition government surveyors to survey their lands, and as a precondition must demonstrate that there are no competing claims to the land. By establishing a clear incentive to delineate boundaries, anecdotal evidence suggests that the process in PNG has helped to resolve some land conflicts in a country prone to violent, entrenched intercommunity conflict.

Cost of reform	More information is required with respect to the method or means of surveying before a credible cost estimate can be produced. Based on prior cost estimates from donor surveying programs, the surveying process itself could cost an estimated \$300,000 per county, but a reasonable estimate must also take in account the survey method, the stakeholder engagement process, the public education process, and other key considerations.
Action Steps	<ul style="list-style-type: none"> • Conduct a series of regional “stakeholder roundtable” meetings to listen and gather insights on community-led approaches for customary land reform, and potential constraints. • Consider alternative solutions, such as legal aid programs, to assist more communities in preparing and filing formal deeds (potentially within an incorporated community form), tribal certificates, and overcoming constraints affecting surveying services. • Conduct a formal review of prior customary land rights surveying programs, including the prior program undertaken by the UNDP, to understand program successes and identify constraints to broader adoption of the program. • Develop a public education campaign targeted at chiefs, community elders, and other key influencers regarding the benefits and costs of formalizing customary land rights. Conduct a public education campaign on behalf of all stakeholders, including community leaders, government representatives, and concessionaires with plots in the hinterlands, regarding the purpose and intentions of customary land surveys. • Offer land survey services on an as-requested basis for customary land based on broad public notice, proof of ownership, and confirmations from adjacent land users that no border disputes exist. Offer a limited 3-county pilot program to establish the validity of the approach for Liberia as a whole and to better understand the costs, benefits, and consequences of broader roll-out.
Time Frame for reform	5–10 years
Feasibility	High feasibility for providing advice on alternative approaches for surveying and official recognition of customary land ownership rights. Medium-to-low feasibility on the nation-wide scaling up of customary land surveying based on a “no-dispute” precondition.

RECOMMENDATION 2: Review Liberia’s property registration process to understand where regulatory procedures and costs can be reduced or eliminated.

Why is reform needed?	At present and in general, the property registration process is overly long and difficult to navigate, and requires a lawyer at some point along the way. This makes property registration difficult for the typical smallholder farmer, who has little money and limited access to lawyers, courts, registration offices, and communications. Given that one of the main reasons for current land law reform is to improve the property ownership situation for the community and smallholder farmer, institutional reforms should also be made to promote, if not assure, implementation and use of the law.
Impact of problem	If a parcel of land is not registered, it is assumed to be un-owned and therefore public land that the government may then lease as part of a concession or sell to a Liberian. Moreover, without being able to prove ownership, smallholder farmers, as a practical matter, are unable to use their land for much more than subsistence farming.
Benefits of reform	Registered property creates more secure land tenure, which then allows those on the land to make better use of it. Registered land would decrease conflicts related to property boundaries and ownership. Simplifying the property registration process and identifying and reducing excessive costs would encourage informal land owners to pursue formal registration. Further study can determine whether this reform, paired with other land registration incentives for informal smallholders (such as a limitation of tax liability for first-time land-owners for plots of a certain size) can help improve the opportunity for smallholder farmers to gain ownership rights.
Constraints to reform	Resistance may come from larger businesses that at present can take advantage of the inequalities in the registration system and can influence policyholders. Stakeholders in the registration process that would be likely to be eliminated or whose role would be reduced, such as the probate court and lawyers, are also likely to resist changes.
Fit with other donors	Given the high interest in land reform among donors, the government, and the private sector, this recommendation would align with other donor efforts.
Best practices	Several nearby Sub-Saharan countries with challenges and constraints similar Liberia’s have recently improved their property registration systems. Value lessons and guidance could be gleaned from those examples.
Cost of reform	Assuming three years, and based on calculations made for other suggested reforms in this section, a very rough estimate would be \$4 to \$5 million.
Action Steps	<ol style="list-style-type: none"> 1. Carefully assess the current process to determine where simplifications can be made. 2. Draft implementing regulation or legislation as necessary. 3. Commence education and training of (a) those who be implementing the new process and (b) those in the coastal region and hinterlands who will be the most likely to take advantage of this change.
Time Frame for reform	2–3 years
Feasibility	High. This is part of the on-going land reform process and there is substantial buy-in.

RECOMMENDATION 3: Harmonize current laws related to real property to reduce redundancies and confusion resulting from decades of ad-hoc and incomplete reforms to land laws.

Why is reform needed?	The history of Liberian land law is replete with ad hoc, incomplete reforms to laws that benefit one constituency to the detriment of others. Most often, the benefits go to those who have secure land or want to acquire large swaths of land, and the detriments are visited on customary landholders. The Land Commission is doing an excellent job of correcting inequalities in the land law framework, but given the history, it would be prudent to bring in outside expertise to make sure these problems are rectified.
Impact of problem	At present, the problems in the law make it far too easy for customary landholders to lose land tenure, and even harder for them to seek any kind of legal recourse when a land grab occurs. This has been occurring on a regular basis for years, and is the source of much public unrest.
Benefits of reform	Customary landholders will be the primary beneficiary because they will have more secure land tenure. In turn, the entire nation will benefit, because more secure land tenure means less conflict over land and more productive use of it.
Constraints to reform	Corrupt public officials or concessionaires (or prospective concessionaires) will fight changes that close loopholes in the system they abuse, but they will have a hard time making legitimate arguments. The Liberian Land Commission could resist the imposition of outside help. On the other hand, they might welcome outside expertise in an effort to get it right.
Fit with other donors	This recommendation align with various ongoing programs that are helping to reform the land tenure system.
Best Practices	This reform is not closely identified with any “best practice” exemplars. This recommendation centers on making a careful, Liberia-specific assessment of the current state of the law, identifying its weaknesses and access points for corruption, and weeding them out.
Cost of reform	This would be a relatively inexpensive effort, because it could be accomplished by, for example, assigning two or three lawyers to the Liberian Land Commission to assist with reforming the legal framework. Two lawyers, close to full-time for 1.5 years and billed at \$1,500 a day, could be covered for around \$1 to \$1.5 million.
Action Steps	Gaining buy-in from high levels of government and from within the Liberian Land Commission is the paramount, most crucial step.
Time Frame for reform	
Feasibility	High, assuming that all relevant stakeholders buy in. Then the initiative becomes a matter of execution. But given the importance of these reforms to many in government, including the President herself, this could end up being “low-hanging fruit” that could have a meaningful and lasting impact.

RECOMMENDATION 4: Improve understanding of customary law.

Why is reform needed?	Customary law is the prevailing, relevant law for half the country, yet few in the legal profession are practicing it. As a result, Liberians who are under customary law jurisdiction—primarily those in the agricultural sector—are underserved in terms of legal representation and are at a disadvantage compared to Liberians who are subject to the civil system. Although Liberian law states that the two systems are of equal weight, in reality customary law is lower in the hierarchy of controlling legal authority.
Impact of problem	Whenever Liberians who derive their land rights from customary law find it necessary to use the civil law system, they are at a disadvantage. This often happens when a concessionaire or other “outsider” seeks control of land claimed by a customary landholder. In most of these cases, the customary land holder will lose—and therefore lose his or her land.
Benefits of reform	The key benefit: those in the customary land system will have a better chance to maintain their rights when confronted by outsiders seeking control. This will benefit customary landholders as a class, but will also benefit the country as a whole, because it will provide more equal rights to all, removing a common cause of social unrest.
Constraints to reform	<p>There may be pockets of resistance by those who view customary law as lower in the legal hierarchy, or others who have been able, and continue, to exploit the inequalities between the two systems to their benefit.</p> <p>The legal practice in Liberia does not meet the needs of those in the customary system. There is little tradition (as understood by the assessment team), of providing legal services to disadvantaged populations, so there would be a significant cultural hurdle to overcome. In addition, some view customary law as becoming a thing of the past, so the need to reform it is not compelling. That said, there is a need and there will be for some time to come, and such cultural shifts are necessary to create greater equalities in the country.</p>
Fit with other donors	Difficult to ascertain; improving the practice of law, or improving access to lawyers, does not seem to be a point of emphasis with donors at this time.
Best Practices	<p>Training on the norms and practices of differing legal systems is common and could be easily applied in Liberia. Many countries and jurisdictions have established customary law legal clinics within their law schools.</p> <p>The International Food Policy Research Institute (IFPRI) has studied the benefits of providing and regulating community-level legal aid, and its unique impact on enhancing land tenure security for women.</p>
Cost of reform	Cost of the reform program would be based on the size and scale of training programs.
Action Steps	<ol style="list-style-type: none"> 1. Solicit the buy-in from the Bar Association, the Chamber of Commerce, and law school faculties. 2. Develop a training program on customary law geared to the Liberian context. 3. Work with hinterland communities so that they better understand their legal status, interests, and needs, particularly with respect to registering customary lands as will likely be allowed in forthcoming revisions to the land law.
Time Frame for reform	3–5 years
Feasibility	Medium



COMPETING FAIRLY

Effective competition policy can improve agricultural efficiencies, outputs, and quality; lower prices; and advance overall economic growth and development. Private-sector competition compels producers to be more efficient and innovative and to produce their most appealing array of products and prices in response to consumer demand. In competitive markets, buyers may choose among many sellers. If buyers dislike the offerings of one seller, they can buy from another, thus imposing a rigorous discipline on each to satisfy consumer preferences. Sellers that are more responsive to consumer demand take sales away from those who are less efficient and responsive. Consumers all along the value chain benefit from greater choice, better quality, and lower prices.

Liberalization of markets alone, however, does not ensure fair competition and its associated benefits. Left unchecked, producers, sellers, and even regulators may engage in practices that harm the competitive process and consumers. They may enter into cartels and other anticompetitive agreements, abuse control over markets or dominant positions, or combine through anticompetitive mergers, thereby creating or maintaining illicit power to charge prices above competitive, market-driven levels for a sustained period of time.

The dynamics of competition in a country's agricultural sector and among agriculture-related enterprises can be multi-faceted and, in some instances, difficult to detect. This chapter strives to capture the key legal, institutional, and social issues pertaining to domestic and international competition among agribusinesses in Liberia, while also stressing that there are many variations—some of which are beyond the scope of this report—on both legal and illegal efforts by public and private sector entities to constrict or otherwise control free competition in the agriculture arena.

LEGAL FRAMEWORK

As of 2014, Liberia does not have a legislative, regulatory, or administrative framework to ensure fair competition. However, various current licensing practices and government policies

may have anti-competitive impacts, particularly on poor producers and consumers. These factors, combined with Liberia's relatively small size and the island-like nature of its economy, may have given rise to market structures where unfair competition is the norm, and consumers and smallholders are disadvantaged. (See list for key policies, laws, and regulations relating to this topic.)

KEY POLICIES, LAWS, AND REGULATIONS

- General Business Law (1973, as amended)
- Draft Competition Law (unpublished)
- ECOWAS Regional Competition Policy Framework
- Public Procurement and Concessions Act (2005)
- Price control legislation (1973)
- Investment Act (2010)
- MOCI Handbook (re. Import Permit Declarations)

The General Business Law. Liberia's **General Business Law** provides a very basic, broadly worded clause declaring as illegal and void all contracts, arrangements, or combinations that create a monopoly or restrain the free exercise of trade. The law then exempts farmer cooperatives, labor unions, and concessions in which a monopoly is granted—without defining any of those terms.⁹⁵ Modest fines and up to a year in prison are provided for violations. The Attorney General is in charge of prosecuting cases. In several interviews with knowledgeable sources, none knew of any prosecutions under this section of the law. Title 14, Chapter 2 is poorly defined, unclear and does not meet international standards for a normal anti-trust law.

The General Business Law contains a number of highly discretionary clauses on registering businesses and renewing their registrations. For example, General Business Law Section 4.3 permits the Ministry of Commerce and Industry (MOCI) to refuse to register a business if it is not convinced that the entrepreneur has the necessary skills or financing, or has not selected a suitable location. Section 4.10 permits MOCI to deny registration or renewal to an entrepreneur who is “irresponsible” or a business that is not “in the public interest” and Section 4.11 permits the MOCI to deny renewal to a company that cannot be run “efficiently or profitably.” All of these clauses could easily be used to anti-competitive effect, should the MOCI wish to do so. The MOCI appears not to do this, but nevertheless this outdated law should be reviewed and revised.

Draft competition law. A foreign advisor is working with MOCI to prepare a new **draft competition law**. Although this draft has been discussed in some stakeholder meetings, it has not been publically distributed and is still under internal review. It was not released to the AgCLIR team. For its part, Economic Community of West African States (ECOWAS)⁹⁶ provides some non-binding guidelines in the form of a **Regional Competition Policy Framework**—of interest, but no legal effect. There seems to be no developed local competition policy.

In short, Liberia appears to have no functioning legal or policy framework to ensure fair competition. Liberian consumers and producers thus have no effective legal protection, on paper or in the marketplace, against monopolies, cartels, price fixing,

dumping, or the other various abuses of market power that would be prohibited under a well-developed and enforced competition law framework. In Liberia, it will take some time to transition from a draft law to a credible framework to support a competitive economy—especially because anti-competitive practices may already have taken firm hold.

Public Procurement and Concessions Act (PPCA).

When asked about Liberian competition law, local counterparts typically referred not to an anti-trust law, but instead to the detailed 2005 Public Procurement and Concessions Act. This complex, donor-funded law sets a high bar for Liberia to meet in procuring publicly funded goods and services and in granting various concessions. Among other worthy and ambitious goals, the law aims to:

- (d) Promote competition and foster participation in procurement proceedings and concession agreements . . . ;
- (e) Provide equal access without discrimination to all eligible and qualified providers . . . ; and
- (k) Eradicate monopolies and promote competitiveness in the concession procurement process.⁹⁷

Apparently, this law was routinely ignored between 2006 and 2011. During that period, the government entered into a series of concession agreements that committed vast areas of land for mining, palm oil, and rubber. PPCA is not a good legal basis for GOL to award concessions, although it is symbolic of a broader public goal to establish a legal and procedural framework for improved competition. However, the PPCS is not a substitute for a well-articulated competition policy and public procurement framework. The USAID-funded Governance and Economic Management Support Program (GEMS) is now doing public-private partnership (PPP) policy to enable GOL to enter into agreements in power, water, telecommunications, and infrastructure, outside of the PPCA.

The Act also distinguishes between domestic and international procurement and concession-granting procedures, setting aside smaller procurements and concession grants for domestic suppliers. For example, the MOCI has experimented with local content requirements for wood products, requiring 25% in 2013. It has proposed expanding the 25% local content requirement beyond wood product procurements to a far wider range of government purchases, a move strongly

⁹⁵Title 14 of the General Business Law of June 27, 1973, Chapter 2, Paragraph 2.1.

⁹⁶ECOWAS is a limited fiscal union of West African states. The ECOWAS regime is not scheduled to be fully effective until 2015. More about ECOWAS is contained in this report's chapters on Paying Taxes, Protecting Investors, and Trading Across Borders.

⁹⁷Public Procurement and Concessions Act of September 21, 2005, Part I, Preliminary, Objectives of the Law.

supported by the Liberian Business Association (LIBA). This could help foster local firms and ease Liberia's balance of payments problems. However, this limitation on full and open competition and a limited number of domestic suppliers, the end result could lead to higher costs and lower quality products.

Price controls. Liberia has price control legislation dating back to the 1973 "oil shock" period,⁹⁸ under which GOL still sets the prices for petroleum products, rice, cement and "other or essential sensitive products."⁹⁹ The last catch-all phrase has been used extensively to set prices for a wide range of foods. Although this authority still remains, and is housed in the MOCI, various waves of price liberalization have whittled down the list of "other products," and now only flour remains subject to price controls. As discussed below, rice is a special case.

Restrictions on foreigners. Even though foreign concessionaires for export-oriented products can receive generous benefits, competition from foreigners in Liberia's internal markets is restricted in several ways. In Liberia, as in many countries, foreigners are forbidden from owning land. Liberia also maintains a number of "Liberianization" laws and policies, designed to protect various sectors of the economy from foreign investors, require local content purchases by government agencies, or guard against non-Liberians taking jobs from Liberians.

"Liberianization" of certain businesses. The **Investment Act of 2010** restricts competition by reserving a variety of business activities exclusively for Liberians (as discussed in this report's chapter on Starting a Business). None of the areas of exclusive Liberian activity are by expressly related to the agricultural sector, although MOCI might interpret the clause that prohibits non-Liberians from distributing "Liberian manufactured goods" to include Liberian-grown food that has been processed post-harvest.

The Investment Act sets minimum investment requirements for a range of other business activities before foreigners are allowed to engage in them. The restricted areas relevant to agriculture include poultry-raising and sales, animal and poultry

feed, pharmaceuticals (which presumably includes animal drugs) and heavy trucking.¹⁰⁰ In these areas, a \$500,000 investment threshold is required for 100% foreign owned-enterprises, and \$300,000 for enterprises with a minimum of 25% Liberian ownership.

"Liberianization" policies could have an anti-competitive impact in the affected markets, given the important role played in the Liberian economy by mid-scale foreign traders and investors who may find their involvement restricted or prohibited. The MOCI has made clear that it will enforce these policies strictly and pursue business people who attempt to bypass them by putting Liberian fronts on them. On the other hand, in informal interviews with several Liberian vendors of used clothes in Monrovia, the AgCLR assessment representatives were told that all used clothes imports were firmly in Lebanese hands, even though the Investment Act explicitly reserves used clothing imports only for Liberians. This report dilutes the credibility of MOCI's promise of strict enforcement.

Liberia does not belong to the World Trade Organization, but is interested in joining. WTO membership would obligate Liberia to meet a range of requirements pertaining to treatment of most non-domestic goods and some services. Among the apparently many outstanding points to negotiate during Liberia's WTO membership discussions, Liberia's foreign participation restrictions may be a main sticking point.

MOCI: standards, Import Permit Declarations, and the special case of rice. Liberia is heavily import-dependent, and competition may be affected by various MOCI rules. Since October 2010, MOCI has required import permit declarations (IPDs) for all of the products listed in its published guidelines. For a more detailed analysis from a different perspective, see this report's chapter on Trading Across Borders.

The MOCI Handbook¹⁰¹ describes 28 products that are subject to standards and testing at a nascent laboratory facility at the National Institute of Standards, and states that imported goods subject to an IPD can be seized and destroyed at the importer's expense if those goods are found "after testing or analysis to be non-compliant with national or internationally accepted quality standards." Depending on how the MOCI implements its IPD program, the wide range for discretion left

98 Between October 1973 and January 1974, world oil prices quadrupled following actions led by Arab members of the Organization of Petroleum Exporting Countries (OPEC), which included an oil embargo against the United States and other exporting countries, and a production cut. See <https://history.state.gov/milestones/1969-1976/oil-embargo>.

99 See MOCI website, description of Division of Price Analysis & Marketing, [MOCI Website](#).

100 MOCI Handbook, p. 6.

101 Handbook For Operating Businesses In Liberia: A guide to procedures and processes at the Ministry of Commerce & Industry, August, 2010 (MOCI Handbook).

in the MOCI Handbook could theoretically have a chilling effect on importers, and lead to limiting competition in the goods covered by IPDs.

However, the MOCI reportedly tries to issue IPDs within two days and reviews key imports, as much as possible, using written and internationally recognized quality standard certifications and testing. Nevertheless, there are likely to be many products that fall within a gray area (which could last for years), pending the passage of comprehensive formal standards and the creation of adequate capability within the National Lab to promptly and effectively determine if products comply with those standards. MOCI and prospective importers will need to track possible anti-competitive impacts of this “work-in-progress” standard-setting and enforcement procedure for IPDs.

As noted above, rice is a special case. The MOCI Handbook specifies a much more discretionary, burdensome, and detailed procedure for obtaining an IPD for rice than for other food products. Rice import permits will only be granted to applicants who provide detailed quality, quantity and cost information. In granting a permit, the Minister is directed to consider supply and demand conditions and available stock, and to conduct a “comparative assessment” against other applicants and the IPDs already granted. The Minister then sets an official price, and may impose other conditions on the import approval.¹⁰² The Handbook does not specify timetables for these decisions, nor does it set standards for how they are made, how the comparative assessment is conducted, or what conditions can be imposed on the importer.

Liberia has a history of severely limiting permits to import rice. For quite a while there was, reportedly, only one permitted importer. Now there are perhaps eight. Given the political sensitivity of rice, those interviewed for this report thought that the primary goal of the rice import licensing program was to foster food security, rather than encourage competition among importers. The procedure outlined in the MOCI Handbook is certainly better designed to maintain a tightly controlled rice import market than to encourage competition.

IMPLEMENTING INSTITUTIONS

KEY IMPLEMENTING INSTITUTIONS

- Ministry on Commerce and Industry
 - Division of Price Analysis & Marketing
 - Consumer Education and Protection Unit
- Ministry of Agriculture and CARI
- Liberia Marketing Association
- Liberian Produce Marketing Corporation

MOCI Price Controls: Division of Price Analysis & Marketing.

MOCI controls prices on key commodities through its **Division of Price Analysis & Marketing**. Though MOCI has legal authority to expand the list of price-controlled products at any time, the current government has generally resisted price controls, and has administered them narrowly. This is, of course, a political hot button; it is possible that pressure could mount to impose price controls if the prices of a particular commodity increase, whether because of global price increases or further depreciation of the Liberian dollar.¹⁰³

Rice and the MOA. In addition to the MOCI's control authority, the **Ministry of Agriculture** (MOA) and its research arm, the **Central Agricultural Research Institute** (CARI), may exercise substantial market control over rice. CARI is the sole importer of foundation seed rice into Liberia. Reportedly, only CARI and two or three other entities are licensed to sell certified seed rice grown from this foundation rice. It is not clear how these other entities were selected, how much they paid to become licensed, why there are so few of them, or why CARI—a government research institution—plays such a large market role. As detailed in this report's chapter on Dealing with Licenses, the legal basis for these special seed rice arrangements is also unclear.

Smaller farmers and cooperatives have reportedly raised concerns about their inability to buy rice seed from anyone other than this artificially low number of providers. And given this backdrop, it seems unlikely that independent, private-sector competitors without strong government affiliations could easily make inroads into the lucrative certified rice seed market.

¹⁰² MOCI Handbook, p. 11

¹⁰³ See, for example, November 13, 2013 article on palm oil dealers calling for price controls on “red palm” oil. Newspic.info.

Liberian Marketing Association (LMA). Competition at both the retail and the wholesale levels, especially for fresh fruits and produce, is restricted by a law that apparently grants the Liberian Marketing Association (LMA) exclusive power over all retail market stall tables in the country. The LMA was founded in 1963 and became a semi-autonomous government institution in the 1970s.¹⁰⁴ Although the assessment team was unable to obtain a copy of the law or LMA's organizing documents, the LMA appears to defend this near-monopoly quite vigorously. Vendors at informal tables or street side stalls in Monrovia reported being subject to frequent police raids and confiscations, often at LMA instigation.

The LMA has been the subject of substantial criticism¹⁰⁵ and even, as discussed in this report's chapter on Dealing with Licenses, formal allegations of corruption by the Liberian Anti-Corruption Commission. LMA is a predominantly women-run entity, which may be exercising legalized monopoly or oligopoly downward price pressure on dispersed small-holder farmers, most of whom are also women. At least in the Monrovia produce market, this front-line pressure seems to be applied by the "go-buy-chop" or "gobachop" women who work under the LMA umbrella as bulk-breaking intermediaries who buy produce from wholesalers.¹⁰⁶

While there have been several useful studies of food and produce markets in Liberia, local counterparts were not aware of any detailed "M4P"¹⁰⁷ style value-chain study which identifies income and risk at each level of the value chain for different actors. Such a study could be very useful to understand

possible competitive choke points in the system, their gender impact, and how to address them to increase producer net income and incentives to grow more.

Liberian Produce Marketing Corporation (LMPC) and coffee and cocoa. LMPC still retains nominal power to control prices and to be the monopoly exporter of all cocoa and coffee under a law from the early 1960s. However, the LASIP report found that, as of 2010, "LMPC has no capacity to procure locally and has transferred its statutory mandate to private traders and a subsidiary of another parastatal organization—the National Social Security and Welfare Corporation."¹⁰⁸ Thus after the LMPC's "near demise", it issued licenses to export coffee and cocoa to several traders.¹⁰⁹ It is not clear how these licensees are selected, or whether the former state export monopoly has been turned into an oligopoly, including one parastatal.

In contrast to the LMA, the LMPC lacks the strength to exercise its old powers, and representatives report that its legal foundation is being revised. The goal is to replace the old "command and control" law with one that limits the LMPC role more to setting export quality standards and providing indicative prices to help farmers negotiate better with LMPC-licensed traders and exporters. This appears to be consistent with the LASIP Report's recommendations for institutional reform¹¹⁰ and would be a welcome change. It would remove current confusion in the market about the LMPC's powers—which remain greater on paper than in practice.

Consumer protection. The MOCI has broad general power to regulate trade and commerce in the public interest¹¹¹ and specific, if limited, authority to protect consumers under the General Business Law, Chapter 1 (Title 14, Published September 8, 1978). This chapter gives MOCI authority to regulate weights and measures, and prohibits false labeling and misleading packaging, but does not give further consumer protection. The MOCI has established a **Consumer Education and Protection Unit** within the Division of Trade Services to act as an ombudsman for consumer complaints.¹¹² This unit was created with support of donors, including the USAID-funded Liberia Trade Policy and

104 Liberia Agricultural Sector Investment Program (LASIP) Report, September, 2010, p. 11. ("LASIP Report").

105 According to the LASIP Report (at p. 11), "The LMA has generally failed to meet its obligations despite extracting fees from traders. Members point out that services such as waste disposal, toilet facilities, roof repairs, storage, and day care facilities are not being provided by LMA, resulting in the payment of additional fees to private individuals to provide some of these services." According to another commentator: "... marketers consistently reported that they do not know what happens to the collected fees, emphasizing that the LMA provides little or no benefit to them, especially in the maintenance and provision of services at the markets." Liberia Market Review (2007).

106 Liberia Market Review, p. xi.

107 "M4P" means "making markets work for the poor," and refers to an approach aimed at reducing poverty and stimulating large-scale, sustainable economic development by using systems analysis to diagnose and reduce or eliminate the constraints that poor people face in the markets they already depend on and participate in as workers, subsistence farmers, consumers, or entrepreneurs. The central idea is that removing those constraints—changing those markets to be more accessible to the poor and more competitive—will provide more choices and opportunities for the poor; helping them people find their own way out of poverty. Markets that function well also have wider economic benefits. They stimulate investment and encourage firms to innovate, reduce costs, and provide better quality jobs, goods, and services to more people. Source: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTDEBTDEPT/0,contentMDK:22041212~menuPK:64166739~pagePK:64166689~piPK:64166646~theSitePK:469043~isCURL:Y~isCURL:Y,00.html>.

108 LASIP Report, above note ___, at 10.

109 Id. at 12.

110 Id. at xi.

111 An Act To Amend The Executive Law With Respect To The Ministry Of Commerce, Industry And Transportation, January 19, 1972, Chapter 21, Section 651.

112 See <http://moci.gov.lr/2content.php?sub=118&related=31&third=118&pg=sp>.

Customs Project, which ended in late 2013. The Central Bank of Liberia (CBL) is also engaged in some degree of consumer protection, presumably mostly in the financial sector.¹¹³

Missing Implementing Institutions. As noted above, there appears to be no enforcement of competition-related law under Title 14, Chapter 2 (General Business Law) by the Attorney General. The AgCLIR assessment team did not learn of any anti-trust court cases, and there is no agency that holds clear anti-trust training and authorization. Until the draft law is passed, and enforcement institutions are created, empowered and funded, this will likely continue. Liberia's consumers also must make do without a clear consumer protection law or a fully empowered watchdog agency.

SUPPORTING INSTITUTIONS

This section typically considers the organizations, individuals, or activities that are critical to the health and strengthening of the environment for Competing Fairly. However, given the lack of development of both anti-trust and consumer protection law in Liberia, it is not surprising that there are few supporting institutions involved with fostering “competing fairly” as an explicit part of their mandate—and rather more that might engage in activities with anti-competitive impact.

KEY SUPPORTING INSTITUTIONS

- National Consumers Council of Liberia
- USAID “Building Markets” project
- Donors and NGOs
- Self-help cartels and business associations
- Concessions framework

Consumer protection. On the pro-consumer side, the **National Consumers Council of Liberia** is a local NGO, in operation since 1988, which provides some training in consumer rights and has published a donor-supported consumer rights booklet. The Council recently started a weekly radio show on consumer rights broadcast on the United Nations Mission in Liberia (UNMIL) station. The Council reportedly also recently signed an agreement with a small, US-based NGO called the Global Action on Legal Aid (www.galagala.org) to help provide representation to consumers. The

National Consumers Council of Liberia (NCCL) is the only NGO devoted to consumer rights issues that the team learned of while in country.

Business support. On the pro-competition business side, one especially interesting USAID-funded project, Building Markets' Sustainable Marketplace Initiative Liberia (SMI-L), is working to improve the environment for fair competition by enabling smaller local firms to compete in government and donor procurements, and by creating a good on-line database of firms. This B2B database can serve multiple purposes to improve competition and information flow. The SMI-L project could provide a useful service going forward, perhaps even sustainable through member contributions when USAID funding ends.

The remaining institutions and structures mentioned in this section are not known for supporting fair competition. Rather, they tend, in various ways, to tilt in the opposite direction.

Donors and NGOs. Among the scores of international NGOs and donor agencies present in Liberia (including 19 UN agencies, 13 other international agencies and bi-lateral donors (as well as their implementing projects), and 87 international NGOs),¹¹⁴ many provide various kinds of subsidized inputs or direct subsidies to Liberian consumers and businesses. USAID, USDA, Japan, and others reportedly provide monetized food aid to Liberia.

In a country as highly aid-dependent as Liberia, subsidies and monetized food aid can have substantial market impact. In general, as summarized by Oxfam, “Concerns have long been raised (including in ... [a] GAO report) that monetized food aid can compete with locally produced goods (or more relevantly, goods produced by smallholder farmers in the same market/country), disrupting lives and livelihoods.”¹¹⁵ This AgCLIR assessment did not, however, find any economic reports delineating the economic impact of subsidized food and inputs on the Liberian economy, much less suggestions for how to wean the country off donor subsidies. To establish a better basis for competing fairly, such a study, if not yet done, could be a valuable contribution to the public discussion.

Self-help cartels and business associations. The “competing fairly” situation is not improved by what may be grants of delegated legal power to a variety of agencies and

¹¹³ See <http://www.cbl.org.lr/doc/major/cblnewsletter1stedition.pdf>.

¹¹⁴ See International Organization for Migration, Country Fact Sheet – Liberia (October 2013).

¹¹⁵ Eric Munoz, Oxfam America, “Never Mind the Waste” (Nov. 30, 2012).

TABLE 6: THE LARGEST AND MOST ENDURING CONCESSIONS

COMPANY	YEAR ESTABLISHED	TERM OF AGREEMENT	CROP	LAND AREA (IN HECTARES)
Sime Darby (previously BF Goodrich)	2009	63 years	Oil palm	220,000
Weala Rubber (previously Salala Rubber)	1958	70 years	Rubber	20,080
Golden Veroleum Liberia	2010	65 years	Oil palm	240,000
Firestone	1926 2008	99 years 36 additional years	Rubber	65,000
SIFCA	2011	25 years	Oil palm	15,000 (9,000 industrial, 6,000 outgrower)
Liberia Agricultural Company	1950	Not found	Rubber	121,000 ha
Equatorial Palm Oil	2012	50 years	Oil palm	395,368

organizations to control various markets. These delegations of power may have been made under older, pre-civil war statutes, copies of which were not available on line and interviewees were not able to provide.

For example, **truck, taxi, and moto driver “unions”** appear, at least on some routes and in some markets, to set prices collusively and to punish individuals who offer transport for less by seizing their vehicles. These groups may also conspire to limit new market entrants. These cartel groupings are called “unions” when they are, in fact, trade associations of often self-employed people or entrepreneurs who own a handful of vehicles with hired drivers or are closely aligned with political figures and thus very difficult to reform. Perhaps the “union” misnomer gained currency as a way of fitting under the union exemption to Title 14, Paragraph 2.

The Ministry of Transport has broad statutory authority to regulate common carriers,¹¹⁶ but its regulations in this area are not available online and were therefore not reviewed. MOT’s authority may include setting fixed rates for some common carrier routes, and may provide the basis for the

“unions.” Further research would be needed to determine the legal bases, if any, for these self-help price-fixing—and possibly market-dividing—practices.

The **Rubber Planters Association** appears to have some statutory authority to issue quality certificates for rubber exports. The assessment team could not locate the laws that conferred this authority, how exactly these quality certificates are issued, or whether they somehow limit the number of possible exporters. The process was reportedly straightforward and non-discriminatory, but this was not independently confirmed.

Concession agreement framework. Concession agreements in Liberia are approved by the Legislature and have the force of law. They often contain clauses designed to encourage concessionaire investment and job creation, such as tax relief and duty exemptions¹¹⁷—which in practice, give concessionaires legalized price advantages over non-concessionaire rubber and palm oil producers. One major international concessionaire reported, for example, that when it imports agricultural inputs duty-free and resells them to smaller outgrowers, it must charge duty. Thus, the government’s eagerness to encourage big concessions with legalized economic

¹¹⁶ The Act Creating The Ministry Of Transport, Approved: August 25, 1987, codified in the Executive Code, Title 12 of Liberian Code of Laws, Section 37.3.d authorized the Ministry “to establish rules and procedure, and enforce standards for transport services of private and public common carriers of whatever nature.”

¹¹⁷ For a fuller policy discussion of agricultural concessions in Liberia, see Early Warning Early Response Working Group, “Agricultural Land Concessions and Conflict in Liberia: Policy Analysis Brief” (June 15, 2012).

advantages has had anti-competitive consequences that hurt small local producers: they are saddled with a built-in—and artificial—cost disadvantage that makes it difficult for them to compete with large international players without sacrificing profits.

During this AgCLIR assessment, the team discussed concessions with members of the business community. As a group, from a “competing fairly” perspective, they were less concerned about the favorable market terms made available to large concessions than their benefits from low tariff rates on agricultural inputs. Although, in theory, tariffs should be imposed on all purchasers of certain agricultural inputs, it is commonly believed only the largest concessions in fact receive these breaks, while everyone else is held up by red tape at the border. However, instead of viewing this as a clarion call to combine forces and demand equal treatment at customs, the smaller players want concessionaires to help get them through customs on their large-concession coattails (see table 6).

The government’s eagerness to lure large investors quickly may have led to concessions at a low per-acre cost, on favorable terms for the concessionaires. This becomes significant if Liberia joins the WTO: if concessionaires were granted below-market land acquisition costs, this would be considered a subsidy under WTO rules, and Liberia would be required to notify the WTO. Such subsidies are not necessarily prohibited, but the fact that the WTO requires notification of them indicates a global concern about their possible anti-competitive impact.

Compared with the rest of the economy, the concessionaires are so large that their size alone can impede fair competition. The larger concessions are complex communities of families, workers, and facilities, so they are major purchasers of food and supplies for their resident employees. Their scale, and for some, their remoteness, have led them to meet most of their food and other needs with imports. One concession reportedly brings in, by ship, 15 containers per week of frozen and canned food.

Some donor-funded programs are working on this problem. They are seeking to develop value chains capable of providing large concessionaires with locally sourced inputs that meet their quality and consistency demands. Turning subsistence

outgrowers¹¹⁸ into reliable suppliers will take great effort and mutual commitment of concessionaires, outgrowers, and the various entities trying to help them.

The outgrowers who live by providing large concessionaires with raw input of rubber or palm oil are in a weak competitive position. Because of bad road conditions, they typically only serve one concessionaire. Even when they are nominally free to sell elsewhere, the huge size of the main concessionaires—combined restrictive export licensing regimes imposed by the Government and trade associations—means that outgrowers of rubber and palm oil have few outlets for selling their product. Unless concession agreements provide clear formulas for pricing purchases of outgrower-supplied product based on international standard rates for the quality of the product delivered, the outgrowers can only be price-takers. Even if the agreements do provide these formulas, unless the outgrowers are well-organized and the state takes an active role protecting them from dominant purchasers, their political and economic weakness can be easily exploited.

Unfortunately, in reality, the outgrowers have little negotiation power, and many outgrowers face extraordinary challenges in doing business. Concession contracts typically give them few price protections. They do not seem well-organized. The state is not particularly active—or as active as it could be—in defending them. In short, small outgrowers are living on the edge; some eke out part of their living by tapping the many abandoned stands of rubber trees scattered around the country. Although most tappers seem to be men, if they are cheated when they bring their rubber to their only buyer, their families are cheated.

SOCIAL DYNAMICS

Opacity and inequality. In reviewing the environment for this chapter on Competing Fairly, the assessment team was struck by how difficult it was to get information that might help identify the major legal and practical market choke points in Liberia—transparency is almost nil. For example, older enabling statutes were often referred to as the basis for some agency to limit licenses, or some authority or union to restrict markets, but none of these statutes were made available or could be found. Government websites are of very limited and uneven utility, and laws are rarely available on line. The one general legal reference site to which the AgCLIR team was referred again and again, www.liberlii.org, is incomplete and not regularly updated. Regulations and other lower-level legal

118 “Outgrower” is synonymous with “contract farmer.”

acts were virtually impossible to find. The Anti-Corruption Commission has broad powers on paper, but limited enforcement capacity and very limited funds to actually investigate potential problems.

Granted, there is admirable transparency in some donor-funded initiatives such as www.leiti.org, which is over 50% funded by GOL and seems to be performing well to date. But transparency drops off considerably in other projects. The overall lack of transparency is problematic in the context of “competing fairly”—hidden laws and information that are relevant to economic development of the have-nots impede fair competition.

Even a brief visit to Monrovia creates the impression of a small, American-oriented urban elite, a merchant class of non-citizen foreign traders and shopkeepers (predominantly Lebanese, with some Indians), and a mass of largely tribal-affiliated Liberians living on far less as peddlers, subsistence farmers, taxi drivers, and menial workers. While the reality is no doubt much more complex and nuanced, this first impression was lasting.

Liberia’s socio-economic structure seems especially susceptible to dominance by the few to the detriment of the many.

- Liberia’s heavy dependence on two ports and poor road system means that there are few routes for goods to travel, and those are easily controlled.
- The economy is dominated by huge concessions operating in an environment of legal and regulatory opacity.
- Liberia has a small market and geography, and visitors soon get the impressions that the “haves”—including a tight-knit, long-established Monrovia elite and a foreign business class—all know each other and have for decades, if not generations. The “haves” are readily distinguishable from the “have nots,” who struggle with basic subsistence. As mentioned above, there is virtually no middle class.

The confluence of these factors provide fertile ground for exactly the sort of collusive practices that a strong anti-trust regime should correct. Unfortunately, these factors also indicate an entrenched political and economic culture that could vigorously and effectively resist the assault on insider privilege needed for reform to work.

Missing culture of competition. As just suggested, the persistent opacity and elite dominance is paralleled by an overall lack of interest in improving competition in Liberia’s agricultural economy. The AgCLIR team did not, for example, hear of a single investigation into collusive trade practices. This seems quite strange, given its possible prevalence. The urgent, pressing needs of basic rebuilding and providing basic care seem to have gotten so much attention that concerns about unfair competition have been pushed to the background.

It seemed to the assessment team that at times, Liberia’s intense focus on the immediate need to deal with acute symptoms has detracted from diagnosing the underlying causes. Furthermore, donors’ well-meaning concentration on the heart-wrenching poverty in Liberia may have led to a bit of myopia. Because powerful interests benefit from the suspected, numerous market blocks and inequities, the natural inclination for donors might be to direct attention and resources toward the immediate problems of the poorest of the poor—and away from how elite anti-competitive practices might reinforce that poverty. If this is the case, the antidote might be found in careful, data-driven research to identify anti-competitive impacts, spotlighted in well-publicized roundtables.

Gender and competition. In Liberia, strikingly little attention has been paid to the linkages between gender equality and women’s economic empowerment and how to improve market access for women and the disadvantaged. For example, the appalling condition of Liberia’s market halls is well-documented, as are its negative effects on the women who work there. But less attention is paid to the dysfunction of the LMA, and why for years the money LMA has collected from market women somehow never got turned into working toilets or fixed roofs. And almost no attention is paid to creating non-LMA markets that could open alternate opportunities for farm women to sell to their wares, and provide a place where alleged collusion among (mostly female) intermediaries might not squeeze margins so tightly.

Given the weakness of the agricultural production sector in Liberia—other than concessions—unfair trade practices that limit farmer income should be scrutinized carefully and if possible, swept aside.

In sum, for all the effort spent studying Liberia’s problems, it was surprising how little attention has been paid to how unfair and distorted markets might be holding back Liberia’s development.

Competition and poverty. Liberia's lack of a rural middle class of prosperous peasant farmers has complex roots. It is possible that restrictive trade practices within more organized parts of various value chains systemically decrease farmer market access and depress the prices they receive. Simply put, market structures are designed to let entrenched forces take more of a small pie. Many fervently hope that as infrastructure gradually improves, small farmers will find more opportunities to grow the pie – or make their own.

Logic also dictates that the top-down distributional effects of unfair trade practices would hit hardest at the bottom of the value chain – women and children.

In conclusion, the available evidence suggests that Liberia's economy is shackled by anti-competitive structures. If so, uncharacteristically concerted political will is needed to make the affluent elite step back to let the pie grow, for more to share. Again, further careful market research is merited and if restrictive practices are found, public discussion of the results could have a positive effect on reform.

RECOMMENDATION 1: Review market impact of subsidy programs. Conduct detailed M4P study of who makes what in key value chains. Review and reform restrictive licensing practices.

Why is reform needed?	The market impact review of subsidy programs is needed to better understand how to wean Liberia off of donor-funded agricultural subsidies. The M4P and restrictive licensing reform is needed to identify and then remove anti-competitive choke points in the economy.
Impact of problem	At present, the system provides incentives to produce at the lower end of value chain, and continuously increases concentration of wealth in a few hands.
Benefits of reform	Smallholder farmers would benefit from increased access to agricultural inputs and markets and competitive pricing for their output.
Constraints to reform	Donors and NGOs may not wish to consider the distortive aspects of their subsidies or be willing to consider alternatives. Selected farmers and others receiving subsidies will find reform threatening. Beneficiaries of restrictive licensing should be expected to defend their position vigorously, and have the money and political backing to do so effectively.
Fit with other donors	Unknown.
Best Practices	Standard practices suggested.
Cost of reform	Low cost, but high political will required to overcome licensee resistance.
Action Steps	<ol style="list-style-type: none"> 1. Review donor-funded programs that provide free or subsidized agricultural inputs. 2. Conduct a detailed M4P value chain market study of key selected value chains, determining the income of each actor, if possible in line with comparators. 3. Research market structures around suspected choke points for quantifiable negative impacts of restrictive licensing. 4. Review and reform restrictive licensing practices, perhaps incorporating some of the transparency lessons learned in the Liberia Extractive Industries Transparency Initiative (LEITI).¹¹⁹
Time Frame for reform	Medium.
Feasibility	High for study, medium for reform. Again, political will is the key.



EMPLOYING WORKERS

A nation's education system has a direct impact on its workforce and thus its economy. By all accounts, Liberia's system is in a dismal state, and is among the most visible and vital impediments to Liberia's economic growth in general and the agriculture sector in particular.

In August 2013, Liberia made international news when all 25,000 students who took the exam for admission to University of Liberia failed. The English-language exam, which cost students US\$25 to take, was administered under the supervision of an outside consultant to avoid the usual allegations of impropriety or bribe-taking. And the exam had not changed substantively from the previous year. For the first time, however, the exam was graded without a curve, and no student met the passage requirements of 60% for math and 70% for English. President Ellen Sirleaf Johnson then stepped in and required the University to admit 1,600 new students—but simultaneously declared Liberia's education system "a mess."¹²⁰

Liberia is not developing college-qualified students because its primary and secondary schools have scant resources and are weakly attended.

Liberia's education gap has dire consequences for its workforce. Demand for skilled labor in Liberia is high. The agriculture sector needs competent people to support production, but also needs them as processors, transporters, traders, and professionals. But the vast majority of agricultural workers and tradespeople lack even basic skills required to add value to a formal employer or build their own enterprises.

As previously noted, the civil war is to blame. A generation of Liberia's citizens missed out on basic education between 1990 and 2005, and those citizens would otherwise be approaching

their peak years of productivity. Instead, Liberia is saddled with grave shortfalls in entrepreneurship, business development, and even personal work habits.

LIBERIA'S WORKFORCE PROFILE

Population (July 2013 est.)	3.9 million
Male labor force participation rate (% of men in labor force, 2010)	64.4%
Female labor force participation rate (% of women in labor force, 2010)	57.8%
Employment in the agriculture sector (% of employed, 2010)	48.9%
Employment in the industrial sector (% of employed, 2010)	9.2%
Literacy (Male) (2010)	64.8%
Literacy (Female) (2010)	56.8%
Adults living with HIV/AIDS (2012)	.9%

With respect to Liberia's legal regime for labor and employment, the issue of primary concern as of early 2014 was the status of "Decent Work" Law, which is described in greater detail below. This proposed law, which has been languishing in national legislature since 2010, provides for a minimum wage, but otherwise its content and impact is fraught with opacity and misinformation. Although certain constituencies in the country strongly advocate the law, and have a significant stake in its enactment, the overall weakness of the Ministry of Labor, which would be charged with implementing and administering the law, may doom it to fail in the field; after all, the Ministry is hardly able to enforce its various other responsibilities. Yet another failure would reinforce the Liberian

¹¹⁹ LEITI issued its fifth annual report on June 30, 2014. The report shows, for example, that from July 1, 2011 to June 30, 2012, nine GOL agencies received US\$110 million from the oil, mining, forestry, and agriculture sectors. <http://www.leiti.org.lr>.

¹²⁰ See Voice of America, "Admissions Standards Toughen at University of Liberia" (Aug. 27, 2013); The Guardian, "All 25,000 candidates fail Liberian university entrance exam" (Aug. 27, 2013).

public's pervasive disappointment with, and lack of trust in, its government institutions. Moreover, enactment without clarifying roles and responsibilities, particularly with respect to how minimum wages would be determined, would be a disservice to the economy.

In the meantime, from the perspective of most workers, wages in the country are far too low to provide even basic support to families. From the perspective of employers, particularly those running SMEs, the cost of labor is high, due to low productivity, poor reliability, high turnover, and extensive necessary investments in training. In fact, the vast majority of workers in Liberia are not even paid wages: as of 2010, only 18.1% of Liberia's workforce had wage-paying employment. The remainder worked informally or in "own account" pursuits.¹²¹

LEGAL FRAMEWORK

KEY LAWS AND POLICIES

- Constitution, Republic of Liberia (1986)
- Employment Policy (2009)
- Labor Practices Law (1956, as amended)
- Draft/Pending "Decent Work Bill"
- National Social Security & Welfare Law
- Education Law (1973)
- Free and Compulsory Education Law (2002)
- National Youth Policy

The Liberian Constitution. Liberia's Constitution of 1986 replaced the Constitution of 1847. It was developed following the violent removal of the country's President in 1980, after years of political domination by the empowered descendants of African Americans.

The Constitution strongly emphasizes equality of peoples and opportunities. With respect to education, Article 6 provides for "equal access to educational opportunities and facilities for all citizens to the extent of available resources. Emphasis shall be placed on the mass education of the Liberian people and

the elimination of illiteracy." Regarding employment, Article 8 of the Constitution provides for equality of "all citizens, without discrimination" with respect to "opportunities for employment and livelihood under just and humane conditions, and towards promoting safety, health and welfare facilities in employment." Article 18 states that all Liberian citizens "shall have equal opportunity for work and employment regardless of sex, creed, religion, ethnic background, place of origin or political affiliation, and all shall be entitled to equal pay for equal work."

Employment policy. A National Employment Policy, developed by the Ministry of Labor, has been in place since 2009. The policy is strongly oriented toward generating jobs through entrepreneurship and small business development, both inside and outside the agriculture sector. First, the policy underscores the importance of developing human capacity across Liberia's citizenry, including school-aged children and the huge segment of the population that grew up during the war years—to whom the policy aims to give a "second chance." Specific strategies for developing access to education and educational standards include (1) improving curricula at all levels; (2) improving access to quality schools, which also involves recruiting qualified teachers; and (3) improving access to quality vocational training.

Then, the policy divides its objectives between employment in the agriculture sector and employment in non-agricultural pursuits. Concerning agriculture, the policy prioritizes "revitalization of the agriculture sector" and identifies the following five strategies:

1. Improving governance within the agriculture sector, including through an improved legal framework, particularly with respect to land.
2. Promoting food security through more secure methods of staple food production.
3. Strengthening agricultural value chains, including better market linkages.
4. Improving access to credit.
5. Creating more opportunities for off-farm employment, including agro-processing and other non-farm economic activities.

¹²¹ UNDP Statistics, Liberia.

In the area of non-agricultural employment, the policy underscores the importance of entrepreneurship and SME development as a critical source of work. The policy identifies the following eight strategies:

1. Streamlining regulatory burdens, along with creating “computerized business agency” (likely a reference to the Liberia Business Registry (LBR), which was subsequently put in place) and a one-stop shop for clearing customs and ports.
2. Reducing administrative costs, including reasonable taxes and levies that are “clear and transparently displayed at public offices.”
3. Expanding SMEs, including through better links to municipal services and secure property rights.
4. Endorsing an SME strategy (which, as discussed at this report’s chapter on Starting a Business, took place in 2011).
5. Making entrepreneurship a career option, especially for young people.
6. Supporting female entrepreneurs.
7. Expanding social security for informal workers.
8. Social inclusion of disadvantaged youth.

A review of the 2009 National Employment Policy is 2009 policy, which as introduced before the Ministry of Agriculture’s LASIP¹²² policy on agriculture (2010) and the Ministry of Commerce and Industry’s MSME policy (2011), indicates that three main areas of concern—employment, agriculture, and MSME development – are generally considered interconnected. An AgCLIR team visit to the Ministry of Labor confirmed that the agencies indeed work together to promote their respective policies’ areas of mutual interest. One area of collaboration is in promoting entrepreneurial opportunity among outgrowers (contract farmers) living inside the boundaries of industrial plantations. One such program has been established near the Sime Darby Oil Palm plantation (secured by a 63-year concession agreement between the

company and the Liberian government ¹²³). Together, the ministries aim to “demonstrate that outgrowers can excel in certain crops,” which are then sold for a fair price to the company, according to a Ministry of Labor representative, as well as to help rejuvenate agriculture in areas overwhelmed by years of war.

The Employment Policy also sets forth an overall leadership role for the Ministry of Labor, including guidelines for establishing and implementing an “emergency employment program.” That program was short-lived, however, likely due to lack of funding. The government reportedly created a total of 60,000 jobs in 2008–2009, but just 2,500 in 2010, and none, apparently, thereafter.¹²⁴ The policy also led to the creation of a National Bureau of Employment, but the work of that office appears negligible: just 264 people were registered to receive placement assistance as of October 2013.¹²⁵

Labor Law. Liberia’s primary law governing relations between employers and employees is the Labor Practices Law, Title 18 and 18A of the Liberian Code of Laws of 1956. Amended on a few occasions over the years, most recently 2007, the law covers basic conditions of employment, including hiring, firing, wages, and hours (including overtime, holidays, and leave); benefits, taxes and social security provisions; discipline and grievance procedures; and issues of collective bargaining. The law forbids child labor and limits work of children under 16 to narrow circumstances as defined by the Ministry of Labor. The law mandates a preference for Liberian employees, with foreigners permitted to be hired only if a qualified Liberian citizen cannot be found.¹²⁶ Amendments to the Labor Law in 2007 generally resulted in worker-friendly changes to requirements for dismissal and severance pay at the conclusion of a contract: Salaried employees now receive one-and-a-half months’ salary for each completed year of service, including any unpaid accrued salaries and benefits. Employees who have worked for more than 10 years for the same employer cannot be dismissed without cause.¹²⁷

Decent Work legislation. Since 2006, so-called “decent work” legislation has been under discussion in Liberia (see box). Over several years, the Ministry of Labor consulted with

¹²² The Liberia Agriculture Sector Investment Program, described in greater detail above.

¹²³ <http://www.leiti.org.lr/uploads/2/1/5/6/2/1569928/164828310-sime-darby-liberia-concession-agreement.pdf>

¹²⁴ International Organization for Migration, Country Fact Sheet – Liberia (October 2013)

¹²⁵ Id.

¹²⁶ ABA Rule of Law Initiative, Liberia Labor Law Commentary (December 1, 2007).

¹²⁷ Embassy Monrovia, Update on Labor Law Reform (May 31, 2007).

the International Labor Organization (ILO) about how to integrate principles of “decent work,” espoused by the ILO for the past several years, into the Liberian Labor Law.¹²⁸ The Ministry consulted with various stakeholders and received analytical support from the American Bar Association.

In 2010, a Decent Work Bill was submitted to the 52nd legislature. In 2011, the legislature merged the Decent Work Bill together with the Minimum Wage Law to create a new Decent Work Bill. The bill failed, “due to lack of concurrence from both houses because the minimum wage was set at different levels,”¹²⁹ according to a report of the Assistant Minister for Labor Standards within the Ministry of Labor. In 2012, the bill was resubmitted to the 53rd legislature, where it passed in the House but, as of February 2014, remained pending in the Senate.¹³⁰

THE DECENT WORK BILL: WHAT IS NEW?
• Protection of fundamental rights at work
• Statutory basis for the National Tripartite Council
• Minimum Wage Board
• Some labor inspection provisions
• Termination of employment provisions
• Some working conditions (leaves, etc.)
• Occupational safety and health provisions
• System for forming unions and bargaining

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Multi-Stakeholder Workshop – Monrovia
August 23, 2013**

Among legislators, the most fractious issue under Decent Work Bill is the minimum wage. According to an ILO description of the provisions, issued in 2013, the draft bill aims to establish a new Minimum Wage Board, composed of three permanent government members and “a number of employers by invitation” for a total of at least five members, including

at least one woman. The Board would be charged with reviewing wages at least every two years through a procedure that involves (a) classifying employees; (b) publishing a proposed minimum wage order; and (c) conducting hearings and finalizing the order. The Board would have the power to administer oaths and compel production of witnesses and documents.¹³¹ The key issues for the Board to consider before setting wages would include conditions prevailing for the class of employees under consideration; the cost of living of the employees in question; and “comparable wages paid by employers who voluntarily maintain reasonable standards.” Employees whose wages could not be set by the Board include (a) government employees; (b) employees in domestic and professional service; (c) employees in undertakings with fewer than four employees; (d) employees in undertakings in which only family members are employed; and (e) employees holding a managerial position or employed in a confidential capacity. The Bill also allows for lower wages for learners and apprentices; piece rates; rates for part-time workers; wage variations by locality; and lower wages for employees getting “other benefits.”¹³²

The Decent Work Bill is enthusiastically supported by the Ministry of Labor. Various labor unions have also pressed for its enactment. In fact, because the bill has languished in the National Assembly for so long, one news article has reported a sentiment among workers and their unions that “lawmakers are insensitive to their plight of appalling working conditions and surviving wages.”¹³³ On the other hand, despite having participated in stakeholder consultations leading up to the bill’s submission to the Parliament, the Liberia Chamber of Commerce (LCC), as of January 2014, is wary of the bill’s enactment and implementation. The LCC “in principle has no problem” with the idea of a Minimum Wage Board, according to representatives visited during the AgCLIR assessment. However, the LCC believes that a “floor” and a “ceiling” for wages has already been “plugged in,” which, if enacted, would set Liberian wages higher than those found in Nigeria, Ghana, and Cote d’Ivoire.

Education Law. Under the Free and Compulsory Education Law of 2002, which supplements the country’s Education Law of 1973, Liberia has a “6-3-3” formal education structure. Primary school, covering grades 1-6, has an official entry age

¹²⁸ See website of the International Law Organization, www.ilo.org.

¹²⁹ Rosetta Jackollie, Assistant Minister/Labor Standards, Ministry of Labor, Republic of Liberia, “Overview of the processes leading to the drafting of the Decent Work Bill” (PowerPoint, 2012).

¹³⁰ See US Commercial Service, *Doing Business in Liberia* (2013), at 34.

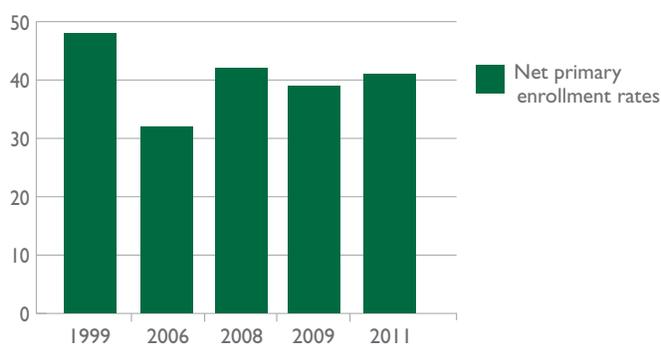
¹³¹ See Colin Fenwick, ILO Labour Law Specialist, “Minimum Wage Setting and the Decent Work Bill” (August 23, 2013).

¹³² Id.

¹³³ Front Page Africa, *Decent Work Bill: Liberia Workers Give Legislature Ultimatum* (January 24, 2014).

of six. Secondary school is divided into two cycles: lower secondary, also known as junior secondary, consists of grades 7–9, and upper secondary, or senior secondary, consists of grades 10–12. By law, primary and secondary education is free. As a practical matter, however, fees, accessibility, and other issues result in very low primary enrollment and completion rates (see box). Net rates for secondary enrollment are even more sparse and unreliable. It is interesting to note that, despite the virtual breakdown of education during Liberia’s civil war, net primary enrollment rates were lower in 2011 (the latest year for which statistics are available) than in 1999.

FIGURE 2: ENROLLMENT RATES IN PRIMARY SCHOOL, LIBERIA



National Youth Policy. Supported by United Nations Development Programme (UNDP), Liberia’s National Youth Policy calls for a “coherent approach to youth issues,” with a special focus on gender concerns. The Policy anticipates activities that promote the participation of youth in post-conflict recovery and reconstruction including education and training; employment; healthcare provision; peace and reconciliation; promoting gender equality; leadership development; adolescent reproductive health; HIV/AIDS prevention; drug abuse and crime; and protection of child labor.

IMPLEMENTING INSTITUTIONS

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Labor
 - National Tripartite Council
- Ministry of Education

Ministry of Labor. Prominently situated in Monrovia, the Ministry of Labor holds the traditional roles of that type agency, including enforcing major labor legislation through inspections, promulgating certain standards, overseeing labor actions and disputes, and promoting employment. It considers appeals and issues decisions on complaints filed by workers who have been discharged and disciplined by their employers, usually holders of concessions contracts. The Ministry has also established a National Tripartite Council, composed of worker, employer and government representatives, which advises on issues of international labor standards, preventing and mediating disputes, and preventing and reducing unemployment.

In general, the Ministry is not considered an effective agency. Although it employs labor inspectors, they reportedly have “too many responsibilities” and, as a result, produce very little. The Ministry does little to enforce the obligations of wages, hours, and worker health and safety that the current law requires. Although the Ministry installs labor commissioners in each county who are charged with coordinating all labor-related activities, including promoting entrepreneurship, they are not known for their influence or effectiveness. Unlike most ministries, the Ministry of Labor does not have a website (although it does have a Facebook page) and is short on most resources, including computers and other information technology resources.

Ministry of Education. Although primary and secondary education remains, in the words of the country’s President, “a mess” throughout Liberia, the Ministry of Education is engaged with at least four donor partners—the World Bank, USAID, UNICEF, and UNESCO—to improve the accessibility and quality of education in Liberia.¹³⁴ In 2012 and 2013, the Ministry (with donor support) collected and published comprehensive statistics, disaggregated by gender and county, covering school attendance, promotion, completion rates, drop-out rates, and other information. Although, like other Ministries, the impact and implementation of centrally based policies are hard to find outside the capital, this information establishes a critical baseline for targeting and measuring improvements. Whether formal monitoring and evaluation of educational progress will survive the period of donor intervention cannot be known, but the donor interventions themselves are likely to last well into the future. USAID sponsors the Ministry’s comprehensive and up-to-date website; unfortunately, the record of other agencies in maintaining their sites after the withdrawal of donors is not strong.

¹³⁴ See website of the Ministry of Education, <http://www.moe.gov.lr/index.php>.

SUPPORTING INSTITUTIONS

KEY SUPPORTING INSTITUTIONS

- Primary and secondary education
- Vocational education
- Universities
- CARI
- Labor unions
- Public extension opportunities
- Private extension opportunities
- Farmer organizations

Primary and secondary schools. Conditions for primary and secondary education in Liberia, particularly in the rural areas, are exceptionally poor, beginning with limited accessibility for all school-age children but also including the low quality of school buildings and classroom materials, poor teacher compensation, and vague or under-enforced curriculum standards. Although public primary schools are free, classes are typically over-crowded, with no resources other than a blackboard. There are numerous fees associated with secondary education, and students will often skip entire semesters or years to earn the money to afford the school fees. One teacher of older secondary students—several in their mid-20s, including some parents of young children—observed that one motivating factor for older students is the requirement that, in order to be eligible for a “diversity visa” to United States, a Liberian applicant must hold a high school diploma. Pregnancy among high school girls is common, and most pregnant girls are pressured to leave school until after they have had their babies.

The country’s large, foreign-owned agribusiness concessions, including Firestone and the Liberian Agricultural Company (rubber), and Sime Darby (palm oil), are required by contract to provide primary and secondary schooling for the children of their workers. Increasingly, these schools are considered better resourced and more desirable than regular Liberian schools.

Technical and Vocational Training (TVET). With significant assistance of the donor community, including the United States, China, and others, TVET education is becoming more widely available and relevant to the demands of Liberia’s economy. For example, with support of Louisiana State University, USAID’s Food and Enterprise Development (FED) Program devotes substantial resources to workforce development, which includes supporting TVET institutions. As of 2014, FED primarily focused on five institutions: the Booker T. Washington Institute (BWI) in Kakata, and vocational training centers in Grand Bassa, Nimba, Lofa and Bong Counties.

BWI is by far the strongest and best-resourced of these centers, and holds great potential for producing future national leaders. Admission to BWI is competitive, and many of the country’s current leaders are graduates. An active BWI alumni association has members all over the world. BWI has made a remarkable recovery from its closure during the civil war, and integrates support from donors into its facilities and curriculum, which includes business training and biofuels development. BWI aims to place its older students in internships, but has found difficulty doing so, including among some concession holders. (For example, the Liberian Agricultural Corporation routinely hosts students, while Firestone does not.) Moreover, as of January 2014, the students and faculty of BWI are suffering from the termination of internet services, which were provided by FED for one year but the subscription was not renewed.

Girls are not generally well-represented in BWI and in TVET populations. Applications to BWI from boys far outnumber those from girls, and affirmative action is applied to encourage the best of the girl applicants to attend.

Universities. The University of Liberia was established in 1862 as Liberia College and became a university in 1951. Despite an attractive new campus underwritten by the Chinese government, the university currently appears to be in a state of disarray. During the AgCLIR assessment visit in January 2014, its faculty was still out on a strike that had closed the university in late 2013.

The leadership of the College of Agriculture & Forestry appears to be competent and is focused on reviving the curriculum to make it relevant and responsive to the situation in Liberia. The College aims to generate enthusiasm among their students for starting new agribusinesses, including through offering a minor in entrepreneurship to students majoring in

traditional agricultural disciplines. However, the College appears to have too many students for too few professors, and many students are ill-prepared for a college education.

Cuttington University, a private university based in Bong County, has a large agricultural program which benefits from its proximity to CARI. It also has a burgeoning center for entrepreneurship. There is no intersection, however, between the technical emphasis on agricultural production stressed by the University and issues of entrepreneurship and sustaining agricultural enterprises.

Liberia lacks a veterinary school. Although there are opportunities for students to study this field overseas, or to obtain very limited “vet tech” training, a current deficit of knowledge and expertise contributes to the low level of livestock maintenance and trade in Liberia.

Central Agricultural Research Institute (CARI).

Although CARI is an important arm of the Ministry of Agriculture (MOA), and reports to the MOA’s Deputy Director for Technical Services, its location in Bong County, at least three hours from the capital, means that it is directly situated in Liberia’s major region for agricultural production. Thus, CARI has the potential to serve as an important link between producers and other agricultural enterprises.

CARI has started to build that link. Since 2009, the government has funded the education of agricultural scientists (fewer than 10 to date) in neighboring countries such as Ghana and Nigeria. As these scientists have returned to CARI, they have begun working with local farmers on improving production techniques, especially in rice, cassava, and, increasingly, cocoa. They also train “community-based technicians” on various stages of production, from soil preparation to farm sanitation to harvest. Local communities value the work of these scientists.

As noted, cocoa is gaining prominence in Liberia’s agriculture. CARI supports cocoa nurseries and tree rehabilitation and trains members of smallholder cocoa organizations, all in concert the local USDA-sponsored Livelihood Improvement for Farming Enterprises (LIFE) and LIFE II projects. CARI’s recent research included testing 36 cocoa varieties from Ghana and other West African countries, and finding that 28 of those varieties are compatible with conditions in Liberia.

According to CARI representatives, gender representation at the institute’s activities generally reflects divisions of labor found on most family farms. Men are better represented in “cash crop” or “multi-year” crop activities (cocoa and vegetables in particular), while women dominate “food crop” (mainly rice) activities. However, even for food crops, men tend to be present at the early stages of production, such as soil preparation or seed grafting, while women tend to take charge of the later stages. “You cannot send a lady to dig the soil,” on CARI representative explained during this assessment. “She will not do it.” A significant number of women were observed picking cocoa.

CARI also supports the training of Liberian university students studying agriculture. In addition to allowing its own staff to teach at neighboring Cuttington University, CARI allows some Cuttington upper-class students to conduct their practical studies at CARI.

Public agricultural extension services. Within its office of Regional Development, Research, and Extension, the MOA aims to improve the livelihoods of smallholder farmers.

Extension services are considered an important tool of the Ministry, but MOA has had problems delivering them. The MOA complains of insufficient staff (133 people in 52 offices) and difficulty with logistics, including the inaccessibility of farmers because of poor roads and lack of vehicles and fuel. The Ministry gets assistance from the USAID-sponsored FED Program, which has prepared training materials and translated them into local languages. The Ministry specifically desires to provide “demand-driven” extension services that are “more participatory” than passive. Given the conditions necessary for farmers to make the most of improved seed, the extension officers could offer vital help to farmers, if they could only reach them. However, “Farmers expect inputs free of charge,” according to a Ministry representative. “We want to encourage a new vision of business.” This new vision is beginning to take shape through demonstration plots for rice and cassava in eight counties, with the support of donors.

The Ministry also strongly calls for more storage facilities, to diminish the extensive post-harvest loss among farmers. MOA also is concerned over the lack of means for “value-addition” to Liberian-produced food.

The Ministry also supports, in theory, the creation of farmers’ organizations and cooperatives, but farmers do not seem particularly interested in participating.

Private provision of training and extension services.

To a limited but increasing degree, private companies provide assistance directly to farmers. For example, the Sime Darby palm oil concession has formed the Liberia Intensive Group Training Center, which trains university graduates from agriculture disciplines in plantation operations and management. The company promises trainees employment after successful completion of training.¹³⁵ Weinceo, which appears to be the sole importer of chemical fertilizer and pesticides for use by non-concession farms, also provides training to farmers who purchase its products.

Labor unions. There are labor unions in Liberia, but since 1980 they have not been considered particularly influential, especially in the agriculture arena. Labor demonstrations are periodically staged in Monrovia and unions have particularly expressed support for the Decent Wage Bill. USAID helps fund the Solidarity Center in Liberia, which is a labor union support project.

SOCIAL DYNAMICS

Employment and formality. In Liberia, as in most developing economies, the notion of “employing workers” has only limited connection to the formal employment of workers. That is, a worker who is formally employed is generally engaged by a registered company, by written or verbal contract and in compliance with terms and conditions found in a country’s body of labor and employment laws. These laws typically concern wages, hours, occupational safety and health, equal opportunity, social security, the right to organize, and collective bargaining.

In Liberia, 68% of the workforce is estimated to work in the informal sector,¹³⁶ and the percentage in agriculture is believed to be even higher. Though a relative handful of workers hold formal jobs on large plantations, most workers toil as “peasant farmers” on small plots held by their families or as casual traders, striving to transport and sell their goods in nearby markets. They do not receive a regular wage or other benefits of formal employment. Even the more prosperous farmers—those engaged in more sophisticated transactions involving cash crops or livestock—are rarely “formally” employed or contracted.

Liberian women are likely to suffer disproportionately with respect to the conditions of informal agricultural work. Those conditions—including issues of farm health and safety and the use of pesticides—tend to be ignored by government authorities. Poor regulation of food quality may also disproportionately impact women and children, who are culturally accustomed to ceding better quality food to the men.

¹³⁵ The New Dawn, “Sime Darby Plantation prepares for harvest” (Feb. 2, 2014).

¹³⁶ LISGIS Liberia Labor Force Survey http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/presentation/wcms_156366.pdf.

RECOMMENDATION 1: Continue to strengthen vocational education opportunities in the agriculture sector, including through student placement in private companies for learning purposes.

Why is reform needed?	Farm practices in Liberia remain primitive and underdeveloped, and there is little expertise throughout the country about how to transform basic production into thriving business.
Impact of problem	As emphasized throughout this report, Liberia lacks an “ecosystem” to support agricultural enterprise. Missing from the sector is a range of goods and services that producers, processors, and traders need including accessible, reliable suppliers of seed, plantings, fertilizer, and crop-protection products; live young animals, animal feed and medicines, supplies for raising livestock, veterinary services, safe and clean slaughterhouses; dry storage and packaging supplies; cold storage and cold transport; seed cleaners and grain mills; coffee cleaning and cocoa fermentation stations; and warehouses, butchers and bakeries.
Benefits of reform	Exposure to actual business not only instills awareness about the practical aspects of doing business in the private sector, but also imparts real-world “how to” knowledge that can have almost immediate impact in the fields.
Constraints to reform	To date, schools trying to place students in internship programs have had a hard time finding places for everyone who would benefit from the exposure.
Fit with other donors	Private companies are the best fit for learning about the practical aspects of business and entrepreneurship. But absent enough private sector opportunities, donor projects should also integrate internships.
Best Practices	Unknown.
Cost of reform	Depends on scope of initiative.
Action Steps	<ol style="list-style-type: none"> 1. Approach Liberia Chamber of Commerce (LCC) about identifying tangible internship opportunities and obtain their commitment. 2. Identify opportunities and constraints among universities and students with respect to participating in internship programs, including financial issues. 3. Create incentives (including through taxes) for business to participate in internship programs. 4. Integrate best practices from successful student experiences.
Time Frame for reform	Program would take 6 months to launch. It would not be intended to be donor-facilitated in the long term.
Feasibility	While complete integration into the entire educational system would be difficult, intermediate steps towards reform and pilot projects are highly feasible.

RECOMMENDATION 2: Track and analyze Liberia’s experience in developing farmers’ organizations as a means of empowering workers.

Why is reform needed?	The consensus is that farmers would benefit from working together to achieve efficiencies in production and marketing and to improve product quality. But despite a great deal of work with farmer groups, little is known about “what works and what doesn’t work.” There is also a need to understand gender differences among farmers’ organizations.
Impact of problem	Small-scale farmers, who resist opportunities to coordinate efforts, diminish their own potential and livelihood. That said, across sub-Saharan Africa, the donor experience in developing farmers’ organizations has been mixed. Although there is a wealth of lessons learned in this topic, those lessons may not be shared as effectively as they might.
Benefits of reform	There is an opportunity to create linkages between better-organized farmer associations and Liberia’s agriculture-oriented vocational schools and university faculties, developing partnerships in marketing and business development services.
Constraints to reform	<ul style="list-style-type: none"> • The culture of mistrust in Liberia. • Limited networks among farmers.
Fit with other donors	Donors should work together to analyze all donor and government support directed over the past five years to farmers organizations, with an eye toward lessons learned and pitfalls to be avoided. Donors should also identify those interventions that were started and then abandoned (such as websites or technical assistance initiatives) and determine whether they should be revisited or re-launched.
Best Practices	Cooperatives in Rwanda.
Cost of reform	Unknown; depends on scope
Action Steps	<ol style="list-style-type: none"> 1. Across 3–5 regions, track the work, productivity and progress of farmer organizations. 2. Determine what works well and share the information. 3. Where farmers organizations fail to thrive, identify the reasons why. Share the information.
Time Frame for reform	2 – 4 years
Feasibility	High

RECOMMENDATION 3: Encourage every opportunity to build literacy among Liberian adults.

Why is reform needed?	Because the civil war interrupted education in Liberia, there is a major gap—virtually an entire generation—of literate and capable adults.
Impact of problem	Within the age range of 15 – 49, 60% of women and 30% of men are illiterate.,,
Benefits of reform	Until Liberia reaches 90% literacy, it will be unable to compete economically in the region as a country capable of producing value-added goods and services.
Constraints to reform	Infrastructure and time deficits, particularly among of women.
Fit with other donors	All donors should be encouraged to incorporate literacy opportunities into their offerings.
Best Practices	CARE International Wheel program in Bangladesh.
Cost of reform	Literacy training could be inexpensive add-ons to existing programs.
Action Steps	<ol style="list-style-type: none">1. Identify places where illiterate people congregate and times of the day that they are available.2. Create a corps of literacy volunteers, including from among secondary and university students.3. Track progress, identify what works, and do more of it.
Time Frame for reform	Long-term
Feasibility	High



ACCESSING MARKETING INFRASTRUCTURE

Although Accessing Market Infrastructure is not a separate category in the World Bank Doing Business rankings, it is included in an AgCLIR as a critical element of understanding agribusiness and the ability of smallholder farmers to make profits from their farms. For the sake of brevity and focus, this analysis centers on marketing infrastructure, and excludes productivity-enhancing public infrastructure such as electricity and water systems. This chapter looks at both “hard” and “soft” marketing infrastructure—specifically, the physical and information systems necessary to make strategic decisions and effectively trade agricultural products. This chapter also looks at the laws, institutions, and dynamics that have led to the current state of Liberia’s marketing infrastructure, and those that promise to move it forward.

While gathering information for this report via interviews and surveys, hard infrastructure repeatedly came up as a potential binding constraint to improving Liberia’s agriculture industry. The most glaring example is the road network—a lack of adequate primary and farm-to-market roads prevent farmers from getting goods to markets both nearby and at the larger wholesale and retail markets in Monrovia. In fact, less than 10% of Liberia’s road network is paved; the majority of primary (county capital to county capital) roads are unpaved. The network of farm-to-market roads is insufficient and roads degrade quickly during the heavy rainy seasons.

Infrastructure problems undoubtedly plague the development of agribusiness and robust domestic in Liberia, but to many interviewees, production problems are equally to blame. This is not surprising in Liberia’s post-war context, since production of most crops is likely below pre-war levels (though a lack of reliable national data makes it difficult to confirm statistics). However, many cited a “chicken and egg” scenario. For example, there is little trucking for agricultural goods not only because of the poor state of transport infrastructure, but also because there isn’t enough surplus crop production to encourage trucking firms to pursue business from producers. Cargo firms trucking imported goods from the port in Monrovia to the hinterlands cannot find goods to transport

back to Monrovia, and return empty. Along the same lines, there is little on-farm and post-harvest storage, because there is little surplus to store. Because farmers have few market options, transparent price information systems have not developed—farmers are beholden to whatever market or buyer can access their farm.

This chapter will focus primarily on the three market access issues most consistently raised by stakeholders—feeder roads, storage and market facilities, and price information.

LEGAL FRAMEWORK

Whether a country’s agricultural markets flourish or flounder may depend on a legal framework that clearly outlines the responsibilities and processes for government investment in infrastructure. Law and supporting regulations should endow specific government agencies with specific functions related to planning and executing public works, such as paving main transport corridors, grading rural feeder roads, and maintaining publicly owned storage facilities. Laws should also delineate the conditions for stewardship of public goods, from physical structures to information, and establish rules governing the use of these goods. Laws that pertain to private investment in

infrastructure are also key, from regulations and licensing to the structure of tax incentives. (See box for a list of key laws and policies.)

Overall, not much attention has been paid in Liberia to the legal environment for market access. This is likely because most infrastructure costs money that GOL has not yet been willing or able to spend, and creating a legal structure for access to markets that barely exist in practice is not a priority. Agencies have theoretical responsibility over the areas mentioned in this section, but do not conduct many concrete activities.

FEEDER ROADS

The legal responsibility for road construction and maintenance is shared among several agencies, the most prominent being the Ministry of Public Works, which has responsibility for setting road construction and maintenance standards as the technical and engineering arm of the GOL via its Department of Rural Development, discussed in the following section. The Ministry of Transport is responsible for policing roads. Finally, according to the National Decentralization and Local Governance Policy (NLDG), each county government is responsible for prioritizing feeder road construction.

STORAGE AND MARKETS

The legal responsibility for storage facilities and access to markets is currently unclear. Interviews conducted for this report suggest that prior to the war, the Liberia Produce Marketing Corporation (LPMC), discussed below, had at least informal authority over all storage facilities in the country. During the war, storage facilities were destroyed and have not been rebuilt, and given the weakness of the LPMC, no authority, including the Ministry of Agriculture, is working on issues like standards for storage. Nor is there much if any private sector activity in crop storage given the low levels of production. Significantly, the AgCLIR team was unable to locate the precise enabling statutory language or regulations of each of these institutions (though there is no reason to doubt that hard copies are in the possession of their directors). However, there are clear agencies involved in storage and markets for both domestic and export markets.

Domestic marketing authority. The Liberia Marketing Association (LMA) was created in 1963 and formalized by legislation in 1979.¹³⁷ The LMA is a semi-autonomous agency that historically has exercised primary authority over the establishment, construction, and operation of local markets in

¹³⁷ Liberia Agricultural Sector Investment Program (LASIP) Report, September, 2010, p. 11 (“LASIP Report”).

KEY LAWS AND POLICIES

- National Transport Policy and Strategy (NTPS)
- National Transport Masterplan
- National Decentralization and Local Governance Policies
- County Development Agendas
- Agriculture Law
- Liberia Agriculture Sector Investment Program (LASIP)
- Ministry of Agriculture (MOA) Sector Strategies
- Back-to-County Initiative
- Liberia Produce Marketing Corporation Act

Liberia. According to a detailed study from 2007, jointly sponsored by UN agencies and the Ministry of Commerce and Industry, the LMA is “the apex organization of markets; there are no other competing controlling organizations.”¹³⁸ The LMA’s enabling legislation reportedly provides that “no person or persons shall establish, build, operate, and administer any local market or markets within the counties, territories, and statutory districts [of] the Republic of Liberia, who is not a member or members of [the LMA].”¹³⁹ In 2006, the LMA reportedly revised its own by-laws to state that “anyone found doing petty trading anywhere within the Republic of Liberia shall be made to become a member of the Liberia Market Association....”¹⁴⁰

International marketing authority. Since 1961, the Liberia Produce Marketing Corporation (LPMC) has reportedly held the authority to market specific Liberian produce (including cocoa, coffee, palm kernel and palm products, and plassava palm products) and to serve as the sole buyer (and/or licensor of buyers) of cocoa and coffee. During the LPMC’s “boom years” (1962–90),¹⁴¹ the LPMC not only served as the mandatory buyer of cocoa and coffee products, it also operated estates engaged in the first-level refining of these products, such as cleaning, fermenting, drying, and bagging, as well as rice milling. Over years of conflict, however, the LPMC lost control

¹³⁸ Subah-Bella Associates, Liberia Markets and Markets Survey (2007) at 3.

¹³⁹ Id.

¹⁴⁰ Id.

¹⁴¹ See World Investment News, “Liberia Produce Marketing Corporation” (2009).

over its properties and its ability to participate in agricultural markets in any meaningful way. Still, according to the draft National Cocoa Policy, the LPMC continues to issue “district-specific” licenses to companies that purchase cocoa from farmers, called “Licensed Buying Agents” (LBAs), who are reportedly financed by downstream buying agents (located in Monrovia or Guinea) and obtain their license for a \$3,000 fee.¹⁴² The draft Cocoa Policy does not contain any other requirements for obtaining an LBA a license. The Policy states:

LBA often solicit the assistance of middlemen to secure cocoa supplies. Local independent agents are typically non-licensed and prevalent in the more remote areas of the Liberian cocoa belt and serve otherwise missing markets. They may serve as sub-agents of LBAs. Both LBAs and independent agents are inclined to pay cash for cocoa purchases.

In addition to paying the LPMC for permission to purchase cocoa and coffee from farmers, traders of Liberian cocoa and coffee must also pay the LPMC \$10,000 for the right to export cocoa.¹⁴³ According to the 2010 LASIP report, several private firms hold export licenses, as does a subsidiary of the National Social Security and Welfare Corporation.¹⁴⁴

The LPMC operates a storage facility at the port of Monrovia and collects commissions based on the value of exports.¹⁴⁵ Its role in the inspection, grading, and quality control of Liberian cocoa is nominal. In fact, Liberian cocoa is considered of very poor quality compared to the product of its cocoa-producing neighbors, Cote d'Ivoire and Ghana.

PRICE INFORMATION

The LPMC has the legal mandate to set prices for export crops, but practically speaking only does so for cocoa. Prices for cocoa are set quarterly by taking into account world market prices, cost of production, and the LPMC determination of the margins buyers and sellers should each make.

MOA also takes some responsibility for disseminating price information to farmers, which is done primarily through the Cooperative Development Agency (CDA) and the LPMC, though the AgCLIR team was unable to confirm if this is mandated by law. The team visited the CDA headquarters, located in Monrovia and unlikely to be visited by farmers, and a flyer

with cocoa prices was posted on the door; however, the prices were from the previous quarter. This observation, coupled with team interviews, suggest that farmers are often unaware of official prices when they are set, and rely on informal networks or conversations directly with buyers. There are no mobile phone dissemination systems.

IMPLEMENTING INSTITUTIONS

FEEDER ROADS

The Ministry of Public Works in Monrovia has a Department of Rural Development, consisting mainly of engineers setting standards for road construction and maintenance in the country and procuring road construction services. This unit, as is true for the Ministry of Public Works and government as a whole, is underfunded and struggles to receive even the funding allocated in the national budget. For example, over the past three years, the unit's stated budget was nearly \$5 million, and less than \$1 million was actually funded.

Given that the overall state of Liberia's road infrastructure is very poor, feeder roads are not prioritized. The President has identified five main priorities for her second term, and road infrastructure is one of them—however, that priority concentrates solely on primary roads. The delivery unit within the Office of the President is tasked with overseeing that the priorities are carried out by the proper government agencies, and a staff member is specifically assigned to road infrastructure. The delivery unit and the Ministry of Public Works (MPW) have agreed that the priority for the next four years is to work on five primary roads connecting Monrovia to major county capital cities. This effort is funded through a combination of government budget and donor support, but depends heavily on the latter.

Operating in such a resource-constrained environment, MPW does little more than set standards and conduct feasibility studies for road construction at the national level. Given the local nature of feeder roads, and as a result of the national decentralization policy (the NLDG), the responsibility for identifying, constructing, and maintaining feeder roads falls to the County Development Agencies in each of the fifteen counties. Each county maintains a needs list in its development plan, which explicitly includes feeder roads identified for construction or upgrading, including road length and estimated budget to construct. That list ranks the roads, and prioritizes them, according to potential positive impact on lives and incomes of rural populations, as determined by the county. Since MPW underfunded, it is no surprise that county budgets are also

¹⁴² Ministry of Agriculture, Draft Cocoa Policy (2009) at 8.

¹⁴³ Id. at 9.

¹⁴⁴ LASIP Report (2010), supra note lasip report 2010, at 12.

¹⁴⁵ See European Union, Republic of Liberia Market Review (2007) at 18.

underfunded—and feeder road construction is left entirely up to donors. In theory, when a donor agency expresses interest in feeder road construction, the County Development Agendas should serve as a platform for dialogue and setting priorities, and a concrete tool for harmonizing Liberia's needs with a donor's project goals.

MPW has established a Feeder Roads Implementation Unit which mainly serves as an aid coordination forum “which it is hoped will be able to strategically pool together all public, private and donor resources relating to this sector under one structurally defined authority as [a] way of achieving maximum result, better coordination, greater accountability and proper documenting.”¹⁴⁶ This unit has eight engineers at its disposal, and they seem to spend the bulk of their time working on the feeder road project financed by the Swedish International Development Cooperation Agency (SIDA), described in greater detail under the Supporting Institutions section of this chapter.

It must be noted that many stakeholders expressed frustration with the GOL's capacity to oversee a road procurement process. Corruption was often cited as costing over 30% of the value of road contracts. Although this is just an estimate and likely uninformed, the mistrust of government runs deep and the perception persists.

The Ministry of Transport in theory covers policing of roads with respect to transport loads for vehicles on Liberia's roads. Road policing is a critical issue for feeder roads in particular, given that trucks carrying heavy loads can do severe damage to feeder roads not designed to bear the weight. Interviews with donors, communities, and the MPW confirm this fact: trucks carrying timber are often overloaded and use newly constructed feeder roads, causing great damage and shortening the road's lifespan. While the Ministry of Transport was not available for interviews, other stakeholders suggested that their primary function relates to licensing drivers and very little attention is paid to policing roads in rural communities.

STORAGE AND MARKETS

The main implementing institutions for storage and markets are the LMA for domestic markets and the LPMC for export.

According to a 2007 study, requirements for membership in the LMA across all markets include:

- Payment for a table/spot at rates varying from L\$250 to L\$2,000.
- An annual registration fee of L\$100 to L\$500.
- A weekly fee of about L\$15.
- Other occasional fees or levies such as for the use of toilets, or for contribution to funerals.¹⁴⁷

In 2009, a CAADP-sponsored Review of Ongoing Agricultural Efforts stated that “The LMA has generally failed to meet its obligations despite extracting fees from traders.”¹⁴⁸ In 2011, the Liberia Anti-Corruption Commission (LACC) investigated the LMA and found a lack of documentation regarding its finances and over \$150,000 unaccounted for.¹⁴⁹

Despite these notable demerits, the President of the LMA, who has led the authority since at least 2006, remains in office as of March 2014 and is even a prominent member of the Sirleaf Market Women's Fund, a high-profile NGO that uses private funds to repair decrepit and unsafe market buildings. Nor did the LACC's allegations of financial mismanagement dissuade the Central Bank of Liberia from lending L\$23 million (about US\$295,000) to 14 LMA county branches in June 2013.¹⁵⁰ Today, the influence of the LMA varies across counties and markets, and its actual power to keep traders in and out of local markets is most likely a function of historical influences, local power dynamics, and the practical needs of local communities.

Storage facilities outside of LMA markets, particularly on the farm and at buying centers, now fall under the purview of the MOA for all practical purposes, although little is being done to invest in building new facilities or maintaining the existing ones. The 2010 LASIP covers the GOL's policy on market access and infrastructure, and in theory storage is a top priority: LASIP acknowledges that storage facilities are rare, and that a program should be undertaken to improve facilities or encourage the private sector to invest in them. However, the research and interviews with MOA conducted for this report indicate that the needle has not moved, because of the all-too-common lack of funds.

¹⁴⁷ Id.

¹⁴⁸ ECOWAS Commission and NEPAD Comprehensive Africa Agriculture Development Program (CAADP), Liberia: Review of Ongoing Agricultural Development Efforts (2009), at 6.

¹⁴⁹ LACC Annual Report (2011), pg 9.

¹⁵⁰ All Africa, “Liberia's Central Bank Gives Marketers Ld\$23 Million Loan, LMA Honors Governor Jones” (June 16, 2013).

¹⁴⁶ MPW website: www.mpwliberia.com.

It seemed to the AgCLR team that rather than just talk about storage in general terms, MOA at the very least could—and should—perhaps via donor funding, do an inventory of all existing storage facilities, their state of repair and use, the economic benefit to rehabilitating or building new facilities depending on their location and come up with a prioritized list for rebuilding. Currently, only donors are building new storage facilities, and only in conjunction with projects they are supporting.

Today, particularly outside the capital, interpretations of the authority and function of the LPMC vary widely, especially with respect to cocoa, and significantly, among cocoa growers directly assisted by donor-sponsored projects. In other words, remarkably few people engaged in the production of cocoa understand whether and how the LPMC is currently engaged, or intends to be engaged in the future, in the production or marketing of cocoa. The LPMC is generally understood among cocoa producers to hold some farm-gate “price-setting” authority, although this information is reportedly issued quarterly, with prices actually set, in any event, by local supply and demand. Indeed, prices are depressed significantly by the overall lack of market awareness on the part of farmers.¹⁵¹

In Bong County, an active community of buyers, large and small, feed into value chains headed south to Monrovia or north to Guinea (where the product may ultimately be marketed to international buyers as Guinean-grown). To a lesser degree, Liberian cocoa also travels east into Cote d’Ivoire. Government representatives tend to stand by the LPMC’s authority to oversee all cross-border trade in cocoa (one source says that there are seven licensed exporters, but just three that were active as of 2010),¹⁵² and refer to sales by unlicensed agents (particularly at land borders) as “smuggling.” A cocoa producer interviewed during this assessment referred to the same activity as “doing business.”

In fact, the authority of the LPMC is in flux. Apparently, it is not intended that LPMC will serve as the sole purchasing authority in the future; according to LPMC, an act is currently being drafted to that end. But important questions remain: Will LPMC continue to “license” traders and exporters, in return for negligible service? Will LPMC’s revenues and licensees be transparently disclosed, which is not the case today? As long as

ambiguity and opacity surrounding LPMC—and its role and authority—persist, stakeholders who stand to benefit from more robust markets in Liberian coffee and cocoa might never know whether anything in fact has changed.

PRICE INFORMATION

The prices set by LPMC are based on world market prices and are changed quarterly. The AgCLR team asked questions to better understand the details of the price-setting mechanism, but did not get satisfactory answers. As a result, it is unclear if this mechanism is designed to favor smallholders, processors, or exporters—although given LPMC’s former monopolistic role, its price-setting protocol is likely a legacy of its direct trade in exports, and not particularly farmer friendly. Regardless, setting prices quarterly is not often enough; prices should set monthly. Also, the price-setting mechanism should be transparent and published, not just the final price.

It is important to note that the prices published by LPMC are intended to serve as a “floor” price. For example, in practice, cocoa farmers receive higher prices at buying centers where multiple buyers congregate and bid up the price.

Also, the custom of posting prices on a piece of paper at buying centers (as noted, the one posted at CDA headquarters was three months out of date) is inefficient for the overall market and doesn’t fully take advantage of technology such as radio announcements (which LPMC and CDA said were made on an ad hoc basis, but lacked funds for targeted campaigns) or SMS distribution (which seems to not be done at all). If the government-set prices are relevant to the daily lives and businesses of farmers, a much more comprehensive program can be set up, with greater reach. In that regard, most Liberian farmers are not in cooperatives; CDA, by its own estimate, reaches fewer than 10,000 farmers.

SUPPORTING INSTITUTIONS

FEEDER ROADS

As noted above, the Government of Liberia relies on donor funding for most of its road construction projects. In fact, the most prominent builder of feeder roads in Liberia is a donor—the Swedish International Development Agency (SIDA), through its Liberia Swedish Feeder Roads Project (LSFRP). This project is nearing its conclusion, having operated in Liberia since 2010 and budgeted \$31 million dollars for 600 kilometers (km) of feeder road construction. This project

¹⁵¹ Id.

¹⁵² Londa Vanderwal, International consultant for the Standards and Trade Development Facility (STDF), “Assessment of the biosecurity/Sanitary and Phytosanitary (food safety, animal and plant health) situation in Liberia” (2010) at 23.

represents the largest current investment in Liberia's feeder roads. It emphasizes government capacity building and works directly with the MPW Feeder Road Unit.

The President's Office also, as already noted, supports road infrastructure from a high-level point of view. The Africa Governance Initiative has created a delivery unit within the President's Office, which focuses on her five highest-priority initiatives. Infrastructure has been highlighted as one of those priorities, and she expects concrete results by the end of her second term in 2017. The delivery unit has an infrastructure team leader who works directly with the Ministry of Public Works. However, the leader's focus is entirely on main roads; he has set a 2017 target for completing the five primary roads that are currently under construction to connect Monrovia to county capitals. There is no such target for feeder roads.

PRICE INFORMATION

The AgCLIR team did not find a single institution that currently supports market price information systems. However in the absence of a functional GOL agricultural statistics unit and the customary indifference to agricultural statistics at the Liberian Institute of Statistics and Geo-information Services (LISGIS)—although a badly needed national agricultural census had been planned for 2014—the World Food Programme (WFP) does produce monthly price information bulletins.

The WFP bulletins are likely more helpful for the donor and research community, but may provide a jumping-off point when a program for market price information is finally developed for farmers. As previously noted, the AgCLIR team is not aware of any efforts by GOL or the private to develop a mobile phone price dissemination tool, likely because excess production is low and prices are so tightly controlled by the gobachop (or “go-buy-chop”) women.

SOCIAL DYNAMICS

The “go-buy-chop” market women wield substantial power in both urban and rural markets. Their influence developed and expanded prior to and during the civil war, when transport of goods and particularly crops from the hinterlands to Monrovia was difficult. And now, these women sit atop a system under which they extract the lowest possible price from the farmer on market mornings, and strict social pressure precludes negotiation. For example, a farmer may ask US\$2.00 per kilo of crop, and the go-buy-chop insists on paying UD\$1.00 per kilo. This price has been agreed upon in advance, in collusion, by all market women, and the farmer will have no success in approaching other traders. Given the overarching low levels of

production and lack of access to markets, farmers have come to accept this as the only available system, and receive very low margins for their crops.

There is no consensus on the relative importance of cooperatives in Liberian society. In theory, the pronounced production and bulking problems that saddle Liberia's agricultural economy should make cooperatives an obvious first-step solution toward upgrading value chains and encouraging good agricultural practices. In practice, however, the Cooperative Development Agency (CDA) is quite weak, and has registered fewer than 100 cooperatives, most of which have around 100 members; this represents a tiny fraction of Liberian farmers.

Several farmer groups have criticized the CDA as a registration entity that collects nominal fees and delivers no value to members. This is a common complaint in many African countries. However, when the Farmer's Union Network was asked about the value of cooperatives for Liberians, the strong response was that the cooperative construct may not work for at all for Liberia. More specifically, the Farmers Union Network, which seems to have a much broader base and is seen by members as a more representative voice of its needs, responded that cooperatives should not be necessarily encouraged—and that most existing cooperatives were created only to satisfy a prerequisite for receiving donor support.

It bears repeating that in the aftermath of the civil war, a culture of distrust prevails in Liberia. This may help explain why the Farmer's Union Network does not consider cooperatives an obvious viable solution for Liberia's agriculture sector. Perhaps instead, farmers should be encouraged to opportunistically cooperate when it made sense for their business model, but not require anything further. On the other hand, in anecdotal conversations with farmers, it seemed that opinions about cooperatives were slightly positive—they were attracted to the potential benefits of aggregation production, reducing purchase costs, and developing greater bargaining power. Therefore, cooperatives should be considered as an option, but it putting them together, the considerations described in this section should kept firmly in mind.

RECOMMENDATION 1: Implement a targeted crop intensification program for select tree crops and regions, focusing on production and linkages to markets.

Why is reform needed?	Even though Liberia’s deplorable road infrastructure is a massive constraint, the problem is being addressed slowly— and some meaningful reform can begin without waiting on road construction. Crops with ready export markets, although more expensive than they would be with reduced transport costs, can still be focused on as a model to keep rural populations interested in agriculture as a viable livelihood.
Impact of problem	Access to markets is meaningless without products to sell. Farmers interviewed repeatedly stressed the profitability of tree crops for export over staple crops, and need support with inputs and marketing in order to restore production to pre-war levels. MOA and donor projects can support this effort.
Benefits of reform	Improving production levels of crops with existing markets will spur some development of farmer skill, farmer organization, and supporting industries such as transport. Agriculture can be proved to be profitable in rural areas, and good agricultural practices can be learned that are relevant to other crops.
Constraints to reform	Relative difficulty and high cost. Resources are already being directed to large ag programs such as FED and SHOPS.
Fit with other donors	Similar to other types of programs, but room for expansion—particularly outside the “breadbasket” counties.
Best Practices	Rwanda’s Crop Intensification Program can serve as a model for boosting yields over a short time span. Tree crops are an attractive option because (a) there is clear farmer desire for cash crops and (b) pre-war successes have instilled some legacy institutional knowledge about tree crop value chains, and systems for managing them.
Cost of reform	Variable – can be as small or as large as funds allow.
Action Steps	<ol style="list-style-type: none"> 1. Assess agronomic requirements for profitability of tree crops (cocoa, coffee, oil palm, and rubber) in selected regions. 2. Assess farmer levels of organization and willingness to receive partners. 3. Engage buyers to ensure that value chain and market systems can benefit from the approach.
Time Frame for reform	ASAP
Feasibility	Medium

RECOMMENDATION 2: Assist with LPMC’s transition to a regulatory agency and information disseminator.

Why is reform needed?	There is broad distrust of the agencies related to domestic and international market access. Although progress is needed and can be made on both fronts, it makes sense to focus on LPMC first, because its role is currently being redefined.
Impact of problem	Farmers don’t know or understand the regulatory aspects of how prices are set for export crops. As a result, buyers take advantage of the farmers.
Benefits of reform	A rational—and explained—price-setting mechanism, and improved distribution of price information, will have immediate benefits to the farmer, increasing the incentives for rural populations to pursue agriculture.
Constraints to reform	<p>Price regulation needs to be done carefully and only where there aren’t functioning markets (e.g. one buyer for a specific region). Crop Marketing Boards have a history in Africa of overreaching their mandates, so working with stakeholders to infuse (a) transparency and (b) rationalized roles and responsibilities is key to success.</p> <p>Given Liberia’s lack of infrastructure, it is rare to find multiple buyers and sellers operating from the same buying centers. Thus price-setting formulas will have to be developed very carefully, and take production costs and world markets into account, in order to ensure proper margins for all parties.</p>
Fit with other donors	Donors are working in other aspects of market access, but disseminating price information does not seem to be covered under any initiatives.
Best Practices	Rwanda and Tanzania have both recently overhauled their price-setting mechanisms to take world prices into account. These formulas have been approved by national boards and intend to set fair prices for producers, processors, and exporters.
Cost of reform	Relatively low
Action Steps	<ol style="list-style-type: none"> 1. Monitor legal status of new LPMC act. 2. If possible, suggest changes to ensure LPMC has proper role going forward. 3. Design capacity-building plan for LPMC’s new mandate.
Time Frame for reform	Beginning immediately, capacity building over several years.
Feasibility	High



PAYING TAXES

Taxes are an important source of revenue for the government of Liberia, but donor contributions exceed tax revenues by 25%. Most taxes are paid by a small percentage of the population, and the biggest single source of tax revenue is customs and other import duties.

Compliance with tax laws is spotty. As often mentioned previously, Liberians citizens mistrust their government. Many potential taxpayers simply ignore the revenue authorities. Other than payments from large agribusiness concession firms, very few taxes are paid by local agribusinesses. Publication of the connection between the payment of taxes and the provision of government services would be helpful in encouraging additional compliance with the tax laws.

The major challenge for Liberia is to expand the economy and move more of it into the formal sector, although this will be difficult given that most businesses operate with very thin margins. As this is done, however, state institutions will be able to rely on an expanding tax base to support their activities.

The government is moving to address some of the problems it faces in collecting taxes. It is in the process of establishing a semi-autonomous revenue authority. It is also working to put in place a communications system that will automatically make available various types of useful information to the revenue authorities from other government agencies. Many challenges remain, including implementing a plan to deal with what is perceived to be wide-scale corruption among revenue agents.

In considering Liberia's tax challenges, some key principles on taxation should be kept in mind. Taxes are required to provide sufficient revenue for needed government services. A good tax system should follow two main principles: fairness and efficiency. All taxpayers in similar circumstances should have similar tax burdens. Taxes that affect one group (such as farmers) more harshly than another (such as investors) are not equitable. Second, an equitable tax system is generally perceived as progressive—that is, upper-income taxpayers are required to pay a larger share of their income in taxes than lower-income taxpayers. Regressive taxes, on the other hand, require lower-income taxpayers to pay a greater percentage of their incomes than upper-income taxpayers. The classic

regressive tax is a sales tax; in the agricultural sector, harvest taxes are usually regressive, as they tend to fall on the small farmer or producer.

The World Bank's *Doing Business in 2014* report paints a favorable picture for paying taxes in Liberia. Under the Paying Taxes category, *Doing Business* ranks Liberia 42nd out of the 189 countries surveyed. In reaching that conclusion, the World Bank looked at three benchmarks: (1) the number of tax payments required per year, (2) the time to calculate and make payments to the government, and (3) the overall level of taxes (with a lower rate and a broader base being viewed favorably). Liberia's overall ranking is substantially better than the regional average of other Sub-Saharan countries, and it performs better in each of the three sub-categories than most of its regional neighbors.

Although some elements of Liberia's tax system function well, there is substantially more to the full picture on taxes in Liberia than the three factors measured by the World Bank. The major problems in Liberia are a tax system that is overly dependent on a few sources of revenue, indications of endemic corruption, and lack of a taxpaying ethic in major parts of the population.

Budget figures for the fiscal years ending June 30, 2013 (actual results) and 2014 (budgeted figures) are a good starting point for a review of the tax situation in Liberia (see table 7 on following page).

TABLE 7: BUDGET FOR FISCAL YEARS 2013, 2014

ITEM (ALL ITEMS IN 000S OF USD)	FY 6/30/13	FY 6/30/14
Total tax revenue	380,057	433,826
Donor contributions	487,657	648,767
Taxes on income & profits	154,475	173,074
Taxes on residents	122,456	135,138
Taxes on non-residents	31,149	35,780
Taxes on immovable property (property tax)	3,833	5,204
Taxes on goods and services (GST)	61,606	71,193
Taxes on international trade (Customs and other import duties)	148,663	170,241

Other taxes produce nominal amounts of revenue.

Several conclusions can be drawn from the above data. Liberia obviously depends heavily on donor contributions to run the government and likely will continue to do so well into the future. Income taxes provide less than 20% of total tax revenues. Taxes on non-residents (which evidently means large concession companies) are a significant source of revenue to the government and likely to grow as operations of these companies come fully on line. While not evident from the above table, the Goods and Services Tax (GST) falls heavily on imported goods, while in most countries this tax is a form of Value Added Tax (VAT). GST, when combined with customs duties, means that imports in Liberia are heavily taxed. This may discourage some investment opportunities that depend on imports to get started.

Revenues from the tax on property seem quite light. The reasons for this are not entirely clear. One reason may have to do with the unpopular “hut” tax that was levied during the years preceding the civil war. During that period, the central government levied the hut tax on structures in rural areas of the country. The tax was widely unpopular because the rural population saw it only as benefitting the city people in Monrovia.¹⁵³ In fact, this tax may have been a factor in the

outbreak of the civil war, and the current government may not wish to re-open this wound by fully enforcing property taxes in areas outside Monrovia.

The above analysis and data support the conclusion that in order to institute the needed reforms and grow its economy, Liberia needs to generate more tax revenue. To that end, Liberia’s government needs to create an environment that fosters commercially successful businesses and then work to bring them into the formal economy, where they can be taxed to enable the government to function properly and provide the necessary services to its citizens. In doing so, the government must ensure that the tax system now in place is fair and that the taxes are applied equally to similarly situated taxpayers.

The IMF has encouraged Liberia to adopt a VAT or another form of a comprehensive consumption tax. Generally, consumption taxes (as opposed to income taxes) are viewed as a more productive means of obtaining revenue and less of a drag on economic growth. The issue for Liberia is whether the GOL has personnel with sufficient expertise, and the other means necessary, to develop an effective VAT at this time.

¹⁵³ Stephen Ellis, *The Mask of Anarchy*, at 46-47.

LEGAL FRAMEWORK

KEY LAWS AND REGULATIONS

- Revenue Code of Liberia Act (2000, as amended)
- Act to Establish the Liberia Revenue Authority (2013)
- Customs Tariffs of the Republic of Liberia as published in 2012
- National Social Security & Welfare Law
- Public Procurement and Concessions Agreement Act of 2005, as amended
- Concession Agreements as agreed to by the GOL and enacted into law
- ECOWAS Common External Tariff
- Policy on Decentralization and Local Governance (2012)

The **Revenue Code of Liberia** contains all of the tax laws pertinent to the central government. The law was created in 2000 and amended significantly in 2009. The most important taxes imposed under this law are outlined below (also see the box).

First, the Revenue Code establishes **an income tax** that is to be imposed on individuals and on businesses of every type. The individual income tax starts at a rate of 5% on incomes of L\$70,001 (roughly US\$875¹⁵⁴) and increases in steps to a top graduated rate of 25%. Employers pay the income tax on behalf of their employees by withholding it from their wages.

Income tax is imposed on corporations and other types of business entities at a basic rate of 25%, with certain types of businesses paying tax at a somewhat higher or somewhat lower rate. For example, the income of a rice-producing agribusiness is taxed only at only 15% to encourage the production of rice in Liberia. Significantly, the Revenue Code also provides that a business taxpayer that expects to earn less than L\$3,000,000 (roughly US\$37,500) may elect to be

taxed at a rate of 4% of the business's annual turnover in lieu of paying the income tax. Since very few businesses in Liberia make more than L\$3,000,000 and since very few small businesses have the capacity to calculate a tax based on their actual net income, the turnover tax is the effective tax for most small businesses. The turnover tax is supposed to be levied against the gross receipts of a business, but many small business taxpayers complain that the turnover tax is simply levied in an arbitrary fashion on the amount of inventory owned by the business.

Liberia also imposes **withholding taxes** on interest, dividends, and royalties at varying rates typically in the range of 10% or 15%. These taxes are imposed both on Liberian residents and on cross-border payments subject to the tax. To all appearances, these withholding taxes do not raise significant sums of money.

The **Goods and Services Tax (GST)** is levied against every taxable supply of goods by a local manufacturer and on every taxable import of goods. It is also levied against every supply of taxable services. Although the GST rates vary depending on the item being taxed, for most goods and services the rate is 7%. The GST is not a true **Value Added Tax (VAT)** because the tax does not give a credit for taxable supplies acquired by the taxpayer. Hence, it is not a tax on added value; rather, it is a type of cascading sales tax. As noted above, the most important source of GST revenue is imported goods. It is easy to apply the tax at the point of entry of goods into the country and much more difficult to apply the tax in other circumstances. It is also important to note in accordance with agreements with the Economic Community of West African States (ECOWAS), the GOL has included the VAT as part of its Public Financial Management (PFM) Reform Strategy.

As noted above, in cooperation with the IMF, GOL is reviewing the adoption of a true VAT. Although many economists favor imposing consumption taxes over income taxes, VAT can be difficult for developing countries to administer. Moreover, VAT may deter businesses from entering the formal economy because in doing so they will be subject to paying it, and many small businesses are loath to deal with a VAT system.

The property tax is imposed on both unimproved and improved real property. The rates vary depending on the use of the property and where it is located. For property located in city limits, the rates range from a fraction of a percent up to 2%. For farmland lying outside of urban areas, the property is

¹⁵⁴ In Liberia, both the US dollar and the Liberian dollar are legal tender. The Liberian dollar is allowed to float in value against the US dollar. In recent years, the Liberian dollar has depreciated in value against the US dollar. The calculations in the text are based on an exchange ratio of 80 Liberian dollars for 1 US dollar.

taxed at a rate of US\$5 per acre with a minimum tax of US\$200 per year. The assessed value of the property is its fair market value. In practice, the property tax appears only to be levied on properties having a significant value.

The government imposes a variety of other taxes and fees (ranging from US\$25 to take a university entrance exam, to US\$10,000 for a license to export cocoa, according to various sources). None appear to be material in amount. The Revenue Code provides tax incentives for a variety of favored activities, including special deductions for agricultural equipment for the year placed in service. Though the intent seems to have been to make these incentives exclusive, some government agencies other than the Revenue Authority continue to dispense tax-related incentives that are not found in the Revenue Code.

As of 2009, the Revenue Code also gives taxpayer the right to have a tax assessment reviewed. Taxpayers can appeal to the Board of Tax Appeals and then on to the Liberia Tax Court.

The **Customs Tariffs** provisions contain an extensive schedule of the tariffs on imported goods. There are no tariffs on exports. The tariffs on imports range from 2.5% to 15%. In addition, most imported goods are subject to GST of 7% and “sin” items, such as liquor, are subject to an excise tax of up to 35%. Some Liberian industries are protected against foreign competition (as discussed in this report’s chapter on Starting a Business), and goods that would compete with these industries are banned from importation entirely.

Exemptions from import tariffs are provided in a variety of ways. The President of Liberia has the authority to grant exemptions for a period of up to one year and has done so in the past on a variety of items including agricultural implements (seed, fertilizer, and tools). Rice, a staple of Liberian diets, has been exempted from import duty for many years. Liberia’s large and often notorious concession agreements also contain provisions exempting the concessionaires from import duties on items relating to the production of their crops. These exemptions are given for a finite period of years. Since their local competitors do not have such exemptions, this can give concessionaires a price advantage on agricultural implements.

Before imported items can be moved out of a port, importers are required to prove that their Liberian tax payments are up to date by obtaining a tax certificate so stating. In addition, if the goods are exempt from any tariff, the importer must obtain an exemption certificate. Although goods that are exempt from tax come into Liberia duty-free, the process for

zero-rated goods is different. For exempt goods, an exemption certificate must be obtained; for zero-rated goods, no exemption certificate is required. The tax certificates must be obtained on a quarterly basis. Businesses find that obtaining exemption and tax certificates is a hassle. Indeed, the bureaucratic delays involved in obtaining tax certificates is such that one of the tax incentives given to businesses by the National Investment Commission is an exemption from having to obtain the tax certificates for one or more years (the exemption does not exempt the business from having to pay taxes).

Another factor influencing the importation of goods is the common external tariff of ECOWAS (a limited fiscal union of West African states). The ECOWAS regime is not scheduled to be fully effective until 2015, but the intention is that ECOWAS member countries, including Liberia, will have common tariff rates on imported goods. This means that goods can move duty-free between member states. Liberia has encountered an immediate issue with the ECOWAS tariffs. Imported rice is to suffer a tariff of 10%, a measure designed to encourage the local production of rice. Given public statements made by the Liberian President on the matter, Liberia is unlikely to adopt this tariff when it becomes effective. Moreover, in light of the fact that a steep rice tariffs is widely cited as one of the factors setting off Liberia’s two generations of conflict, the move to exempt rice from any tariff is likely to last for a period of years.

The **National Social Security and Welfare Act** establishes Liberia’s pension scheme and worker’s compensation law. The employee’s social security contribution is set at 3% of earnings, and this sum is matched by the employer’s contribution. The employer must also pay 1.75% of its payroll costs to cover worker’s compensation. These taxes are imposed on every company that employs five or more employees. Of course, this threshold does not apply to much of Liberia’s workforce: only around 18% of the workforce are wage employees, with a considerably lower percentage employed by companies with five or more employees. The tax rate is not reduced as the number of employees of a business increases.

The **Public Procurement and Concession Agreement Act** clarified the mandate for the the Public Procurement and Concessions Commission. Following its creation in 2005, the Commission reviewed existing concession agreements. It was also made responsible for negotiating all new concession agreements subject to the oversight of the Inter-Ministerial Concessions Committee (IMCC), headed by the National Investment Commission (NIC). In practice, the technical

ministries and the IMCC handle concessions negotiations. (For more detail on the PPCA, IMCC, and NIC, see this report's chapter on Protecting Investors.)

The existing concession agreements are available for scrutiny on a website.¹⁵⁵ Once a concession agreement is negotiated, it is taken to the national legislature to be enacted into law. A brief review of one of the more significant concession agreements follows.

The Firestone concession agreement, which dates back to 1926, was most recently renegotiated in 2008. While it is a lengthy document, the tax provisions are contained in two articles. Reduced to essentials, during the term of the agreement Firestone is to pay income tax at a rate of 30% (or if the statutory rate on corporate income taxes is lower, the lower rate). Firestone's taxable income is to be determined according to Generally Accepted Accounting Principles (evidently, this calls for the use of US GAAP and not IFRS). The company is exempt from many import duties during the period when it is involved in rehabilitating its plantation (in this case, the period terminates at the end of 2015).

In addition to the enacted laws, GOL has announced two important policy initiatives. The first pertains to establishing a semi-autonomous Liberia Revenue Authority, pursuant to the **Act to Establish the Liberia Revenue Authority** (2013). This policy is intended to reform the current revenue authority by removing it from the Ministry of Finance and giving it more stature as a semi-autonomous agency, one presumably more immune from political pressures. The planning for the creation of the agency is moving ahead, and the agency is likely to begin operations in 2014 or 2015.

The second GOL policy initiative pertains to the decentralization of the government, which, in theory, would involve the devolution of powers from the central government to the county governments. From a fiscal perspective, the county governments are to be given the responsibility for imposing some taxes, probably the property tax and perhaps others as well. This report's chapter on Dealing with Licenses details the decentralization initiative, in particular the lack of national consensus to date over concrete objectives of the plan.

¹⁵⁵ The Liberia Extractive Industries Transparency Initiative website contains copies of the concession agreements.

IMPLEMENTING INSTITUTIONS

KEY IMPLEMENTING INSTITUTIONS

- Ministry of Finance
- Bureau of Revenue
 - Bureau of Internal Revenue
 - Bureau of Customs and Excise Taxes
- Future Liberia Revenue Authority
- Liberian Business Registry
- Public Procurement and Concessions Commission
- Board of Tax Appeals
- Liberia Tax Court

Ministry of Finance (MOF). Today, the Ministry of Finance formulates tax policy and controls the revenue authorities in charge of carrying out the policies. With the advent of a semi-autonomous **Liberia Revenue Authority**, the Ministry's future role will be confined to formulating tax policy. The Liberia Revenue Authority will then be tasked with the execution of this policy (such as collecting taxes, conducting tax audits). At the time of this writing, the goal was for the LRA to begin operations in July 2014.

Once the Liberia Revenue Authority is established, the **Bureau of Internal Revenue** and the **Bureau of Customs and Excise** will become subordinate units contained in it. The former will be charged with administering the income tax and the GST. The latter will be responsible for customs matters and collecting excise taxes.

The **Liberia Business Registry** (LBR) is an important agency because it oversees the registration of all businesses in Liberia. As part of the registration policy, businesses simultaneously register with the Ministry of Finance in order to be taxed. In the future, this registration will be made with the Liberia Revenue Authority.

One of the key inducements for bringing a business into the formal economy is that it cannot do any business with the government unless it can show that it has paid its taxes by producing a tax certificate so stating. The LBR is intended to be the key to this process by maintaining a combined new business register that covers both LBR and the tax authorities.

Unfortunately, because the simultaneous registration process only began in 2013, many more businesses are registered with the LBR than with the tax authorities.

The **Inter-Ministerial Cabinet Committee** is important to the tax system because it plays a key role in negotiating concession agreements. The revenue produced under these agreements will be of increasing importance as more of the businesses involved come on line. For the most part, concession agreements contain tax provisions that parallel those in the general tax law, although individual agreements often contain many exceptions, which override the Revenue Code.

The **Board of Tax Appeals** and the **Liberia Tax Court** were created in 2009 as part of the amendments to the Revenue Code. They are intended to be impartial tribunals for deciding the merits of tax disputes between the government and taxpayers. They have not been in existence for a sufficient period to determine how well they will work in practice.

SUPPORTING INSTITUTIONS

Overall, the supporting institutions for agribusiness-related tax matters are not robust at this date. In part, this simply reflects the fact that except for the major concessionaires, there are not many commercially viable agribusinesses in Liberia. Further, a good part of Liberia's taxes revenues are collected on the import of goods at the point of import, where typically the only third party institution involved are Customs brokers.

There appears to be a dearth of contact between affected taxpayers and the government in creating tax policy. Businesses, and in particular agribusinesses, do not appear to be involved in tax policy decisions. In many developing countries, this lack of involvement is often the case. But, as economies develop, the active participation by businesses in formulating tax policy will usually enhance the policies adopted and encourage the voluntary payment of taxes.

KEY SUPPORTING INSTITUTIONS

- Liberia Chamber of Commerce
- University of Liberia, College of Business and Public Administration and Louis Arthur Grimes School of Law
- Liberian Bar Association
- Liberian Institute of CPAs
- Customs brokers

Donors and international NGOs. Some international donors play a role in the formulating tax policy. The most important players here appear to be the IMF and the World Bank. In addition to formulating tax policy, these institutions were also involved in writing some of the tax legislation that has been adopted by Liberia. Other donors and NGOs have also worked with the government in negotiating some of the more significant concession agreements.

Business associations. The **Liberia Chamber of Commerce** (LCC) appears to have an active membership, and its members certainly can articulate a litany of problems that they face. It is not clear that, beyond a certain amount of caterwauling, the organization is effective in lobbying the government to adopt better policies and improve its performance, including with respect to tax. This could be a constructive role for the chamber.

Educational institutions. The University of Liberia currently appears to be in a state of disarray. As of early 2014, its faculty was on strike, closing the university since late in 2013. There are a significant number of students in the **College of Business and Public Administration** and a good number of them are accounting majors. The sophistication of the graduates of the university in tax matters is unclear.

Professional firms and business support. There are a number of capable law firms operating in Monrovia, and in the past, local firms have litigated some tax cases. However, there does not appear to be sufficient work in giving tax advice to clients for the firms to have developed separate tax departments.

There are a number of accountants working in larger business firms in Liberia, and there are a few CPA firms operating in Monrovia. Like the law firms, the accounting firms do not appear to focus on tax matters. The Liberian Institute of CPAs exists, but it has only a small number of members—and the overall number of CPAs in the entire country is less than 50.

No other business service firms appear to provide tax services on any wide scale to businesses.

SOCIAL DYNAMICS

Official corruption. There is considerable evidence of corruption in the administration of Liberia's tax laws. Particularly, individual revenue agents take bribes to settle audits rather than doing more formal assessments. Fortunately, the leadership at the nascent Liberia Revenue Authority recognizes that

this is, perhaps, the most significant issue facing the new authority. They are in the process of creating a comprehensive program to address this problem. When corruption becomes endemic in a government agency, it can be difficult to uproot, so vigorous enforcement of the new program will be required to ensure its success.

Gender equality. Although laws and institutions pertaining to Paying Taxes are essentially gender neutral, there are differences in how women and men may experience the taxation process. During interviews conducted for this report, women traders expressed confusion over application of the law, and lack of direction on how to resolve their questions. Tax rules are applied, and taxes are paid, at the border, but women traders do not have reliable information about them. Female cross-border traders complained that they pay taxes at the border, but then are also subject to quarterly taxes on their goods (reportedly on the value of their goods, not on records of sales or profits).¹⁵⁶ While in some ways a lack of information regarding taxes affects all traders equally, women traders seemed to have more complaints about being asked for tax payments that weren't clearly related to the law.

In addition, there is anecdotal evidence of serious problems involving women at the border stations of the Bureau of Customs & Excise Taxes. Women in cross-border trade also report that their ECOWAS passports are not accepted at borders. Worse than that, however, women lack protection of the law in Liberia when required to make "payments" at checkpoints, but also in other countries where they report being taken to police stations to be physically searched and required to hand over their cash, or to being ambushed along the roads. Rather than seeking legal recourse, the market women have calculated such payments and losses as risks of

doing business. Their self-help approaches are to use Western Union in order to avoid carrying cash, and to travel in pairs or groups.

Moreover, there are stories that women are required to submit to sexual favors before they will be permitted to bring goods across the border into or out of Liberia. If true, this obviously poses a serious issue in the administration of the Customs law.

In terms of the workforce employed by the Bureau of Revenue, women appear to be in the slim minority. This is somewhat offset by the fact that a number of senior positions in the Bureau are filled by women. The lack of female revenue agents is attributed to the lack of qualified applicants. In short, the Bureau has a gender gap and needs to do more work to reverse it.

Government will to reform. The tax laws of Liberia are reasonably well written, and the policy of establishing a semi-autonomous Liberia Revenue Authority is a helpful step toward creating a high-quality tax administration unit. The critical question now is whether the government will devote sufficient resources to carry through with the program to establish an effective Revenue Authority. A good part of the challenge here is to find and train an adequate number of revenue agents to work for the new authority both in Monrovia and in rural areas outside the capital.

Respect for tax obligations and taxpayer understanding of rights under the tax law. Overall, Liberians show little respect for the tax laws. In part, this is simply a function of the fact that, outside of Monrovia, there are few businesses large enough to even warrant paying taxes. In part, this is a function of the fact that many businesses see little government return for the taxes they pay, particularly the farther away one gets from the capital. Another element of disrespect comes from the perception that the central government is corrupt in administering the tax laws.

Thus, the government has a formidable task confronting it in bringing more businesses into the formal economy as taxpayers. This task is particularly pronounced in the agricultural economy where, apart from large concessionaires, there are few commercially viable agribusinesses. It is hoped that the growth of new agribusinesses and the advent of a new and vigorous Revenue Authority will change the outlook here.

¹⁵⁶ Madam Abba Williams, the first female Director of Bureau of Immigration (BIN), responded to questions with these definitive statements of legal rights:

1. It is not right for any officer to take money from any man or woman but they have the right to ask you for your document;
2. If you are leaving your country to another country you will need border pass to use it for 72 miles;
3. A person who helps you, as an assistance, or special assistance to an officer is not an immigration officer;
4. The ECOWAS passport is important; if the ECOWAS sign is in your passport you don't need VISA to any member country. No ECOWAS country supposed to take money from you if you have that passport;
5. It is not right to pay for the stamp in your passport when you are traveling out;
6. Liberia needs to protect its citizens when they are going out of the country, one needs to declare how much he or she has during departure in order to be protected. It is a law that you don't leave the country with the amount of USD \$10,000.00 or more without paying tax.

RECOMMENDATION 2: Reform the Bureau of Customs and Excise exemption and tax certificate.

Why is reform needed?	The current method for creating tax exemptions from customs tariffs and the process for obtaining tax certificates for clearing goods for importation creates needless problems for businesses and consumes vast amounts of time simply to surmount the bureaucratic hurdles involved.
Impact of problem	The current system is viewed as badly broken by many businesses. It requires considerable time and effort to surmount the hurdles to the importation of goods and invites corrupt payments to expedite the process. Specifically, authority to receive ad hoc exemptions and from multiple sources needs to be streamlined.
Benefits of reform	It will ease the time involved in the needed importation of goods and reduce corrupt practices involved in the current process.
Constraints to reform	The government agencies now involved in administering the current processes may resist any change since they may view it as threatening the power base they now possess (and with it, a potential source of additional personal gain).
Fit with other donors	There have been donor-sponsored studies of the current troubles in the system. The PFM Trust Fund is setting up an interface between multiple software databases.
Best Practices	Many countries have more efficient practices for importing goods.
Cost of reform	Once implemented, the reform should save money by eliminating unnecessary processes now required. The cost for the reform itself should be relatively modest since it entails mainly revising the laws and regulations that created the current system and putting in place a new computer system to eliminate much of the manual processing now required.
Action Steps	<p>The GOL needs to reform the law on exemptions so that items that likely will be exempted by Presidential decree annually on an on-going basis (for example, the duty on rice) are zero-rated instead of being exempt. This will eliminate the need to obtain exemption certificates for each exempt item being imported. This legislation must take into account the ECOWAS Common External Tariff rules.</p> <p>The GOL needs to develop a computer system that can tell Customs Authorities the tax-paying status of businesses importing goods. This will eliminate the need to obtain quarterly certificates that a business has paid its taxes. Since the new Liberia Revenue Authority will be in charge of both the Bureau of Internal Revenue and the Bureau of Customs and Excise, its implementation should be relatively easy to coordinate.</p>
Time Frame for reform	Reform can start immediately. Since some legislation needs to be enacted as part of the process and since some systems work is entailed, the reform may take several years to be put fully in place.
Feasibility	The feasibility is high but a lack of funding may delay the systems element of the proposal.

RECOMMENDATION 3: Make transparent the sources of government revenue and the uses of it; communicate broadly to the public the benefits of paying taxes.

Why is reform needed?	Much of the public cannot see the sources of the GOL's revenue, how this revenue is being used, and the benefits flowing from the taxes that are being paid. This is particularly true in rural areas outside Monrovia.
Impact of problem	When the population sees little transparency about the revenue and expenses of the government and perceives of few benefits accruing from the payment of taxes, they are more likely to evade their taxes.
Benefits of reform	The GOL will be viewed more favorably and, as more of the population voluntarily complies with its tax paying obligations, the government's revenues should be enhanced.
Constraints to reform	The key constraint will be the cost to implement an effective communication system.
Fit with other donors	No known donor effort on this precise subject, although the Open Budget Initiative, PFM Trust Fund and ODI/GEMS are all working on aspects.
Best Practices	Many governments widely publicize the sources and uses of their revenue and the good works being funded by tax revenues.
Cost of reform	An effective communication program may cost several million dollars annually.
Action Steps	The GOL needs to create a thoughtful plan to communicate to the general population (1) its sources and uses of revenue and (2) the benefits brought about by government actions. A good part of budget information is available today, but it cannot be readily accessed by the public no understood by a good portion of the population. The communication plan needs to focus on how best to communicate this information to a public that is in significant part illiterate.
Time Frame for reform	The program could start as soon as funds are devoted to it.
Feasibility	Since funding for all government projects is tight, the feasibility is medium.



PROTECTING INVESTORS

Investment in Liberian agribusiness is a tale of two worlds. First, there are the ongoing efforts within the public, private, and non-profit sectors to improve the laws, institutions, and culture that make up the investment climate. Recently reformed laws, such as the Investment Act of 2010 and the Consolidated Tax Amendment Act of 2010, have brought Liberia closer to internationally accepted norms for investment, including giving foreign investors the same rights and imposing the same duties and obligations as domestic investors.¹⁵⁷

Other recently enacted laws will also help protect investors, including the Commercial Code of 2010 and the Liberia Institute of Certified Public Accountants Act of 2011. Institutional reforms have occurred as well, such as the creation of the commercial court system in 2010 and a collateral registry that was scheduled to begin operation during the middle of 2014. Undeniably, these reforms are important and positive, since they attempt to limit risk and improve opportunity for investors and Liberians alike. At present, however, these reforms are like an investment in agribusiness itself: one of “patient capital” where most of the returns will likely not be seen for some time. Moreover, further reforms are still needed, such as a complete bankruptcy code.

Second, there is the current reality regarding investment in Liberia. In its most simple terms, any investment decision is grounded in three primary considerations: benefits, risks, and the balance between those two. On the one hand, benefits mainly mean profits, and because of Liberia’s abundance of natural resources, primarily in agribusiness (such as rubber and oil palm), timber and forestry, mining, and oil, investors—mostly multinational corporations—see significant profit opportunities in Liberia. On the other hand, risks encompass multiple considerations, from the socio-political climate of the country and commercial sector in question to the lack of laws and institutions that protect investments and investors and

thus help to rate, control, and ameliorate risk. It is in this latter area where Liberia currently struggles, but where the patient capital of reform will hopefully pay off.

Despite the risk, large multinationals have not shied away from Liberia, and statistics regarding foreign direct investment (FDI) inflows reflect this: between 2004 (shortly after the civil wars ended) and 2012, registered FDI grew almost 1800% (see chart).

TABLE 8: FOREIGN DIRECT INVESTMENT INFLOWS

YEAR	FDI INFLOWS ¹⁵⁸ (USD)
2004	\$75,351,730
2005	\$82,802,110
2006	\$107,856,700
2007	\$131,637,700
2008	\$283,536,100
2009	\$127,803,400
2010	\$452,342,300
2011	\$1,312,748,000
2012	\$1,354,100,000

¹⁵⁷ There is an exception to this equal treatment. The Investment Act lists discrete business segments in which foreign ownership is limited or prohibited entirely, depending on the amount of the investment and the business area. This restrictions were imposed to protect and stimulate Liberian businesses in the specified segments, but no proof of the intended stimulation has been made public.

¹⁵⁸ <http://data.worldbank.org/indicator/BX.KLTDINV.CD.WD/countries/LR?display=graph>.

The type of input investment that is currently occurring is important. It is a predicate to future business and businesses in Liberia. It has been observed elsewhere in the world, however, that foreign investment can lead to a cycle of economic growth *without* development, a cycle that can be difficult to break and that can lead to social unrest. This also was observed in Liberia prior to the war.¹⁵⁹ In such cases gross domestic product and other economic measures show improvements, but human development indicators such as health and education remain relatively stagnant. In Liberia in particular, concessionaires don't often patronize Liberian businesses, but this is largely a problem of Liberian businesses generally not being ready to supply concessionaires competitively according to their standards. Furthermore, because concessionaires tend to operate outside local systems, they do not contribute significantly to the local socio-economic landscape.

Such behavior by these multinational corporations is not surprising, since the investment climate in Liberia presents a number of formidable challenges. For example, at the most fundamental level, there is difficulty in finding, or the complete absence of, much of the basic economic information and statistics that investors use to evaluate risk. It is also often difficult even to find the relevant laws, as members of the assessment team discovered. On a macro level, Liberia has no sovereign credit ratings, no capital markets or portfolio investments, and scant reporting information on the economic activity of current businesses, particularly in the agribusiness sector. On a socio-political level, much tension remains from the civil wars, and similar tensions continue to flare up as conflicts arise around the implementation of concession agreements and other issues related to natural resource management.

It should be noted that historically, in both of Liberia's legal systems—that is, the civil law system and the customary law system—many of the formal norms associated with protecting investors have been mostly irrelevant. The majority of Liberian businesses have traditionally operated very informally, and done so without substantial concern for or ability to attract investors. As a result, many of the concepts most closely related to protecting investors, such as economic information, corporate governance, securities and shareholder protections, are not well understood and even less utilized.

History is replete with examples of inequalities resulting from poor natural resource management that have led to social unrest and violent conflict. In fact, there is little debate that this was one of the primary causes of the civil wars in Liberia. It is not unreasonable to say that Liberia is once again entering a period where it must be diligent in its efforts to avoid once again heading down that path. Creating an investment climate that is both fair and controls risks is an important part of this effort. Without it, very few investors, be they companies or individuals, domestic or foreign, will have interest in committing their money or other capital to Liberia, further hampering its economy.

LEGAL FRAMEWORK

While there are exceptions and encouraging ongoing reforms, the legal framework related to protecting investors presents many challenges for prospective investors. For example, generally speaking, the investment-related laws of Liberia do not limit or add any specific rules, rights, or requirements concerning to agriculture. As already suggested, another common problem for both Liberians and foreign investors is access to laws. At present, internet penetration in Liberia is one of the lowest in Africa, especially for those not near an urban center. Even for those who have access to the internet, not all laws are easily locatable online, if they are available online at all. (See box for key laws and regulations.)

KEY LAWS AND REGULATIONS

- **Business Corporations Act (2002) (adding Title V of the Associations Law (1977, as amended))**
- **Investment Act (2010)**
- **Cooperative Societies Act (1976)**
- **Consolidated Tax Amendment Act (2010) (amending the Revenue Code (2000, as amended))**
- **Public Procurement and Concessions Act (2005)**
- **Commercial Code (2010)**
- **Commercial Court Bill (2010)**
- **Central Bank of Liberia Act (1999)**

¹⁵⁹ *Growth without Development: An Economic Survey of Liberia* by Robert W. Clower; George Dalton; Mitchell Harwitz; A. A. Walters; Robert P. Armstrong; Johnetta Cole; Robert E. Cole; George Lamson; 1963.

INVESTMENT ACT OF 2010

The Investment Act provides assurances to all investors, foreign and domestic, that their investments and any profits derived therefrom are protected and freely able to be repatriated. With respect to foreign investors, employers, and employees, the Act clearly prohibits discrimination, and assures that they are subject to same laws as their Liberian counterparts. The Act also provides a guarantee against expropriation and nationalization and in a change from prior law, allows foreign investors to wholly own a business in Liberia, with the exception of 16 specific sectors listed in the Act as a separate schedule¹⁶⁰—although companies do get around this restriction by applying for concessions. In this regard, however, specific agreements can still include stipulations that an investing business must employ a certain percentage of Liberians.

The Act's protections against expropriation of investment property supplements similar provisions in Article 24 of the Liberian Constitution and ensures that all intellectual property will be protected.¹⁶¹ In addition, the Act allows investing parties to choose their own dispute settlement procedures, regardless if Liberian courts have jurisdiction. In many ways, the Investment Act restates tenets contained in other parts of the Liberian Code, but does so in a manner to make clear the intent to protect, and accordingly encourage, investors.

THE LIBERIA REVENUE CODE OF 2000, AS AMENDED

Investment incentives are governed by the Consolidated Tax Amendment Act of 2010 (CTAA), which amends the Liberia Revenue Code of 2000. The CTAA states that an investment may be eligible for incentives such as tax-exempt equipment importation if it is in one of the 15 government-defined priority investment areas, which include agriculture food crop cultivation and processing (including cocoa and coffee) and small- and medium-scale rubber and oil palm cultivation and

processing.¹⁶² In addition, the CTAA states that other investment activities may be eligible for incentives if approved by the National Investment Commission (NIC). These additional areas must be compatible with the "economic growth policy of the Government, thereby enhancing and improving the economic development of the Country."¹⁶³ The CTAA also allows that capital investments that are part of the investment opportunity, such as equipment and machinery, as well as investments made in designated economically deprived zones, may be exempt from goods and services taxes.¹⁶⁴ Together, CTAA and the Investment Act bring Liberia in line with generally accepted best practice regarding investment incentives.

The Revenue Code also lowers corporate tax rates for both foreign and domestic companies from 35% to 25%. Lastly, it should be noted that the Revenue Code does not require companies to submit financial statements with tax returns, which is a generally accepted requirement of corporate governance.

THE BUSINESS CORPORATIONS ACT OF 2002 (AMENDING THE ASSOCIATIONS ACT OF 1977)

The Business Corporations Act of 2002 was added as Title V of the Associations law of 1977 and outlines the legal requirements for company formation and governance in Liberia. This Act includes basic tenets of corporate formation such as articles of incorporation, the roles and responsibilities of corporate officers, and issuance of shares and rights of shareholders.

Although the majority of the Business Corporations Act is in line with international best practices, Chapter 8 of this title, "Corporate records and reports," lacks many of the requirements associated with recognized norms of corporate governance. In particular, the reporting requirements do not require that audited financial statements, annual or quarterly, be submitted or otherwise made available to shareholders or

¹⁶⁰ The sectors carved out from 100% foreign ownership are: supply of sand, block making, peddling, travel agencies, retail sale of rice and cement, ice making and sale of ice, tire repair shops, auto repair shops with investments of less than US\$550,000, shoe repair shops, retail sale of timber and planks, operation of gas stations, video clubs, operation of taxis, importation or sale of second-hand or used clothing, distribution of locally-manufactured products, and importation and sale of used cars (unless being sold by an authorized dealer of the make of the used car being sold). Interviewees stated that this section of the law has not been carefully enforced despite assurances by the Liberian Ministry of Commerce and Industry that any foreign business found in violation would have their business closed and otherwise penalized. "Liberia: Commerce to reinforce investment act," February 27, 2013 (<http://allafrica.com/stories/201302271204.html>).

¹⁶¹ As noted in the chapter on Registering Property, currently Liberia does not have protection of all forms of intellectual, such as plant varieties, as part of its national legislation.

¹⁶² See Consolidated Tax Amendment Act of 2010, at section 16(a)(2)(A). The full list of areas is: (i) Tourism carried out through tourist resorts, hotels and cultural sites; (ii) Manufacturing of finished products having at least 30% local raw material content excluding water; (iii) Energy; (iv) Hospitals and medical clinics; (v) Low and medium income housing; (vi) Air, sea, rail, and road transport infrastructure, including ports; (vii) High-impact information and communication technology; (viii) Banking in the non-bank areas in the southeastern region and in Zone 1; (ix) Poultry; (x) Horticulture; (xi) Exportation of sea products; (xii) Agricultural food-crop cultivation and processing, including cocoa and coffee; (xiii) Small- and medium-scale rubber and oil-palm cultivation and processing; (xiv) Manufacturing or assembly of finished products for export, provided that at least 70% of production is exported from Liberia within any 12-month period; and (xv) Waste management.

¹⁶³ Consolidated Tax Amendment Act of 2010, at section 16(a)(2)(A).

¹⁶⁴ *Id.*, at Sections 16(a)(3)(A) and (B).

any relevant governing body such as the business registry. Moreover, there is no requirement to keep any kind of financial record aside from a record of profit and loss and other “books of account.” There is no description of any standards or norms that a corporation should follow in preparing such books of account, such as the International Financial Reporting Standards (IFRS).¹⁶⁵ Auditing requirements are similarly absent. In practice, corporate reporting and other norms of financial management with respect to small farms is lacking, though this is a challenge for smallholder farmers across developing countries. In fact, issues of accounting and audits are of little concern. Of greater concern to the success of the small farmer is learning and implementing basic tenets of good business.

On a positive note, the Central Bank of Liberia, the banking sector, and state-owned enterprises, have all adopted, or are in the process of transitioning to, the more stringent requirements of the IFRS.

COMMERCIAL CODE

In 2010, Liberia enacted its first comprehensive commercial code. This code sets out provision for commercial sales, leasing, mortgages, secured transactions, and arbitration. It replaced a confusing set of laws and precedents scattered throughout the Liberian code. In so doing, by creating consistency and clarity in the law, access points for corruption are likely to close - with less inherent confusion comes fewer ways to exploit that confusion. Subsequent regulations created the collateral registry for movable property which is expected to begin operations in mid-2014. This legislation and regulation is important in that it modernizes Liberia’s legal business environment, which will help to boost investor confidence and attract foreign investment.

PROPERTY LAWS

For a more in-depth discussion of the tenets of customary law, please review the Property Rights chapter of this report. The protection of real, movable, and intellectual property rights are all important to investors. This is particularly true for Liberia, where there is a high likelihood that an investment will involve the agriculture sector—and therefore will involve land. In this regard, investors want to know that control of the land that is the subject of the investment, or the capital investments on the land, are not at risk of being lost. As mentioned above, the Investment Act protects against nationalization and

expropriation of investment property. These assurances, however, lack credibility given the government’s track record of seizing property it needed without notice or compensation. Moreover, these assurances do not protect against land conflicts between private parties. As described in greater detail in the Registering Property chapter of this report, ownership and leasing rights to property are often insecure and the subject of time- and resource-consuming disagreements. Such conflicts include customary lands common to much of the agricultural sector, which adds a significant level of risk to investment.

LAWS RELATED TO CORRUPTION, ACCOUNTABILITY, AND TRANSPARENCY

Investors, particularly foreign investors who are not necessarily intimately familiar with the countries and businesses in which they are investing, must have confidence that systems are in place, either in the government or private sector, to help protect their investments. In the government sector, those systems include laws that protect against corruption, financial crimes, and a lack of transparency in the dealings that make up their investment. Such concerns are particularly acute in Liberia, where corruption has been, and is, a part of doing business with the government and the private sector alike.

Since the end of the civil wars, and in particular over the last few years, Liberia has taken a number of steps to stem the tide of corruption.¹⁶⁶ These efforts, which have primarily focused on the public sector, are having positive effects: Liberia’s ratings and rankings with respect to the main international indices of corruption and transparency—for example, Transparency International, the World Bank’s Governance Indicators, the Ibrahim Index of African Governance, and the Index of Economic Freedom—have all improved. One of the main drivers of this improvement is the Liberian Extractive Industry Transparency Initiative law (LEITI, passed in 2009) which ensures that all payments to the government from extractive industries, including concessions, have to be publically disclosed, reviewed, and used for the benefit of all Liberians.

¹⁶⁵ Traditionally, the public sector in Liberia has followed the Generally Accepted Accounting Principles (GAAP) of the United States. It is unclear, however, if this has ever been true of the private sector as well.

¹⁶⁶ As a result of Liberia’s efforts, in February 2014, USAID, the World Bank, and the Swedish International Development Agency (SIDA) jointly committed a total of US\$11.5 million in grants which is intended to help Liberia on its path to create transparent, accountable, and responsive public institutions that contribute to economic and social development.

Concessions are essentially a way to accomplish public-private partnerships. A concession agreement is a form of public procurement with the selected entity given the right to operate a facility or carry out private sector business in exchange for a fee paid.

In 2010 the Public Procurement and Concessions Act (PPCA) was passed. Drafted with the assistance of the World Bank, this law codifies government procurement practices and creates the Inter-Ministerial Concessions Committee (IMCC). Chaired by the head of the NIC, the IMCC represents the Liberian government in negotiations with a concessionaire.¹⁶⁷ Along with the Chairman of the NIC, the IMCC's members include the ministers of Justice, Finance, Labor, Planning and Economic Affairs, Internal Affairs, and two other ministers appointed by the President. According to the PPCA, the IMCC does not include a member from the Ministry of Land, Mines and Energy.

Other laws have been passed but have yet to be fully implemented. In 2010, Liberia passed a Freedom of Information Law, but reports indicate that implementing regulations have not been promulgated. Last year, a new anti-money laundering and financial crimes laws were enacted.

In addition, President Johnson has enacted executive orders to help create greater transparency in the public sector, including Executive Order 38 requiring all executive branch employees to file a public asset disclosure form, and Executive Order 22, which protects whistleblowers in the public sector. Neither of these have had the desired impact, however, as there has only been spotty compliance with the asset disclosure requirements, and fear of the repercussions of whistle blowing remains a strong deterrent to coming forward.

IMPLEMENTING INSTITUTIONS

KEY SUPPORTING INSTITUTIONS

- National Investment Commission
- Ministry of Commerce and Industry
- Ministry of Finance
- Central Bank of Liberia
- Liberian Anti-corruption Commission

THE NATIONAL INVESTMENT COMMISSION (NIC)/MINISTRY OF FINANCE

The NIC was created by the National Investment Commission Act of 2010. The core function of the NIC is to encourage foreign direct investment (FDI) in all sectors of the Liberian economy (except those where FDI is prohibited by law) by presenting the country as a stable, profitable, and desirable destination for investment capital. To this end, the NIC also works to improve the domestic private sector.

The NIC plays an important role with respect to concessions. The Chairman of the NIC, which is a cabinet level post, also chairs the Inter-Ministerial Concession Commission (IMCC) which evaluates concession applications. In this capacity, the NIC works to ensure that while the needs of the concessionaires are met, the national interest of Liberia are also met through job creation, business development, knowledge transfer, and related contributions. In addition, the NIC chairs a second committee that often deals with concessions. This committee, called the "Commissioners Committee" reviews and makes recommendations regarding investment incentive contracts for investments greater than US\$10 million.

To facilitate FDI in Liberia, the NIC is a "one-stop shop," which allows investors to circumvent possible bureaucratic delays that would otherwise slow the process of implementing the investment plan. One interviewee in the private commercial sector stated that this service did not achieve the intended results; he still had to shepherd his own investment documents through the various government agencies.

The NIC reviews each foreign investment to ensure it complies with Liberian law, and if does, NIC allows the investment to go forward. The NIC also reviews investments that are otherwise eligible for any of the incentive benefits enumerated in

¹⁶⁷ <http://www.cicr-columbia.org/wp-content/uploads/2012/01/Smell-No-Taste.pdf>.

the Revenue Code, but in this case the NIC makes a recommendation to the **Minister of Finance** who makes the final Certification (that is, determination) as to whether the investment qualifies for the incentive. The Ministry of Finance is then responsible for monitoring the investment to ensure continued compliance. If it finds the investor to be in violation of the agreement, it can rescind the incentives and seek repayment of benefits accrued.

MINISTRY OF COMMERCE AND INDUSTRY

The Ministry of Commerce and Industry (MOCI) seeks to implement trade policy, to help revitalize the economy, and to promote private sector growth. Relevant to promoting investment, within MOCI, the Bureau of Trade Services – Division of Trade regulates imports and exports, provides trade statistics, and promotes Liberian trade domestically and abroad.

THE CENTRAL BANK OF LIBERIA

The Central Bank of Liberia (CBL), created by the Central Bank of Liberia Act of 1999, is responsible for maintaining the currency value of the Liberian dollar, ensuring the integrity of the banking sector, publishing economic statistics and analysis, and promoting the development of financial markets. The CBL regularly intervenes in the foreign exchange market through weekly auctions to stabilize the exchange rate. This action has the additional effect of controlling the inflation rate, which has been at or close to 8% for about three years. This stability creates confidence in investors and other businesspersons. With respect to its mandate to provide economic statistics, the CBL posts to its website a collection of financial statistics on a bi-monthly basis. These include some statistics on agribusiness products such as rubber, cocoa, and coffee, but they lack the detail needed to be of assistance to an investor in this sector.

In addition, the CBL works to develop small- and medium-sized enterprises (SMEs) through loan programs. For example, the CBL is currently working with the Liberian Business Association and various Liberian banks to distribute US\$5 million in loans to SMEs, including many in the agricultural sector. The requirements for these loans, which were established by the CBL and which range in amount from a minimum of US\$100 to a maximum of US\$300,000, include the submission of a business plan and clear collateral, such as land with a registered deed, a bank account with the lending institution, or actual business inventory on hand. This program is fairly new, and uptake of these loans is in early stages.

As mentioned previously, the CBL has required, by regulation, that banks and other non-banking financial institutions adhere to international standards of financial reporting, accounting, and auditing.¹⁶⁸

CAPITAL MARKETS AND STOCKS

Liberia has no stock exchange and no securities law, although according to interviewees these ideas have been at least conceptually discussed within CBL, the body that would be responsible for creating and then overseeing them. No specific timetable has been set. Last year, the Central Bank issued government-backed treasury bills for the first time, which was seen as a first step toward creating a capital market. While the treasury bills were the lowest yield of any short-term debt issued in Africa during that period, demand was high, with a sale of approximately US\$2 million worth of debt. The success of this effort gives the Central Bank another tool in its efforts to help the economy and shows that Liberia is capable of consummating relatively sophisticated transactions. Few companies in Liberia issue any form of stock, and for those that do the stock is privately-held. The best known of the privately held stock companies are Liberia's commercial banks.

FREE ZONES/SPECIAL ECONOMIC ZONES

Investors often look to the status of free zones, or special economic zones, in a country as a part of their risk assessment. Free zones generally offer such benefits as lowered taxes, reduced customs and duties, and more rapid customs processing. Historically, the Liberia Industrial Free Zone Authority promoted free zone enterprise, but this body has been dormant for a number of years. The government is considering new legislation to reinstate special economic zones, but this has not yet come to fruition.

It should be noted that the National Investment Commission controls an industrial park outside Monrovia, but much of this land has been overtaken by squatters and small informal businesses. Over time, the NIC has plans to turn this land into a business training and capacity building center. Until this happens or new legislation is passed, the Freeport of Monrovia is the only operational free zone. The status of this port is discussed in detail in the Trading Across Borders section of this report.

¹⁶⁸ See <http://www.cbl.org.lr/doc/others/NBFIRegFworkRev1st.pdf>.

ENVIRONMENT PROTECTION AGENCY (EPA)

The EPA was established under the 2003 Environment Protection Agency Act and is responsible for approving the Environmental and Social Impact Assessments (ESIAs) for new construction or business activities that may impact the environment. These assessments must show that the business in question is in compliance with environmental standards in order to operate. The business is responsible for funding and completing the ESIA, and then submitting it to the EPA. While the legislation lays out relatively stringent standards for environmental compliance, the organization lacks the capacity or budget to uphold even basic principles.

COMMERCIAL COURTS AND ALTERNATIVE DISPUTE RESOLUTION

The new commercial court was created in 2010 at the same time as the passage of the Commercial Code. The court, located in Monrovia, began operations in 2011 with hopes of immediately alleviating the backlog of financial and commercial disputes in other courts of the judicial system. To help achieve that end, the court can require the parties first to submit to arbitration before a court-appointed arbitrator. Even if this fails to solve all aspects of a dispute, it might solve at least some of them so that the court may more expeditiously decide the remaining, more contentious, issues.

SUPPORTING INSTITUTIONS

INFRASTRUCTURE

Although not a formal “institution,” investors are nevertheless concerned about a nation’s infrastructure. This is particularly true with respect to agricultural investments because the outputs tend to spoil, and therefore any shortcomings in infrastructure increase the risk of an investment. For purposes of this chapter, infrastructure includes:

- Trade infrastructure, such as roads and ports.
- Utility infrastructure, such as water, electricity, and telephone.
- Agriculture-specific infrastructure, such as storage for agricultural products.

Each of these are discussed in greater detail elsewhere in this report (see chapters on Trading Across Borders and Accessing Market Infrastructure), but a brief mention is warranted here. In short, while none of these segments of infrastructure presently create desired levels of investor confidence, aspects of each give reason to believe that improvements are not far off.

For example:

- The Freeport of Monrovia employs the ASYCUDA customs clearance system, the most highly respected such system available.
- Main roads between cities are currently being paved and the World Bank-funded private sector Chinese construction companies doing the majority of this work are well-funded and committed to the project.
- The electrical grid is slowly being expanded.

However, the pace of change is slow and the current state of infrastructure presents significant challenges to investor confidence.

ECONOMIC AND BUSINESS INFORMATION

Again, while not exactly an “institution,” information is an important aspect of investor protection; the better informed an investor is, the better able he or she is able to control or ameliorate risk. Generally speaking, the kind of data that investors require to make sound investment choices is not readily available in Liberia, if it is available at all.

With respect to agriculture, this starts with fundamental considerations such as land boundaries, if the land in question is currently encumbered, or to whom the land belongs, all issues that can be difficult to answer in Liberia. Bodies within the Liberian government, such as the Liberian Institute of Statistics and Geo-information Services (LISGIS), the Bureau of Lands, Surveys and Cartography, lack resources and capacity to perform basic surveys to any scale or create more detailed geographic information systems (GIS) data. With respect to basic business data, there is limited information on competition in various sectors, or on current supply and demand information for a specific agricultural product.

On a broader scale, hard or soft copies of laws and regulations can be difficult to come by, particularly outside Monrovia. Moreover, given the *ad hoc* nature in which Liberian law has developed, one must also find information as to the timeline of laws that have been enacted on a specific topic—in most cases there have been more than one, with amendments. Many laws have only ever existed as handbills, and still others were lost or destroyed during the civil wars.

Other important pieces of business information that provide assurances to investors, such as sovereign credit ratings, have not been issued for Liberia. There is an expectation that this may occur sometime in the future, since Liberia recently discharged

a significant portion of its sovereign debt, albeit through a buy back at the steepest discount—97%—in history.¹⁶⁹ Lastly, there are no private credit bureaus or ratings in the country, although with the new commercial code and the creation of the collateral registry, steps are being taken that could allow for the creation of such a system.

THE LIBERIAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS (LICPA)

LICPA is the professional association for accountancy in Liberia, and was re-created after a period of dormancy by a 2011 act of the legislature. While LICPA is still in its infancy, it is a member of the International Federation of Accountants (IFAC), which is the body that establishes international standards for accounting and audit functions.¹⁷⁰ Outside the public sector, principles of accounting and audit are not widely applied in Liberia. Companies are not required to keep anything but the most basic business account record, and there are no audit requirements in Liberian law.

Nonetheless, LICPA has a professional membership of approximately 40 CPAs of varying degrees of qualification; most of them work in the public sector. Of the 40 registered accountants, only three are women. LICPA provides training on all aspects of the profession, from international standards of accounting and auditing, to basic notions of professional conduct. In 2011, LICPA offered Liberia's first-ever CPA exam.

COOPERATIVES

Cooperative Societies, governed by the Cooperative Societies Act of 1976, promote the economic interests of their members in accordance with cooperative principles. Minimum membership requirements state that cooperative must at least at least 10 members over 18 years of age. Cooperatives are registered with the Ministry of Agriculture via the Cooperative Development Agency (CDA), as discussed earlier in this report.

Cooperatives often provide a means for smaller farmers to come together and create greater efficiencies, such as pooling resources to purchase needed inputs like storage facilities or combining crop yields to allow for higher volume sales. In Liberia, however, this structure is not widely used and if there

is any organization at all, it tends to be done informally with neighbors or fellow community members, without any formal business records.

The Cooperative Development Agency (CDA) is the government agency responsible for facilitating and strengthening cooperative societies throughout the country. Interviewees stated, however, that the CDA does not play an active role in this regard.

GENERAL AUDITING COMMISSION (GAC) / COMMITTEE ON PUBLIC ACCOUNTS AND AUDIT (SENATE)/COMMITTEE ON PUBLIC ACCOUNTS AND EXPENDITURES (HOUSE)

The GAC, part of the executive branch, is the chief financial watchdog institution of the Liberian government. Its primary duty consists of auditing public operations and providing the government and the legislature with independent advice to ensure proper management of public funds. The Committee on Public Accounts and Audits of the Senate and the Committee on Public Accounts and Expenditures in the House of Representatives work with the GAC to assist in the audit oversight function of, among things, the expenditure of public funds.¹⁷¹ Both legislative bodies monitor concession agreements by monitoring GAC audits and PAC reviews of such audits of auditing the procurement of royalties, taxes and contributions to social development funds.

INSTITUTIONS RELATED TO CORRUPTION, ACCOUNTABILITY, AND TRANSPARENCY

Because there are a variety of laws aimed at eliminating corruption and creating greater accountability and transparency in Liberia, there are also numerous institutions involved within government and in civil society. Each of them helps to create a business climate that reduces risk factors for investors.

The **Liberian Anti-corruption Commission (LACC)** was established in 2008 by the Anti-corruption Commission Act as an autonomous, independent body. LACC's role is to investigate allegations of corruption in public, private, and civil society sectors, and, when appropriate, recommend to the Ministry of Justice when to prosecute the offenders. The **Public Procurement and Concession Commission (PPCC)**, created by the Public Procurement and Concession Act of 2005, is theoretically another independent regulatory agency charged with ensuring that public procurement and concessions processes are conducted in a fair, transparent, and

¹⁶⁹ Center for Global Development blog: <http://www.cgdev.org/blog/liberia-cuts-its-debt-12-billion-buy-back-97-percent-discount>.

¹⁷⁰ http://www.ifac.org/sites/default/files/compliance-assessment/part_3/201311%20Liberia%20LICPA.pdf.

¹⁷¹ <http://legislature.gov.lr/committees/committee-public-accounts-and-audits>.

non-discriminatory manner. However, in practice, the IMCC has negotiated the concession agreements and the precise role of the PPCC is still under discussion. The recently created **Financial Intelligence Unit (FIU)** is like the LACC in that it is an investigative unit that can recommend prosecutions dealing with money laundering and other financial crimes.

Non-governmental organizations (NGOs) also play an important role in creating accountability. **The Center for Transparency and Accountability in Liberia (CENTAL)**, which opened in 2004, is Liberia's chapter of Transparency International. The organization played an important role in developing Liberia's Anti-corruption Strategy of 2006, which led to the creation of LACC.

Liberia's expansive list of NGOs also includes several involved in natural resource management and agriculture. Perhaps best known is the **Sustainable Development Institute** which works to ensure state and corporate social responsibility, as well as good governance, transparency, and accountability with respect to Liberia's natural resources.¹⁷² The **Corporate Responsibility Forum in Liberia**, led by one of Liberia's large concessionaires, ArcelorMittal Mining, aims to promote responsible investment, good corporate citizenship, and information sharing among interested parties, particularly those with interest in concessions. This organization also encourages best practices with respect to sustainable use of Liberia's natural resources.

WEST AFRICA VENTURE FUND

The West African Venture Fund (WAVF) provides equity funding for small-to-medium enterprises (SMEs) in Liberia and Sierra Leone. Based on historical data, WAVF recognizes the potential of post-conflict emerging economies, and accordingly seeks to not only make a return on its investments, but also to support the SMEs that generate the largest share of economic activity, employment, and benefit in post-conflict countries. Its equity investments range from US\$100,000 to US\$500,000, which are likely large for most Liberian agribusinesses; however, the larger ones could graduate to equity investments of this size. Investment determinations are based primarily on market data for the investment in question, the ability and knowledge of the person and company seeking the investment, and a clear-cut business plan. Once an application is approved, WAVF provides technical assistance to help ensure

a return on its investment. One entrepreneur who had received funds from the WAVF found them to be professional, fair, and thorough.

LIBERIAN BETTER BUSINESS FORUM AND THE BUSINESS REFORM COMMISSION

The **Liberian Better Business Forum (LBBF)** is a public-private partnership with a cabinet-level Governing Board that includes present and former Ministers of Commerce and Industry, State, Finance, the Chairman of the NIC, presidents and directors of significant private sector associations such as the Liberian Business Association, the Liberian Marketing Association, and the Chamber of Commerce. It was created in 2007 to expand employment and economic growth, to improve the investment climate, and attract international investment. The LBBF played a role in the development and eventual approval of key pieces of investment legislation, including the Investment Act, the Commercial Code, and the Commercial Courts Bill.

The **Business Reform Commission** is also a cabinet-level public-private partnership that was created to respond to the challenges described in the World Bank's *Doing Business* reports. It works in partnership with the private sector and international institutions to reduce unnecessary regulations, simplify processes, and generally make it easier to do business in Liberia.

LIBERIA CHAMBER OF COMMERCE

The Chamber of Commerce is the main advocate for, and main support of, private sector enterprise in Liberia. Its membership includes domestic and international businesses, and it advocates for reforms that create a more conducive environment for business and investment, including issues that relate to agriculture and gender.

INTERNATIONAL ORGANIZATIONS

Liberia is a member of the **Economic Community of West African States (ECOWAS)**, which works to promote deeper economic integration and efficiencies among its members and to create a more efficient market both within its member states and in external trade relations. In addition, the **ECOWAS Bank for International Development (EBID)** provides development support for all business sectors to increase capacity and improve infrastructure related to economic activities, to help diversify industries, and to enhance competitiveness. Liberia is not yet a member of the **World Trade Organization (WTO)** but joined in 2011 and formally started the accession process in July 2012. Although it is no

¹⁷² See, e.g., http://www.sdiliberia.org/sites/default/files/publications/Community%20Guide%20No.2_Getting%20a%20Fair%20Deal%20from%20Companies%20and%20Investors.pdf. See also, http://sdiliberia.org/publications_grid.

specific expected date for accession—because numerous reforms must occur first—the mere fact that it is underway, along with Liberia’s membership in other international organizations such as ECOWAS, is enough to provide a higher level of investor confidence.

MEDIA

The media in Liberia is fully engaged on issues that relate to business and the concerns of investors.

SOCIAL DYNAMICS

As demonstrated above, concerns regarding **corruption, accountability, and transparency** permeate every facet of Liberian business. These concerns are more than just echoing vestiges of the corrupt leaders during the civil wars, they are real and current. In February 2014, for example, numerous public officials, primarily within the Forest Development Authority, were indicted for illegally issuing Private Use Permits that authorized logging operations on nearly 2.5 million hectares of land.

The good news is that the government seems fully and visibly vested in fighting corruption, led by President Johnson. GOL continues to fortify the legal and institutional framework for a more receptive climate for investment. Much of the private sector and civil society is also fully vested in this struggle. Nonetheless, the general perception is that official corruption is endemic and there is, unfortunately, little — even anecdotal — evidence to the contrary. As long as this negative perception persists, investor interest in Liberia will be constrained.

Women remain on the fringes of investment in Liberia. The impression gained during this AgCLIR assessment is that for much of recent history, the best—and perhaps only—advocates for women in business have been the businesswomen themselves. This would also appear to be the case for women in investment. For example, women have begun to use a version of the traditional “Susu Clubs,” called Village Savings and Loan Associations (VSLAs). Women invest in each other through contributions to a shared savings account that can be used to make loans. In addition, VSLAs provide training on running a business and basic accounting in order to help ensure the success of those who receive VSLA loans. Fines are levied against anyone who violates a rule of the group, such as showing up late for a meeting. The VSLAs have a basic organizational structure, which typically calls for re-distributing all proceeds from the joint savings account, including fees and interest,

after a year or other predetermined period. The benefits of these arrangements are many — from the satisfaction of helping a colleague in her business effort, to reaping the benefits of a return on the initial investment.

Led by the Ministry of Gender and Development, other women’s projects and advocacy groups are becoming more common, such as Liberia Women Chamber of Commerce and the Association of Women in Cross Border Trade, the Next Level Business Program for Market Women, and the Economic Empowerment of Adolescent Girls Program.

As a result of the civil wars, many Liberians fled, forming a worldwide **diaspora**. Now, ten years after the wars’ end, some are returning. While abroad, many of these people gained the benefit of a higher-quality education and greater opportunities than what would have been available had they stayed in Liberia. The AgCLIR assessment team met a number of these young entrepreneurs, who are returning to do business in the country as SME owners. This returning influx represents an opportunity for Liberia, since they bring skills back to Liberia that are in short supply. Moreover, as a link to other expatriates that have remained in their adopted countries, the returnees could help harness the investment potential of that group beyond the current norm of sending remittances back to their families.

Overriding all these concerns is the current social, economic, and political context. Much is made of how Liberia is emerging from the tragedy of ten years ago, as it should be, but investors also look to the future when making investment decisions. At present, Liberia has an incredibly young population with 54% of the population age 18 and younger. In this sense, the need for change is even more pressing. Unless greater economic opportunity exists when this population boom comes to adulthood, social and political unrest will blossom, much as it did through the disaffected youth who were the catalyst for the Arab Spring. Creating a better atmosphere for investors will be important to holding this unrest at bay, because such investors will help provide opportunities that would otherwise be lacking.

RECOMMENDATION 1: Implement and improve accounting and auditing standards for companies.

Why is reform needed?	Investors need information in order to make investment decisions. One of the most fundamental pieces of information is the financial status of the company that an investor is considering. Accounting, reporting, and auditing are not required by Liberian law, nor do many companies do much more in this regard than the most basic profit/loss calculation.
Impact of problem	Lack of company information leads to low investor interest, particularly outside the community/family, which makes growth—for SMEs in particular—incremental at best.
Benefits of reform	Investors and businesses alike will benefit: financial reporting creates greater accountability, which creates greater trust, which encourages more investment. Businesspersons will gain a better understanding of their business and what it takes to be successful.
Constraints to reform	<p>The most significant constraint will be one of culture: agriculture businesses in Liberia are generally run very informally, and may resist such a change. Furthermore, given that many in the agriculture sector are poorly educated, reporting requirements may not be easily understood or applied, regardless of training.</p> <p>Executing on this recommendation would include regulatory, if not legislative, reforms, to add relevant and appropriate standards into Liberian law. There would be a significant training component. There would likely be some need for additional civil servants.</p> <p>Government buy-in may be difficult given the already crowded reform agenda, and without government buy-in, such a project has little chance of success, especially long-term, once donor funds are gone.</p>
Fit with other donors	There are numerous projects dealing with regulatory and legislative reform with which this could be paired.
Best Practices	International standards and training related to accounting and audit are well-established. Because of low levels of education, these standards would have to be tailored for the Liberian context.
Cost of reform	<p>This project could be implemented by a relatively small staff: COP, 2–3 office staff, 2 ex-pat lawyers/accountants for the initial phase of legislative/regulatory drafting (say one year), then 2–3 accountants as trainers, who would be “training the trainers” (one year) with 2–5 accountants/trainers seconded to the training program for a period of time to help with start-up (1–2 years). The project could likely be completed in 3–4 years, and the main expense is labor.</p> <p>Assumptions:</p> <ol style="list-style-type: none"> 1. Average of 5 full-time expat staff for 4 years at \$1,200/day, 220 day year. 2. Two full-time Liberian staff for 4 years at \$50/day, 220 day year. 3. Two office vehicles - \$50K/vehicle/year for 4 years. 4. Office, office-related expenses, training materials, training space - \$4,000/month for 4 years. 5. Travel to/from/in Liberia - \$8,000/month for 5 staffers for 5 years. 6. PM/STTA - 80 days/year at \$1,200/day for 4 years. <p>\$8.3 million for a 4-year project.</p>
Action Steps	First steps would be to take the temperature of relevant parties to assess interest. This would include those in government, trade and business associations, the business registry, etc.
Time Frame for reform	See costs section.
Feasibility	Medium. Any project that involves legislative reform and cultural change is always a challenge, but if properly tailored to the Liberian context it could work.



TRADING ACROSS BORDERS

Economic growth through expanded export trade in agricultural and plantation products is the pillar upon which Liberian development strategies rest. The recently drafted Liberia National Export Strategy focuses on growth of cocoa, rubber, fish and palm oil exports, and aims to attract US\$16 billion in direct foreign investment to assist in achieving that goal. The importation of agricultural inputs to prepare and plant the fields, increase yields, and protect the crops is required as part of this strategy since those products are not available in-country. Facilitation of international trade therefore becomes an essential ingredient for success of these agriculture-oriented development plans. Without progress in cross-border trade, prosperity will be stymied and transaction costs will continue to rise.

The Liberian government has undertaken a number of initiatives that have expedited the flow of international trade in agriculture. Those initiatives include:

- Infrastructure improvements at Freeport Monrovia.
- Introduction of advanced IT customs processing.
- Tariff reform.
- Organizational restructuring of customs administration.
- Regional trading agreements that encourage free trade within that area.
- A vast array of exemptions for agriculture-related inputs.

These initiatives are undermined, however, by government bureaucracy, an overriding focus on the borders as a source of revenue, and a lack of collaboration among the border agencies. Liberia continues to lag behind in its use of international best border practices and attaining efficient processing in line with international standards. It takes 11 days to clear goods at Freeport, a rate that is not trending downward. Time-consuming and cumbersome border processes encourage unscrupulous traders and tempt even those who normally play by the rules to bypass formal channels, which further endangers revenue collection.

FIGURE 3: CONTAINER IMPORT/EXPORT BY TYPE, 2011-2013

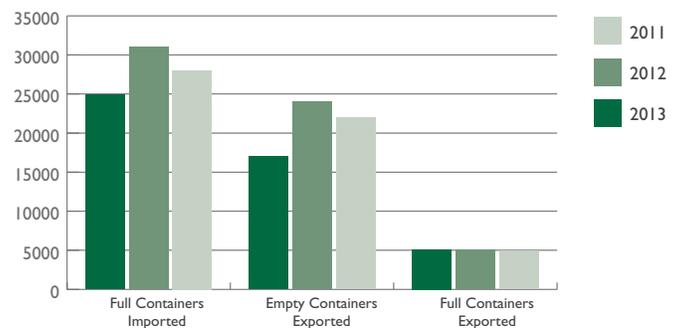
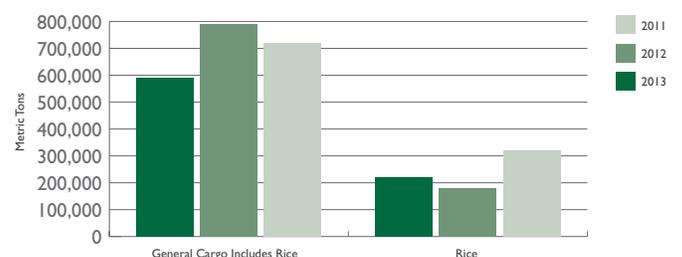


FIGURE 4: GENERAL CARGO FREEPORT, 2011-2013



Liberia's government struggles to expand the country's agricultural exports. Freeport Monrovia is the hub of international trade in and out of the country, handling 90% of all international cargo. (The country's second major port at Buchanan is dedicated chiefly to exports of mining products and timber.) Volumes in Monrovia declined by 4% overall in 2013 despite a 45% increase in rice imports. Exports dropped by 18%. Exports represent only 14% of full containers handled by the port. (See graphs.)

If Liberian agricultural products are to be able to compete in world markets, national sanitary and phytosanitary (SPS) standards that meet international norms must be developed and imposed and an institution certified to test compliance with those standards must be designated—or as an intermediate solution, standards adopted from a neighboring country in order to keep development costs low. Initiatives are underway in both these areas through the establishment of the National Committee for SPS Standards and the National Standards Laboratory. However, insufficient funding and lack of collaboration between the ministries leading these efforts could jeopardize creation of a comprehensive, quality SPS program.

Cooperation and coordination among the border agencies is lacking. Turf-fighting by border agencies, despite relatively clear delineation of responsibilities in the legal framework, has led to cumbersome and costly layering of import/export procedures. The lack of coordination adds time to clear goods and also interferes with the development of a comprehensive quality control system to assure that imported agricultural and food products are safe for consumption or for use in plant and animal production, which are critical for health reasons and to prevent plant disease.

The prioritization of revenue collection through the ports has also hindered the implementation of significant trade facilitation measures. Risk-management approaches that create a balance between revenue generation and expedited treatment for compliant traders are not applied, because all efforts are directed to increased interventions to meet revenue targets. As detailed at this report's chapter on Paying Taxes, approximately 35% to 40% of the national budget depends on collections from the Bureau of Customs and Excise (BCE). The agency is under immense pressure to meet or exceed assigned revenue targets. Import taxes are the easiest to collect and are especially critical in light of the low compliance levels of general tax collections. At the time of writing, the department's 2014/2015 collections are below the year's targeted amount of US\$18.7 million.

KEY TRADE PACTS AND TRADE POLICY REQUIREMENTS

- Mano River Union
- ECOWAS (including Trade Liberalization Scheme)
- WTO (observer status only)
- World Customs Organization Harmonized Code for Tariff Classification (2012) (scheduled for implementation)
- Executive Order 45 (2103)
- Various duty exemptions on agricultural inputs

LEGAL FRAMEWORK

TRADE POLICY

The term "trade policy" pertains to a country's commitment to building and sustaining formal trade relations with its neighbors, its continent, and international markets. This commitment is manifested in bilateral and multilateral trade pacts that incorporate mutual tariff reductions, harmonization of laws, and other mechanisms.

In Liberia, a wide gap persists between trade policy and implementation. Liberia is not yet a member of the World Trade Organization (WTO), but aspires to join. Its trade-related reform policies, WTO-inspired or not, are issued with grand and noble objectives without considering whether the implementing institutions have the capacity to carry out the reforms or to evaluate their impact. The result: high announced policy standards to govern cross-border trade that assign implementation functions to border agencies—and ultimately have little genuine impact on eliminating redundancies, resolving inter-agency disputes over roles at the border, or simplifying the trade process.

Liberia has followed a policy of open markets with its regional neighbors through membership in the Mano River Union (consisting of Liberia, Sierra Leone, and Guinea) and the 16-member Economic Community of West African States (ECOWAS). Products originating from these pacts' member states can be freely traded (that is, traded without duty) throughout the region. However, duty on goods crossing between them is often charged and paid—even where it is not owed—because border agencies and importers are simply unaware of these no-duty pacts. Moreover, the Liberian

Bureau of Customs and Excise (BCE, also referred to as below Customs) has encountered difficulty in obtaining data to verify questionable Country of Origin Certificates within ECOWAS. In any event, trade within the region remains low since many member states, like Liberia, are recovering from civil strife.

As mentioned above, Liberia has observer status in the World Trade Organization and aims for membership by 2019. Accession to membership entails an ambitious agenda, and the World Bank and the Swedish government are providing some assistance. Although an accession effort should accelerate progress to modernize and standardize Liberia's trade processes, there is enormous ground to cover, particularly in terms of implementation.

Liberia's tariffs have been set strategically low to attract investment and trade. As of January 2014, imports rates were the lowest in the region, averaging 4.8% despite having no zero-rated items. All duties are imposed on the CIF (Cost, Insurance and Freight) value. Duties on agricultural inputs, including machinery, seeds, and agrochemicals, average 2.5%. The only fee on exports is a Customs assessment of 2.5% FOB value.¹⁷³

Low tariff rates make Liberia's transition to the ECOWAS Trade Liberalization Scheme (ETLS) problematic, because ETLS imposes a Common External Tariff (CET) averaging 11.72% on all goods entering the area—a 7% increase. An impact assessment of this increase has been completed as part of USAID's Liberia Trade Policy and Customs Project (LTPC) and a migration plan for gradual transition to CET has been drafted. Serious disruption to the economy could result if this transition is not handled properly.

The government recognizes the critical need to import key inputs to increase agricultural production, to encourage foreign investment in the sector, and, in the case of rice, to ensure price and supply stability. In attempting to meet this need, the government has created a confusing and complex system of duty exemptions—a system that is neither transparent nor consistent, and opens the door to political influence. The impact of these exemptions on overall import trade and revenue is significant. In the last six months of 2013, Customs collected \$83 million on a total trade value of \$647 million.

Of that value, 45% (\$290 million) was partially or totally exempt from duties/taxes, representing a loss in collections of \$39 million.

Waivers, exemptions and reductions can be granted in a number of ways, including through Executive Order (as is the case with rice), through waivers granted by the National Investment Commission, through formal Partnership Agreement negotiated with the Ministry of Agriculture, and through legal Concession Agreements between an investor and the government. These programs are often specific to a client and are difficult to administer. The complexity in obtaining an exemption and then securing the duty-free status once granted especially deters SMEs from entering certain markets. The human factor in the decision-making process results in different treatment among like importers depending on negotiating skill and level of influence, and allows for the introduction of corrupt practices.

Executive Order 45, issued in January 2013, exempts rice from all duties and taxes and remains in effect. In contrast, an executive order suspending duties on agricultural inputs was not renewed because of suspected abuses. The impact on the major players has been minimal in regard to duty but has created delays in clearances. For example, one large supplier of agricultural inputs to cocoa producers told the assessment team that exemptions are still available but approval from three ministries is required and is only granted on a per-shipment basis. The most negative impact has been felt by the smaller companies that are not in the mainstream information loop and do not have the resources to negotiate the more complex exemption process.

BCE is currently developing a policy that would more specially define the eligible agricultural inputs and qualifications and result in a new executive order expected in late 2014. Since executive orders appear to be the easiest path to duty-free status, re-issuance would facilitate trade in these products and allow more players to participate. In the meantime, however, BCE has increased its scrutiny of all exemptions, including those held by concessionaires.

Liberia is a member of the World Customs Organization (WCO) and aims to implement the WCO's updated 2012 Harmonized Code for Tariff Classification in 2014. Successful implementation can improve the import process by allowing coded documents prepared internationally to be accepted in country. However, the internationally accepted WTO Valuation

¹⁷³ "FOB" stands for Free on Board. In trade parlance, this means that the seller of goods pays for transport to the point of shipment and loading costs. In Liberia, this 2.5% charge is based on the declared FOB value shown in the seller's pro forma invoice. See, for example, <https://www.delmas.com/static/eCommerce/Attachments/Liberia.pdf>.

Agreement, formally known as the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT) 1994, is not in use.

TRADE FACILITATION

“Trade facilitation” refers to the procedures and controls governing the movement of goods and services across national borders--by customs and other border control authorities—and how adopting international best practice can lead to greater trade efficiency, while also safeguarding legitimate regulatory and security objectives. National import/export processes must be clear, simple, and transparent so that the international traders can accurately predict transaction costs. This can only be achieved by using modern practices that meet international standards and reduce officer discretion. Although Liberia has made strides toward attaining this goal, too many agencies with too many controls still dominate the border process.

KEY POLICIES, LAWS AND REGULATIONS

- Revenue Code of Liberia Act (2000, as amended)
- Act to Establish the Liberia Revenue Authority (2013)
- Customs Tariffs of the Republic of Liberia as published in 2012
- *Draft* Customs Code
- *Agriculture* Law (1973, as amended)
- Public Health and Safety Law (1976, as amended)
- WCO and WTO valuation standards

Liberia’s customs authority, the BCE, was created in 1952 as a division under the Ministry of Finance with the sole purpose of collecting revenue. BCE is a major player in creating an efficient border process and has taken significant steps toward creating the legal framework required to implement modern practices. During USAID’s Liberia Trade Policy and Customs Project (LTPC), which ended in 2013, a gap analysis was performed, which considered using the existing Revenue Code (2002) under which the BCE operates. The result was the drafting of a new Customs Code and implementing regulations that fully comply with the Revised Kyoto Convention (RKO) requirements. The RKO is an international instrument

adopted by the World Customs Organization (WCO) to standardize and harmonize Customs procedures worldwide. When used effectively, these policies reduce transaction costs, simplify procedures, increase efficiency in Customs operations, and spur economic growth. The draft code was forwarded to the legislature in September 2013 but lack of sustained leadership within the BCE to advocate for passage has delayed action. The tentative date for finalizing the new code is July 2015.

In September 2013, a law establishing the semi-autonomous Liberia Revenue Authority was passed for implementation in July 2014. The law extracts revenue functions, including those performed by the BCE, from the Ministry of Finance. This approach that has been successful in many African nations, including Ghana, Rwanda and Uganda, in creating increased accountability and transparency. However, the transition is difficult and requires strong leadership and sustained political commitment to achieve the desired results.

Lack of trade information is consistently noted as having a negative impact on trade in Liberia. This problem is compounded by the low level of education and scarcity of electronic data and skills within the country. Trading costs and transaction times can be lowered, and trade expanded, when traders have access to the rules and have confidence that the rules will be uniformly applied. BCE relies on the National Customs Brokers Association (NCBA) to disseminate new policies, but often the information is not timely received or properly distributed. The cramped and poor condition of the NCBA office at the port where most activity occurs does not allow an organized method of information flow.

Lack of information on developing export markets and how to maneuver the process is evident. No export promotion agency exists to serve as a resource center for information and price and market analysis for potential export firms. However, this is a potential role for the reimagined Liberia Produce Marketing Corporation (LPMC), described in more detail above, or could be done in conjunction with the Ministry of Commerce. As things now stand, each potential exporter must maneuver the complexities of establishing a viable operation individually and those few attempting to do so are mired in obstacles at every turn. This lack of a centralized information center discourages expansion of the sector and inhibits SMEs from entering the market.

The WTO provides a customs valuation system that primarily bases the customs value on the price paid for the goods. In contrast, the Liberia Revenue Code provides for valuation based on the “normal price.” “Normal price” is derived from BIVAC (Bureau Veritas, described in detail below) using world prices and similar invoices, and means the price that would be paid between an unrelated buyer and seller on an open market. Generally, Liberia’s definition results in values that exceed the contract prices; one interviewed one party reported higher valuations on about 85% of shipments. Although the government has stated its intention to adopt the WTO valuation standard, no time frame has been established. In short, the current law impedes imports because it (1) does not allow the importer to reliably predict the duties to be paid, and (2) inhibits the ability to dispute value determinations, since the source of the constantly fluctuation data is unknown—and subject to human interpretation.

The Liberian Code of Laws Revised, Title 3, Agricultural Law (1950, revised 1991) established the Ministry of Agriculture (MOA) and delegated to it oversight of imported and exported live plant material and animals to safeguard domestic stock and ensure public safety. However, this law has created overlaps and confusion: The legal mandate for the Ministry of Health, which had some similar functions, was not amended. The Ministry of Commerce and Industry (MOCI) has power to issue permits for import and export of some of the same commodities. For example, seed import permit declarations are issued by the MOCI without consultation with MOA—which is required to oversee compliance with the FAO list of restricted seed imports. A similar situation exists for agro-chemicals. The inability to resolve these overlapping functions has hindered creation of an effective food safety program and eroded government’s ability to apply international sanitary and phytosanitary standards (SPS) to traded goods.

Two initiatives are underway to form a comprehensive SPS regime and ensure its implementation. The first is a ministerial committee of technicians from the affected agencies, which has drafted a Memorandum of Understanding (MOU) delineating tasks. This memorandum now needs both ministerial and presidential approval, but this is unlikely because ministries typically resist surrendering tasks (and the attendant power). The second initiative is the work of the National SPS Committee, which has completed draft legislation to formally establish the Committee as the national authority over food safety and as the central inquiry point for SPS-related issues. The Committee has strong support from regional and international associations such as the UN Industrial Development

Organization (UNIDO), which has obligated funding in 2015. These efforts must be coordinated with MOCI’s National Standards Laboratory so that SPS standards are created (or taken from a neighboring country, most likely Ghana) and implemented, and also so that a national laboratory is qualified to certify that exports meet international norms.

IMPLEMENTING INSTITUTIONS

The major implementing institutions for regulating and clearing imported and exported agricultural products are the Ministry of Commerce and Industry (MOCI) and Bureau Veritas (BIVAV), the pre-inspection service contracted by Customs and other state agencies. Together, MOCI and BIVAV represent a two-layered approach to imports—that is, pre-shipment and post-arrival—that ultimately increases costs and delays and adds unnecessary documentation. Liberia exports much more expeditiously than it imports, because exports have no revenue-generating implications.

KEY IMPLEMENTING INSTITUTIONS
<ul style="list-style-type: none"> Ministry of Commerce and Industry <ul style="list-style-type: none"> National Standards Laboratory
<ul style="list-style-type: none"> Ministry of Finance <ul style="list-style-type: none"> Bureau of Internal Revenue Bureau of Customs and Excise Taxes Human Resources
<ul style="list-style-type: none"> Bureau Veritas
<ul style="list-style-type: none"> Future Liberia Revenue Authority
<ul style="list-style-type: none"> Ministry of Agriculture <ul style="list-style-type: none"> National Quarantine and Environmental Services division Department of Animal Health
<ul style="list-style-type: none"> Civil Service Commission
<ul style="list-style-type: none"> Ministry of Health and Social Welfare <ul style="list-style-type: none"> Division of Environmental and Occupational Health (DEOH)
<ul style="list-style-type: none"> National Port Authority
<ul style="list-style-type: none"> Port Reform Implementation Group

The Ministry of Agriculture is generally not involved in inspecting and testing agricultural imports, except for livestock, but MOA is the issuing authority for sanitary and phytosanitary (SPS) certificates required on exports.

Efficiency of port operations at Monrovia are also key to facilitating trade and although improvements have been noted, progress appears to have stalled and cargo volumes have fallen.

Ministry of Commerce and Industry (MOCI). The first layer of trade regulations requires that imported agricultural products be covered by an MOCI-authorized Import Permit Declaration (IPD) prior to shipment from the exporting country. Rice is the only agricultural export that needs an Export Permit Declaration (EPD). The process to obtain an IPD or EPD is manual, requires a minimum of three visits to MOCI headquarters, and must be authorized by two high-level signatures. Approximately 400 to 500 permits are issued per month and no fees are charged. The procedures are published on MOCI's website, and the agency hosts workshops for stakeholders who report that the process takes about two days to complete.

Rice imports, due to the strategic nature of the commodity, require a higher level of control. Potential importers must formally request permission to import from MOCI. The agency verifies that the firm is in good standing and has the needed storage capacity and distribution plan. At times, MOCI requires samples to be submitted to the National Standards Laboratory. Only the MOCI Minister can approve such permits, which currently only seven firms hold—four international and three Liberian.

The intent of the permit system is to oversee quantity and price of products relating to food security. The current ability of MOCI to access and download import data recorded in BCE's automated data processing system should assist in reducing the list of products that require permits.

Bureau Veritas (BIVAC). MOCI and the Ministry of Finance (MOF) have contracted with the international firm of BIVAC to operate a pre-shipment inspection (PSI) regime for imports and exports in excess of \$3,500. Cargo arriving by land or air has a threshold of \$1,500 and is subject to inspection by BIVAC inspectors only on arrival. BIVAC import fees for this service are \$1 per metric ton (MT)¹⁷⁴ for rice, \$2 per MT for fuel and 1.2% of the FOB value or \$190 whichever is higher for all other shipments. Fees of 0.7% of FOB value for rubber and 1.4% FOB value for other commodities apply to

exports. BIVAC remits to the government 25% of collections on rice and fuel, and 0.2% to 0.3% of collections on imports in excess of the stated minimums.

BIVAC's contract requires that it inspect, in the country of origin, all shipments destined for Liberia to (1) verify the invoice data supplied by the importer as to quality, quantity, price, and tariff classification and (2) determine the duty and tax to be assessed. When the physical inspection is complete, BIVAC files a Clear Findings Report (CRF) which serves as the basis of the Customs entry declaration and the payments collected. This system is used to safeguard Customs collections while the Customs department builds its capacity to properly oversee and assess imports.

Although BIVAC is contractually obligated to verify quality, the revenue-generating aspects of its contract are paramount. In fact, BIVAC rarely performs an independent analysis of products, relying instead on the standards required to be certified by the seller under the purchase contract. Lack of national quality standards for agriculture-related products impedes adherence to this requirement.

Importers, particularly those involved in shipping fresh fruits, vegetables, and processed food products, indicate that much of the delays in clearance are attributable to BIVAC. Often when the goods arrive the CRF is not yet available. BIVAC should employ modern business practices that allow importers to track status and be alerted when a problem occurs and when the CRF is issued. BCE and MOCI oversight is needed to investigate complaints and hold BIVAC accountable if the time constraints outlined in the contract are not being met.

Furthermore, using an out-sourced resource for pre-shipment inspection often interferes with—or at the least delays—BCE's progress in developing its own core competencies in valuation, classification, country of origin, and risk-based processing. Recognizing this, BIVAC's current contract requires that BIVAC conduct capacity-building training within Customs/MOCI. BIVAC scheduled 11 training sessions for 2014. BIVAC is also contractually obligated to construct and equip inspection stations at four major land border ports; this will eliminate the current need to transfer the majority of commercial imports from those locations to Monrovia for clearance.

¹⁷⁴ A metric ton is a unit of weight equal to 1,000 kilograms (2,205 pounds).

Overall, BIVAC is a good tool for transitioning to a stronger Customs department. BIVAC is keeping cross-border trade operating at a somewhat predictable pace and standard, while BCE staff is being trained on valuation, classification, and the other skills a robust customs service needs.

On the other hand, eliminating pre-shipment inspections entirely is a desirable goal. In fact, installing a simplified border process is one of the most significant actions GOL could take to lower trade costs and create a less restrictive environment that would attract new business. To the end, a strategic plan to eliminate PSI at the end of BIVAC'S current three-year contract in 2015 must be developed, in order to give decision makers objective data to measure and compare (1) BCE's readiness to assume tasks and (2) the level of service and revenue provided by BIVAC. Otherwise, the renewal/termination decision will be left to political influence and subjective evaluation. It also must be noted that the strength of BIVAC's commitment to train and transfer its duties to Customs in 2015 (which would eliminate duplicated processing) is unknown.

Land border imports are not subject to pre-shipment inspection but are examined on arrival. BIVAC officers stationed at the major land borders perform joint inspections with BCE officers, and the latter determine final duty liability. In these cases, BIVAC adds little value but is paid a \$190 fee for service on shipments over \$1,500.

Bureau of Customs and Excise (BCE or Customs). In most countries, Customs is the primary border agency that manages import and export procedures, determines and collects duties and taxes, enforces restrictions to safeguard the public, and implements modern processes to facilitate trade. In Liberia, BCE functions as the quality control agency for BIVAC operations. In that role, BCE re-inspects about 80% of all cargo arriving at Freeport, thus creating a second layer of review for international shipments, all directed at generating and protecting revenue, not facilitating trade.

BCE operates at 17 official ports of entry, with 365 staff processing (on average) 2,900 declarations per month. Freeport Monrovia and its surrounding facilities account for 95% of all collections, or \$67.3 million of the \$68.7 million total collected July through December, 2013. Revenue targets are set both at the national level and for each post. Although BCE is organized to develop and implement modern practices such as risk management and post-clearance audit, the pressure to produce revenue has not allowed these units to promote trade facilitation.

Human Resources. BCE'S human resource (personnel) functions are centralized within the Human Resource Section of the MOF, where IT is being introduced to support HR functions. Increased use of technology may reduce the pervasive human factor in hiring and promoting personnel.

Currently, BCE's recruiting and hiring process is not transparent and at times results in hires that have connections rather than qualifications. This is particularly harmful to capacity-building efforts in the BCE, because this requires more people with demonstrable technical backgrounds in business processes, management analysis, risk assessment, and audits. BCE's promotions are not advertised and appear to be at the discretion of management. Re-training or transfers are used to deal with poor performance. The Civil Service Commission (CSC) has recently introduced a performance evaluation system that is slowly being integrated into agency policy, so its impact on promoting professionalism is unknown.

Women represent 23% of Customs' total staff (84 of 365) but are not equally represented in management, despite having generally longer tenure. BCE has a six-month rotation policy for managers (that is, they change field offices every six months), which often creates disruption in the family unit since no allowances are given to facilitate moves in and out of field offices. The rotation policy is particularly disruptive among female officers who traditionally assume most child-rearing and family care responsibilities, and usually must leave their children behind. Moreover, rotating female supervisors has been reported as a way to resolve male resistance to female supervision. BCE would provide a level playing field to all employees by implementing merit-based promotions and injecting transparency into how vacancies are filled.

As is common within public sectors in developing countries, salaries are low. Civil Service is in the process of adopting a salary scale for public employees. A hire with a minimum two years of college will receive about \$150/month. Pay within the BCE is from two sources: Salaries are paid in Liberian dollars. Allowance payments are paid in US dollars, at the discretion of the Ministers. Often, an employee's allowances are significantly higher than his or her salary, and reportedly are not linked to performance.

Reports of corrupt behavior among BCE staff are minimal and, when reported, consist usually of minor facilitation fees which are not onerous on the trading community. Customs is a signatory to the WCO Revised Arusha Declaration on Customs Integrity and has a Code of Conduct in place. An Internal

Affairs Unit within the MOF investigates all reports of corrupt behavior. The current CSC code states that penalties for “dishonesty in the conduct of government business” are either a one-month suspension or termination. Such restrictions, coupled with employee readiness to contest decisions in court, impair management’s willingness to deal assertively with integrity issues.

Training/Modernization. The training department within Customs is a well-functioning unit dedicated to preparing officers to operate in a modern environment and assume BIVAC functions. With the assistance of USAID’s LTPC project, assessments, curriculum, and trainers were developed and needed equipment procured. A multi week-course for 98 BCE recruits was recently completed, which determined suitability for assignment. Refresher training has also been offered to officers in headquarters but lack of funds is hampering training efforts in field offices. Increased coordination with BIVAC’s efforts would eliminate redundancies and improve use of limited resources. The Tri-Party Agreement between the WCO, Ghana and Liberia provides opportunities for exchange of staff as well as for Ghana’s Customs personnel to assist with capacity-building within the BCE.

The Modernization Unit of the BCE oversees implementation of a major project implemented by the UN Office for Project Services and funded by the World Bank. The project has four focus areas: training, automation, infrastructure and policy and legislation. Accomplishments to date include renovations of 15 border locations with plans developed for new construction at two remaining sites. However, the Modernization Unit is hampered in monitoring the program, because it lacks the logistical support needed to visit locations outside the capital.

Automation. Customs implemented its IT operating system, developed by UNCTAD (UN Conference on Trade and Development) in July 2010. The system, known as ASYCUDA World, is a Web-based regime that handles all customs procedures electronically via the Internet—including Customs Declarations, Cargo Manifests, and Transit documents. Currently the system is operational in 11 of Liberia’s 17 ports of entry and captures about 95% of total workload. Shipping manifests must be filed in the IT system 24 hours prior to arrival. The Customs declaration cannot be lodged in the system until the manifest is present. Stakeholders report that IT processing has simplified procedures and increased transparency in the trading process.

To date, however, the ASYCUDA World system is underutilized. Customs has been unable to advance its use to create a “single window” for border processing, in contrast to systems that now operate in Ghana, Senegal, and Rwanda. Single windows represent the most efficient and facilitative process for international trade, connecting all border agencies into a single system through which documents are both lodged and processed. In Liberia, redundancies and lack of clarity over border functions, coupled with the low level of cooperation and coordination among the country’s border agencies, inhibit progress in this area.

The Chinese government recently donated two mobile x-ray scanners to BCE and trained four contract officers to run the units. To date, just one is operational and is used exclusively for scanning containers selected for 100% inspection. A scan takes about five minutes to complete but only 9 to 10 containers are processed daily. Fees are \$50 for a 20-foot container and \$100 for a 40-foot container. To achieve much stronger results from this resource, a risk-management plan must be developed to properly screen containers for scanning.

Export/Import formalities. The processing of exports leaving Liberia is generally efficient, although shipments are subject to a Customs fee of no more than 2.5% FOB and a pre-shipment inspection. BIVAC adds little to the process, since most quality and quantity verifications are either performed by the exporter as part of contractual agreement or by national agencies with oversight responsibilities for the product. (However, few if any inspections are conducted by those national agencies, such as the Liberia Produce Marketing Corporation, discussed in this report’s chapter on Dealing with Licenses).

For the 70% of shipments that have undergone pre-shipment inspection, a second layer of import clearance is required. This begins with the importer or broker filing the import entry into ASYCUDA using data from BIVAC’s CRF. The importer/broker then brings the hard copy with required documentation to the BCE offices on or after arrival. Penalties for failing to undergo pre-inspection are 10% of value for the first offense and an additional 10% for each subsequent offense. However, for an unscrupulous importer who wants to avoid discovery of an overstuffed container, these penalties are not sufficient to encourage compliance. For those shipments not subject to pre-inspection, filing the entry documents on arrival is the first step, with joint inspections by BIVAC and BCE required for clearance.

After assessment and inspection by Customs, final tax liability is determined. Payments can be made at any commercial bank but the official receipts needed for clearance are only issued by the Central Bank. Cash is tendered at the land borders. Fees include Customs duties, a 7% Goods and Services tax, a 1.5% Customs User Fee, and a .5% ECOWAS Trade Levy, all of which are based on CIF values.

At Freeport Monrovia, a one-stop shop composed of BCE, BIVAC, terminal billing, Commercial banks and the Central Bank personnel gives the importer/exporter one location to submit his documents, make payments, and obtain clearance to exit the port. Representatives of other border agencies are not co-located, apparently since their approval and/or review is not required for clearance. Although this setup has facilitated release, the Customs process still takes up to 2 to 3 days to complete, with Customs brokers noting even more extensive delays in 2014.

Customs delays are attributable to several factors. First, Customs does not use the “self-assessment” filing approach, whereby the filer bears responsibility for accuracy of data and duty liability with only random checks and post-clearance audits performed to verify data. BCE assessment units thoroughly check every aspect of the import/export declaration to ensure proper duty collections. Second, inspection rates are high (80%) but facilities for inspections are inadequate. Current facilities limit inspections to eight containers daily, which causes backups in peak periods. The sustained high level of inspections is due to increased trade with more unreliable sources, the constant pressure on BCE to meet revenue targets, and the lack of a trader compliance program which would expedite release of routine low-risk cargo. Third, the quality of import/export submissions is not high, although preparation of submissions by the Customs brokers has been improving due principally to training efforts both by BCE and the National Customs Brokers Association (NCBA). The ASYCUDA IT processing system imposes more discipline and edits in data submission and many of the brokers initially were computer-illiterate and lacked experience in modern business practices. They are still playing catch-up.

Clearance formalities at Liberia’s rural ports vary significantly from Freeport. On the other hand, the volume of foreign trade through these locations is minimal. Ganta, the largest land border post, processes 1 to 3 commercial imports daily, most of which are smaller shipments consolidated by women cross-border traders. In Ganta, very little trade in agricultural products takes place. Although small traders report a fairly

expeditious process that can be completed in 1 to 1-1/2 hours, larger commercial shippers report numerous delays due to lack of coordination among the 6-plus border agencies stationed there and inadequate invoice details needed to assess duties and taxes.

Compliance programs. The goal of any border agency is to build voluntary compliance through a program of self-assessment, as supported by competent Risk Management (RM) and Post-Clearance Audit (PCU) actions. In a modern Customs service, these are essential tools to identify and streamline clearance procedures for compliant importers/exporters and raise compliance levels. This approach emphasizes post-release controls in lieu of interventions on arrival.

Although BCE does not use the “self-assessment” principle, it does have both a RM and PCU department. The RM unit uses basic profiling and analysis techniques to identify suspect shipments and importers for referral to the post-audit department for issuing penalties, on-site visits, and/or a full audit of the client. The RM unit needs increased capacity to coordinate, collect, and analyze data from multiple sources to determine risk levels. RM takes no action to remove identified high compliance traders from the “red” category in ASYCUDA, which requires full review/inspection on arrival. Changes in designation to green (immediate release) or yellow (document review only) must be approved by the Commissioner of BCE and there are few of those in the system. BCE should initiate a compliant trader program to expedite goods for low-risk stakeholders as part of an improved trade facilitation strategy and to reward compliance.

The concept of post-clearance audit allows for speedier clearance of imported goods with random checks performed at the trader’s premises subsequent to release. This is not how BCE’s Post Clearance Audit Unit operates. The goal of its 21 centralized officers is to achieve full compliance on all import transactions so that all revenues due are collected. The reviews are not done in lieu of arrival inspections or pre-shipment inspection but are an additional check after clearance. About 45% of all import declarations are reviewed and of those, 15% are found non-compliant. Additional collection from July through November resulting from PCU actions amounted to \$281,392. No action is taken to expedite future shipments of the 85% compliant importers, which as noted is a significant lost opportunity.

The PCU office, composed mainly of auditors, has limited capacity to extend its reach outside the capital region due to lack of logistical support. Unreliable IT connectivity slows analysis. The staff would benefit from training on the core customs functions—valuation, classification, and Rules of Origin—as well as increased capacity in modern IT business practices so they can competently audit business records.

Appeals and advance rulings. Traders must be able to appeal decisions of Customs and expect impartial and timely resolution that takes into account the costs to the stakeholders. Customs recently established a formal appeal process with the third and final level of review to the autonomous National Board of Tax Appeal.

A system of advance binding rulings, through which an importer can be assured of the classification and thus duty due on a shipment prior to import, was established in March 2013. Before then, pre-shipment advice was given informally and was not binding on the parties.

Information on both of these initiatives is just reaching the general public, so their use has been limited. Both programs conform to international requirements.

Ministry of Agriculture. Without effective animal and plant oversight institutions to insure implementation of international SPS standards, the potential to export staple food crops to lucrative markets overseas cannot be realized. Moreover, the process for obtaining required certifications and permits must be clear, simple, and transparent.

Currently, two departments within the MOA are charged with regulating international trade in agricultural products: the National Quarantine and Environmental Services division (Quarantine) and the Department of Animal Health (including Animal Health Services). Both are unable to meet these criteria. They have inefficient centralized manual permit systems; to acquire a permit, a minimum of two visits to central headquarters is required. Their effectiveness is further eroded by a lack of well-trained staff, limited resources, and poor inter-agency cooperation. In the majority of cases, MOA requirements are simply not applied. Donor efforts have been directed at improving technical capacity but a more sustained effort is needed.

MOA's Quarantine division, which is focal point for implementing the International Plant Protection Convention (IPPC),¹⁷⁵ issues import permits and SPS export certificates for plant-related items at its Monrovia office, with field staff activities limited to inspections only. The trader must take the import/export documents to Quarantine for approval, followed by a trip to the Ministry of Finance for payment. After the trader returns to Quarantine with the receipt, the permit is granted. Fees for both import/export forms are \$50 to \$100 per shipment. In 2013, approximately 50 export SPS certifications, mostly for timber and forestry products, were issued. This very low number demonstrates both the low level of agricultural exports and high level of non-compliance. The equally low number of import permits — about 200 in 2013 — reveals that 80% to 90% of imported agricultural products imports, including rice, seeds, fruits and vegetables, enter into the country without the required permit or any inspection by Quarantine officers.

BIVAC's pre-inspection process has been improperly substituted for this review and Customs ASYCUDA system does not flag pertinent shipments as requiring MOA clearance. This virtual absence of inter-agency dialog and cooperation greatly expands the potential for introducing multiple pests and diseases into the national agricultural sector. When coupled with the large volume of informal trade in staple food products originating in neighboring countries without adequate food quality inspections, the potential for a pest infestation becomes greater.

Currently no existing laboratories in Liberia, including the recently established National Standards Laboratory, can perform extensive plant pest and disease analysis. Until quality inspection systems are in place and countries receiving agricultural goods from Liberia can be assured that international standards are being met, export markets for Liberia's agricultural products will remain closed.

Animal Health Service (AHS), a division of MOA, regulates the import of animals on the hoof and live chicks by issuing import permits from its central office. Service fees are \$2/ head of livestock and \$100 per 5,000 day-old chicks. Each year, AHS issues about 1,500 permits covering about 100,000 head

¹⁷⁵ According to the IPPC website, "the International Plant Protection Convention (IPPC) is an international agreement on plant health to which 181 signatories currently adhere. It aims to protect cultivated and wild plants by preventing the introduction and spread of pests." Liberia is a signatory, <https://www.ippc.int/nppos>.

of cattle and 150,000 chicks. Of the agency's staff of 25 officers, 15 are field officers (assigned one to each county) and who only go to the border when needed.

Live animals arrive predominately at Monrovia port where lack of quarantine facilities does not permit the AHS to hold the animals for more than 24 hours, despite a three-day industry standard. AHS has developed a proposal for establishing quarantine facilities at 12 locations. Also already in place is a high-priority EU initiative aimed at upgrading equipment in the veterinary laboratory and building capacity.

The inspection of imported livestock is the primary focus of the MOA inspector at the Ganta border with Guinea. About 3,000 animals per month enter, almost exclusively intended for consumption. Determinations of suitability are made through visual inspections, since no quarantine facilities or testing equipment is available. Heavy reliance is placed on the highly regarded vaccination and veterinary services of Guinea. The current method to control refused animals is to paint a red streak on their heads and escort them back across the border. Although the MOA inspector states compliance levels are high and importers knowledgeable of requirements, the lack of quarantine facilities and testing tools widens the potential for introduction of disease-carrying livestock.

Division of Environmental and Occupational Health (DEOH), Ministry of Health and Social Welfare.

Section 26 of the 1976 (Rev.) Public Health and Safety Law assigns DEOH responsibility for food safety within the country. Since Liberia imports the majority of its food, quality control over such imports should be a major activity of this division. However, lack of clarification of border agency roles has resulted in little if any quality testing or inspection of food products at import. Shipping manifests are filed with DEOH and used to build a list of food distributors so that the agency can determine which 10% to 20% will be inspected at a later date. Health inspectors at the major land border posts only review vaccination records of people and at Freeport only serve as part the boarding party to review general health conditions on the vessel.

If the assignment of border inspections was clarified, Customs IT processing system could flag shipments according to established parameters to withhold release of suspect shipments pending approval. The pending MOU between Health and the National Standards Laboratory to train field inspectors in proper collection and transport of samples would be a critical

part of this process. Coupled with availability of Rapid Food Testing Kits, a minimum-level standard of food quality for imports could be established.

Port operations. The National Port Authority (NPA) oversees operations at the four seaports in Liberia—Freeport Monrovia, Buchanan (chiefly mining and timber), Harper (timber), and Greenville (timber). With the exception of Monrovia, all are in poor condition and without the basic infrastructure to handle general cargo. No shipping lines call at those ports, which operate exclusively for a specific industry in the area. Buchanan is of increasing interest to traders, however, especially because of a well-functioning rail line put in place to rapidly transport extracted products to the port. Moreover, the Liberian Agriculture Company, a large rubber concession located close to Buchanan, is greatly interested in improving the Buchanan port so that its own domestic transport costs could be reduced.

In 2006, the Port Reform Implementation Group was formed to improve port infrastructure using concession agreements based on land lease arrangements. This model, implemented at Freeport Monrovia in 2011, forms the basis of the NPA's 25-year master plan for modernizing the remaining ports, a major focus of the President's economic plan. Bringing updated services like commercial port facilities to Buchanan, the second largest city and center of large plantation crop production, would reduce transport costs for international traders located there who now have to carry goods to/from Monrovia. The assessment team reported widespread frustration with slow progress and doubt about NPA's ability to lead infrastructure improvements.

Fees for port handling are set by the NPA and generally increase each year based on inflation (3.7% for 2014). Rates are currently set at \$135 for 20-foot and \$190 for 40-foot containers; \$10 per MT of rice; and \$3.32 per MT for other bulk commodities.

In February 2011, NPA signed a public-private partnership agreement with APM Terminals, an international port service company, to manage and operate port facilities at Monrovia with the exception of a few piers. The 25-year concession, considered to be one of the most beneficial in West Africa for the government, requires APM Terminals to invest \$125 million to modernize the port and to return 22% of revenue to the NPA. Major questions exist as to whether this investment is sufficient to upgrade the port to international standards.

APM's first priority was to invest \$50 million to reconstruct three existing berths that were in complete disrepair and can now accommodate any vessel. It added 24-hour power availability, reliable IT connectivity, expanded examination stations, and remodeled facilities for the border agencies. Now, 120 reliable electrical connections for cold storage containers are available, with the capacity soon to be expanded to 250 to accommodate trade expansion in reefer containers.

One of the key performance indicators (KPI's) that measure port/terminal efficiency is container dwell time, for which the international standard is five days. Despite improvements in infrastructure, this indicator has not changed significantly during the three years of ATM operations. Dwell time increased to from 10.73 days in 2012 to 11.67 days in 2013 (up 1%), with 44% of all containers released within 5 days. In the absence of a time-release study, it is difficult to determine what causes delays, but obvious factors could include broker delays in filing and payment, Customs clearance procedures, and unavailability of equipment to move containers during peak periods. Many have also complained about ATM's inability to locate containers, but this should be resolved when the yard is resurfaced and a satellite positioning system is installed, both scheduled for completion by November 2015.

Rice imports are a major commodity through the port and increased by 45% in 2013. Most rice comes from South East Asia and is contracted for a price between \$480 to \$520 per MT. Shipments enter exclusively through Freeport on charter vessels that haul 25,000 to 30,000 MT. Freight charges average \$85 to \$100 per MT and often in peak seasons there is an inadequate supply of carriers. Of the rice imported, 90% to 95% is imported in loose 25-kilogram (kg) bags, which according to importers results in significant damage and pilferage. Transport of bagged rice on pallets or pre-slung would reduce handling costs significantly, better ensure quality and quantity, and reduce loss.

Importers of bulk/break-bulk commodities such as rice note the lack of timely berthing space as a major contributor to costs. In good weather, APM reports handling 2,500 MT per day, so that a vessel will remain in port for 10 to 15 days. However, rice cannot be off-loaded in poor weather, due to potential spoilage. When this occurs, vessels can remain at berth or awaiting berths for up to 30 days, resulting in excess fees of \$15,000 to \$40,000 per shipment.

Shipping lines calling at Monrovia have sufficient cargo space to handle current and future agricultural imports/exports. Containerized lines have increased from two to four as a result of infrastructure improvements and reduced risks on arrival. Service is increasingly regular to Europe, with 14-day transit times. Less service is available to the US, however, where transit times are 25–28 days, and to Asia with 45 days in transit. Shipping rates from Liberia are about 30% higher than to other ports in West Africa with a 40-foot container costing about \$4,000. The primary factors in these higher costs are (a) lack of competition on routes because of low trade volumes and (b) the over 50% rate of empty outbound containers.

Air transport. Currently there is sufficient cargo space for handling the import and export of fresh fruits and vegetables, although few of these commodities use air freight in Liberia. Shipping costs are about \$1.25 per kg, which is higher than average. Cold-storage facilities are available at the airport and clearances are expeditious. The planned renovation of Roberts International Airport should permit expansion of air freight capacity and may lower costs.

SUPPORTING INSTITUTIONS

KEY SUPPORTING INSTITUTIONS

- National Standards Laboratory
- Customs brokers
- Liberia Produce Marketing Corporation
- Association of Women in Cross Border Trade
- National Trade Facilitation Committee.

National Standards Laboratory. With funding from UNIDO and the West Africa Quality Program, the National Standards Laboratory opened in 2011 under the MOCI with the goal of strengthening the national SPS system, a necessary prerequisite to expanded agricultural exports. So far, only limited quality standards have been adopted that meet ECOWAS and international criteria. NSL technicians have been trained in Ghana--the only country in the region to be certified--on the mechanics of building a quality infrastructure; the goal is to achieve full certification of NSL's testing services within three years. The overarching goal of this initiative is for

Liberia's agricultural products to flow freely within the region without border inspections and to be certified for export internationally.

Principal users of the NSL facility are MOCI and the Ministry of Health, with rice, cocoa, and cereals being the major products. Private companies that use the lab free of charge represent 30% of its workload. A pending fee proposal ranging from \$5 to \$700 would assist with funding the institution.

Within the NSL, lack of staff continuity is a major problem. Technicians are employed under one-year contracts; in January 2014, they reported not having been paid since July 2013. The facility also lacks the hi-tech equipment needed for thorough plant and pest analysis and for testing pesticides.

The NSL also lacks a legal framework or national mandate that would underscore its potential to set, regulate, and test for compliance with international SPS standards. The MOA continues to propose establishing its own laboratory rather than increasing the capacity of the NSL—a much less costly alternative. To further rationalize costs, only one laboratory should exist, at the national level, and should borrow as many standards as possible from a neighboring country; Ghana is the likeliest candidate given its well-developed standards.

Customs brokers. All import and export declarations are required to be prepared by a customs broker, who must be a Liberian citizen and hold a license issued by the BCE. About 400 licensed brokers serve as the representative of the importer/exporter before the border agencies, and the sector's competence directly relates to the time and cost of clearance. Efforts to improve performance are ongoing but the level of competence and professionalism within the sector still needs improvement. Until that is achieved, trade facilitation efforts are hampered.

A 1994 law created the National Customs Brokers Association (NCBA), and declared it the sole representative of the sector. All licensed brokers must belong to the NCBA and pay a fee of \$150 per year. The NCBA also sets standard service charges of \$200 for a 20-foot container and \$400 for a 40-foot container. However, the more reputable companies are often squeezed out by individuals who charge lower fees but often cannot render the same level of service. The association has established a service center outside the port where 70% of all declarations are input into ASYCUDA. Lack of

reliable connectivity to the IT network and poor responsiveness to technical issues by BCE's ASYCUDA staff are reported as ongoing issues.

In May and November 2013, BCE administered its first broker exam since 2005. Prior to the exam, the NCBA sponsored a two-month prep course. About 300 individuals were tested, 65% passed, and 75 new yearly licenses have been issued. The newly drafted Customs Code improves BCE's oversight authority, but BCE must strengthen its suspension and revocation program to remove filing authority from those who engage in fraudulent practices. The NCBA was at first reluctant to cooperate with efforts to upgrade sector standards but has now become more actively engaged.

The NCBA is the principal conduit for communication between the sector and government and NCBA's ability to advocate effectively is improving. That said, NCBA reports a lack of responsiveness or involvement in resolution of issues from the government agencies. Improved office facilities and better organization would improve dissemination of information to members.

Liberia Produce Marketing Company (LPMC). As discussed in prior chapters, this state-owned enterprise, originally founded in the early 1960s to buy and export cocoa and coffee, now functions as a nominal regulator of those commodities as part of its current mandate. Emphasis is on increasing production capacity and quality controls throughout the cocoa sector. With limited effectiveness, LPMC issues a quarterly reference price for cocoa to assist farmers in obtaining an adequate farm gate price and occasionally provides the quality and quantity certifications required by the buyer at time of export.

Besides regulating producers and Licensed Buying Agents, LPMC also licenses the 22 cocoa exporters, five of whom are active. Exports in 2013 were 12,000 MT and targets for 2014 are double that quantity. Users consider export processing to be expeditious but report the need to acquire MOCI's EPD despite that agency's information to the contrary.

Association of Women in Cross Border Trade (AWICBT). Trade across land borders is conducted predominantly by women, and AWICBT is the largest organization representing their interests. Most trade is with Guinea and consists of manufactured non-agricultural goods originating in China. AWICBT has 2,400 members who work together to facilitate trade activity and resolve common issues. Training

classes range from literacy to business practices. This group is driven by strong leadership, donor support, and a commitment to increase its members' economic prosperity.

AWICBT's initiatives have positively impacted trade processes at the borders. These efforts, coupled with the training of border security officers to recognize and prevent sexual abuse (conducted by the James A.A. Pierre Institute at the University of Liberia), have significantly reduced instances of harassment for women traders. Attaining the National Gender Policy's goal of having 30% female immigration officers (mentioned above) should continue this progress.

Woman traders have created an arrangement under which a designated supplier is contracted to transport and clear Liberian Customs at the border. This prevents interaction between the smaller trader and the border agency personnel. Unresolved issues include (a) delays and demanded payments to Guinean immigration officials to enter and exit the country, and (b) the fluctuating currency exchange rates, which erode profits. A single government contact point at a high enough decision-making level should be established for this organization.

Women engaged in cross-border trade are becoming a significant factor in building a strong middle class. Infused with a drive to support and build a better economic future for their families, many have evolved from small to medium-sized traders who travel to China directly to find suppliers and import in container loads. Training efforts to educate these women traders should expand to include improved business practices, knowledge of legal requirements on business, and an overview of the import/export process.

National Trade Facilitation Committee. The National Trade Facilitation Committee, headed by MOCI, has made some progress in addressing trade facilitation issues. Its technical committee has resolved about 7 or 8 of the 19 non-tariff identified barriers, including BCE's institution of a formal appeal system. However, private stakeholders are not confident in the committee's commitment and ability to understand and resolve the serious issues that still impede trade.

SOCIAL DYNAMICS

The need for commitment, collaboration, and coordination.

Concerted political commitment is a crucial prerequisite for successful trade reform and modernization. In Liberia, however, political commitment is low, hindering progress in creating a simplified border process. The parties pushing for reform are aware of the conflicting and inadequate actions of the multiple border agencies and have attempted, through such actions as drafting a clarifying MOU and establishing working groups, to create solutions. However there are strong reservations about the level of higher government support for these efforts.

Increased collaboration and coordination between the agencies is needed to eliminate redundant processes, safeguard against the spread of pests and diseases, and utilize limited resources more productively. But resistance to such an approach is significant, and protecting turf currently dominates the agenda. There are numerous instances where inter-agency coordination would benefit the general trading environment:

- MOA could work with the MOCI's National Standards Laboratory to determine if the latter could perform the testing MOA requires without the need to establish a new, separate MOA Laboratory.
- The efforts of the national SPS Committee could be coordinated with those of the National Standards Laboratory to develop a comprehensive set of SPS standards and quality testing program.
- BCE's advanced IT processing system could be used to move toward a single-window approach to border processing, or at a minimum to alert other agencies to suspect incoming shipments.

Although many of the issues that negatively impact trade are well recognized by government employees who deal frequently and directly with the trade community, those employees generally do not feel empowered to initiate change. Decision-making appears to be the sole prerogative of upper-level management, a policy that stymies innovation and problem solving. Officers at the land borders recognize the lack of coordinated border processing but take no action to develop a joint plan to expedite clearance. This lack of empowerment of employees slows the pace of reform and robs the agencies of creative solutions. It discourages collaboration among officers from both countries at the Kenya Uganda border who, with private stakeholders, developed and implemented new procedures that eliminated hours of border delay with simple rerouting of traffic and paperwork.

Management involvement in unnecessary decision making also does not allow its senior executives time to evaluate processes and plan for further modernization.

Pockets of competent leadership within BCE recognize the path to and the need for improved trade facilitation, but are stymied by lack of resources, limited human capacity, and the overriding drive to increase revenue. Many of the decision makers fail to recognize that adopting risk management-based approach would increase compliance levels and not endanger collections. The fact that approval of the Commissioner of BCE is required to downgrade the intense level of inspection and review on imports (RED) demonstrates the pervasive attitude that increased controls are the only method to protect collections.

Customer service. Trade-related ministries are gradually beginning to accept their role as service agencies. There is a critical need to strengthen this orientation—to engage private stakeholders in meaningful ways and provide all parties swift resolution of issues. Although initial steps have resulted in more committees and regularly scheduled meetings, private stakeholders still believe they are being “talked to” rather than “talked with” and that resolution of issues generally is neither timely nor adequate. Stakeholder groups, although more effective in their advocacy roles, must play a more constructive role in solving issues within their constituency and bringing to the table thoughtful and realistic ideas for facilitating the trading process in order to be viewed by government as a valued partner.

Access to information. The difficulty in disseminating information within Liberia is recognized by the public border-related ministries as a significant issue in expanding participation in international trade. Unreliable IT connectivity, low literacy rates, and the lack of quantity and quality private organizations that collect, disseminate, and address member’s needs are some of the issues. Many of the major ministries have both websites and handbooks that contain important import/export information but keeping them updated and reaching beyond the business community in and around Monrovia have proven difficult. But effective role models for Liberia exist: Zambia and Senegal have placed centralized service centers within the capital and at the major border areas, all staffed with personnel who reach out to community markets.

RECOMMENDATION 1: Build capacity within BCE’s Risk Management and Post-Clearance Audit departments to reduce post-arrival interventions arrival and develop a special Customs clearance scheme for compliant traders.

Why is reform needed?	BCE currently inspects and reviews 85% to 90% of all importations, many of which are routine agricultural imports and food products. These are conducted on arrival and delay release of cargo, adding significantly to the 11-day dwell time in Freeport. A system needs to be developed in order for BCE to develop the capacity to know when inspections should or shouldn’t be conducted in accordance with best practices.
Impact of problem	BCE’s intensive reviews of all shipments delay cargo release, add to transaction costs, and do not allow BCE to concentrate resources on the highest risk-cargo, which provides the greatest returns. Those who follow the rules are treated in the same manner as violators, thus removing an important incentive to file correct and complete documents and pay appropriate duties.
Benefits of reform	Both BCE and the reliable importers of agricultural goods would benefit from expedited release through an increase of products in the “green” lane and through implementation of a compliant trader program. BEC could better direct its resources to high-risk cargo and the importer would have lower transaction costs. By offering immediate release on presentation of documents to compliant traders, BCE would encourage those who have a record of proper filing with Customs to continue and increase incentives to those non-compliant firms to change behavior, since the benefits of compliance would be tangible. An increase in compliance levels is the final result.
Constraints to reform	Some within the BCE and MOF do not accept the concept that revenue can be protected with a decrease in interventions and have resisted a risk management approach to processing, even though this approach has succeeded worldwide in modern Customs operations.
Fit with other donors	World Bank project overseen by BCE modernization unit might have some projects related to RM development. The WCO, with support from Sweden, oversees the West Africa Customs Administration Modernization Project and could be a valuable source of training and information.
Best Practices	Senegal has an effective risk management program and Ghana has worked successfully to lower its intensive examination rates.
Cost of reform	About \$25,000 to \$50,000
Action Steps	<ol style="list-style-type: none"> 1. Training of RM and PCU departments in advanced risk management techniques (where and how to gather information and incorporate it in a systematic way). 2. Develop a compliant trader program and promote it with traders by stressing benefits. 3. As reviews of RM and PCU indicate consistent compliant behavior for candidates not on the formal special clearance scheme, increase criteria that allow more “yellow” and “green” designations in the selection module of ASYCUDA.
Time Frame for reform	6 months to 1 year
Feasibility	Medium; depends on resistance to risk management approach to customs processing.

RECOMMENDATION 2: Conduct a Time Release Study (TRS) at Freeport Monrovia to determine where delays are occurring, monetize them, and then develop and implement plan to reduce container dwell time and quantify economic gains.

Why is reform needed?	In 2013, imported containers remained in the port after unloading for between 10 to 11 days before final clearance. This indication of poor trade facilitation adds increased costs to importers and ultimately to consumers. Average dwell time should be no more than 5 days. There is a lot of finger pointing, but until causes of delays are identified, corrective action is difficult.
Impact of problem	Extensive container dwell times add significant costs to shipments, frustrate and discourage stakeholders from entering or staying in the international trading sector, and brand Freeport as an inefficient operation and one to avoid.
Benefits of reform	<ul style="list-style-type: none"> • Good publicity to attract and maintain Freeport as a port of call for shipping lines, essential to offering timely and lower-cost shipping choices for importers and exporters. • Quicker clearance of cargo to lower transaction costs. • Isolation of problem areas so that effective measures to improve facilitation can result. • Increased partnership between private and public stakeholders, since they will jointly develop solutions to resolve major problem areas.
Constraints to reform	Lack of cooperation between all of the parties that are needed to conduct a quality TRS and analyze the results. Resistance by public agencies to allow meaningful input from private stakeholders.
Fit with other donors	Unknown
Best Practices	World Customs Organization has a Time Release Study Guide that can be applied with little adaptation. This was done recently in Papua New Guinea and resulted in significant processing improvement in the major port of Lae.
Cost of reform	\$50,000 to \$100,000
Action Steps	<ol style="list-style-type: none"> 1. Develop TRS implementation team composed of private stakeholders involved in Freeport clearance as well as public agencies. 2. Prepare and implement TRS (use WCO format). 3. Evaluate results and develop improved processes in areas where exceptional delays are occurring. 4. Implement improvements and measure results.
Time Frame for reform	1 year for study, evaluation, and modifications to improve processing.
Feasibility	Medium. Project's success requires high level of coordination and cooperation among multiple parties; preparing for the study and evaluating the results is time consuming.

RECOMMENDATION 3: Improve quality control of imported and exported agricultural products and processed food by clearly delineating responsibilities of border agency and using BCE’s IT system to flag shipments that require other agency clearance prior to release. This is the first step toward “single window” implementation.

Why is reform needed?	Stakeholders are confused as to which border agency has jurisdiction over regulating agricultural imports and exports. This environment has been created by lack of coordination and cooperation among the agencies, so that currently there is little or no quality oversight of imported live plant or processed food imports, or proper certification of exports.
Impact of problem	The lack of quality inspection of imports and exports expands the potential spread of pests and disease within the agriculture sector and of contaminated food reaching the general public. Also lack of clarity as to proper certifying authority for agricultural exports hinders ability to expand export markets.
Benefits of reform	All parties benefit from proper assignment of jurisdictions and the subsequent input of criteria into ASYCUDA to flag shipments that needing other agency approval prior to release. This would significantly reduce the risk of pest infestations and prevent inferior quality food products from reaching the public. Staff realignment might be necessary to expedite clearance when inspections are required at border points.
Constraints to reform	Agency unwillingness to surrender authority to other entities and lack of political will to override such opposition. MOA has advised that a plan to deal with situation has been drafted by a joint committee of working-level technicians from various border agencies. This plan should be given serious consideration and would be good starting point for resolution, yet it not gathered any support to date.
Fit with other donors	Donor support from UNIDO for establishing the National Standards Laboratory could possibly be expanded for this effort.
Best Practices	Most of the West African counties, including those in ECOWAS, have programs in effect for agricultural and health inspections at the border; these programs use the ASYCUDA IT processing systems to flag required interventions.
Cost of reform	Low. Costs are minimal. What is needed is political support to resolve interagency disputes, which might now be easier to obtain because of pressure by legislature for improving the quality of products reaching market.
Action Steps	<ol style="list-style-type: none"> 1. Resolve conflicting border responsibilities regarding agriculture and food products. 2. Develop and input into IT processing system agency-specific criteria to alert BCE of need for other agency review of imported/exported goods when declaration is filed.
Time Frame for reform	6 months
Feasibility	Medium; turf fighting between agencies and lack of higher-level government support stand in the way.

RECOMMENDATION 4: To improve communications and flow of information, develop centralized import and export information centers with easy access for the trade community.

Why is reform needed?	Access to information is one of the major impediments to trade facilitation and particularly prevents SMEs from entering the international trading sector.
Impact of problem	Discourages companies from engaging in international trade and when they do enter, significant time and effort is required to obtain all needed information. They often get discouraged and avoid the sector. It is difficult to increase a compliant trader community when access to data is limited and confusing.
Benefits of reform	Implementation of centralized information centers would expand import/export sector, permit traders to expand to larger trade volumes and increase compliance levels. Would also give public agencies a conduit for disseminating information.
Constraints to reform	Opposition might come from lack of cooperation by border agencies, since the centers would disseminate information concerning all agency requirements. Questions as to where and who would staff the centers, funding sources, and logistics would also have to be resolved.
Fit with other donors	Unknown
Best Practices	Zambia has centralized points of contact/information at each port of entry, which private stakeholders have found an excellent source for information and resolving problems.
Cost of reform	Medium. Estimated cost \$50,000 if limited to major border points.
Action Steps	<ol style="list-style-type: none"> 1. Determine where the centers would be located and who would staff them. One possibility: could become collateral duty of officers already assigned to those areas. 2. Train designated personnel on import/export requirements of all border agencies. 3. Officers should visit community businesses, markets, and women groups to inform potential and actual traders of information, seek out problems, and get them resolved. Officers must be pro-active as part of their assignment, not just wait for client to appear.
Time Frame for reform	6 months
Feasibility	High



ENFORCING CONTRACTS

This chapter will consider, in brief overview, the legal, institutional, and social structures (both formal and informal) that govern the enforcement of contracts in Liberia, focusing on contracts related to the agricultural sector: Liberia’s unique history, as reflected in its legal system, administrative structures, and social fabric, plays a major role in how contract enforcement works in practice.

LEGAL FRAMEWORK

Overview: Formal vs. Customary Law. Liberia’s written laws, complicated court procedures, and adversarial litigation exist in parallel to an entirely different system of customary, tribal right recognition and enforcement. Much of the country’s formal legal dispute resolution system is an uneasy American import, and there is widespread disaffection with it.¹⁷⁶ Customary law is recognized by the Liberian Constitution and is binding, within limits, on the “uncivilized” tribal peoples¹⁷⁷. It is thus not possible to discuss contract enforcement in Liberia without delving, at least a bit, into this fundamental divide.

In reviewing Liberia’s formal contract law and enforcement processes, a great unevenness in the body of written law is immediately apparent. Laws range from straightforward and practical to extremely complex. The gap between unwritten, traditional, tribal dispute resolution and Liberia’s formal legal system is made even more extreme by the near wholesale adoption of some aspects of American commercial law, in all its technical and procedural complexity. For a country at Liberia’s state of development, the sheer density of these laws may pose a problem.

¹⁷⁶ According to the IPPC website, “the International Plant Protection Convention (IPPC) is an international agreement on plant health to which 181 signatories currently adhere. It aims to protect cultivated and wild plants by preventing the introduction and spread of pests.” Liberia is a signatory. <https://www.ippc.int/nppos>.

¹⁷⁷ See <http://www.nyulawglobal.org/globalex/liberia.htm>, Paragraph 17, Customary Law.

KEY LAWS (AS AMENDED)

- Constitution (1986)
- Commercial Code (2010)
- Judiciary Act (1972)
- Investment Code (2010)
- Code of Civil Procedure
- Law on Public Procurement and Concessions (2005)
- Commercial Court Act
- Liberian Extractive Industries Transparency Initiative Act

The Commercial Code and Code of Civil Procedure.

The Liberian Commercial Code of 2010,¹⁷⁸ clearly derived from the United States Uniform Commercial Code, weighs in at 240 pages, and covers a huge range of commercial law and contracting issues. It includes rules on formation of contracts, sales of goods, secured interests, leases, mortgages, arbitration, and many other topics. Lawsuits under the Commercial Code will follow procedures established under Liberia’s ponderously well-developed Code of Civil Procedure,¹⁷⁹ which itself weighs in at around 90,000 words. At least on paper, at first glance, it seems that almost everything a litigator could possibly want in

¹⁷⁸ See [Liberian Commercial Code of 2010](#).

¹⁷⁹ See [Liberian Code of Civil Procedure](#).

an advanced, adversarial commercial law enforcement system is already there in Liberia. Yet the system struggles to deliver what average Liberians see as justice.

Judiciary Act of 1972, Commercial Court Act, and Arbitration under Commercial Code and Code of Civil Procedure.

Liberia has a well-developed set of laws governing the judiciary and courts. The Constitution established the Supreme Court. The Judiciary Act of 1972, as amended, established the hierarchy of courts, sets up specialized courts, and governs both judges and attorneys.

Litigation seems quite common, although much of the formal trial court system in Liberia is plagued with large case backlogs, inadequate staffing, and frequent allegations of misbehavior. A recently formed commercial court in Monrovia seems to be a stand-out exception, and deals with commercial cases with more than \$15,000 in dispute under the 2010 act creating it.¹⁸⁰

The Civil Procedure Law, Chapter 64, provides for arbitration of commercial disputes and permits Circuit Court judges to compel parties to arbitrate, if that has been agreed in their contracts. This is a detailed, 18-section, 3,348-word-long chapter. The arbitrators are then assigned as provided in the contract, or if the contract is not specific, under a process for creating a panel organized by the court. Liberia's Commercial Code (Title 7, Chapter 7) also deals with arbitration in a 55-paragraph, 8666-word chapter devoted to the topic.

Even with all this weight of words, the World Bank ranked Liberia's arbitration practices as substantially worse than both regional comparators and global averages in terms of strength of laws, ease of process, and extent of judicial assistance. Arbitration is used on an ad hoc basis, without an institutional framework outside of the courts. Finally, although comparing these two arbitration protocols is outside the scope of this assessment, there seems to be a great potential for confusing overlap.

Code of Civil Procedure Tools to Enforce Formal Judgments.

Once a court judgment has been issued (or an arbitral decree has been confirmed by a court), the judgment can be enforced under the detailed enforcement procedures of the Code of Civil Procedure, Chapter 44. Judgments can be and are enforced in a variety of ways, including seizure and public sale of the judgment debtor's

property. However, there are some limits on what property belonging to a judgment debtor can be seized and sold, including an exemption for homesteads.

Although Section 44.1 of the Code provides that judgment debtors ought not be imprisoned except in limited cases, Liberian courts seem quick to find judgment debtors in contempt of court and imprison them, apparently under Section 44.73 of the Code. It appears that a finding of contempt and imprisonment can take place immediately on a finding of guilt, and that the judgment debtor can be held for up to six months until payment is made. Even if the case is appealed, payment must be made into a court escrow to secure release.

While this system may be effective in forcing judgment creditors (and their friends and families) to pay, such "debtors' prison" treatment has long been rejected in many established jurisdictions. The AgCLIR team did not have an opportunity to research experiences getting money out of escrow, if a judgment is overturned on appeal, or to determine how often prison is imposed on losers in civil court cases pending full payment, but the practice seems common.

Legal Framework for Tribal-Level Contract

Enforcement. According to Article 65 of Chapter VII of the Liberian Constitution, the courts are empowered to apply statutory law as well as customary law in accordance with the standards enacted by the Legislature. The Rules and Regulations Governing Local Government officials of the Political Sub-Divisions of Liberia (Revised Edition 2000) provide a procedural framework for adjudicating customary law cases.

Under the Constitution, the statutory laws and common law of the formal legal system govern all Liberians. Despite this, the old Rules and Regulations Governing the Hinterland still retain residual validity, and thus provides separate processes for "civilized people" and "natives." Local Commissions and Superintendents provide executive oversight over customary law in Liberia. Customary law can deal with a wide range of cases, including contract claims.

A recent study provided the following excellent overview of the unclear legal status of the parallel tribal justice system, and the politics around changing it:

The continued validity of the Hinterland Regulations is problematic because this second legal system places judicial power in the hands of the executive branch – in

¹⁸⁰ Act to Amend the Judiciary Law Title 17 to Provide for the Establishment of a Commercial Court, Article II (1).

which the final appeal is to the president, not the court – in violation of the separation of powers clause in Article 3 of the Constitution... It is also problematic because the Regulations themselves define native inhabitants as second-class citizens, in violation of Article 11(c) of the Constitution, which provides for equal protection under the law

This persistence frustrates the formal justice sector, as evidenced by the Justice Minister's comment at (a recent)... National Conference that, despite "several Supreme Court decisions and the enactment of many acts of legislature rendering most of the provisions of the Hinterland Regulations illegal or obsolete, they continue to exist."

Despite these problems, traditional chiefs argued vociferously ... that they wanted the Hinterland Regulations back. This argument might be best understood as a claim for the legitimacy that the chiefs had under the Hinterland Regulation system, in which they were empowered to settle local disputes, and to rule according to law.¹⁸¹

Range of Contracts. When discussing contract enforcement in the agricultural sector, it should be noted that the topic covers broad range of possible agreements, with a corresponding range of possible enforcement means and enforcement issues. Although it is beyond the scope of this chapter to attempt a review the universe of contracts that might exist in Liberia, research and conversations with counterparts in Liberia led us to consider and discuss an array, including:

1. Decades-long contracts between the Liberian government and domestic or international concessionaires, often covering vast tracts of land, including many pre-existing communities.
2. Bank secured commercial lending.
3. Microfinance group lending agreements.
4. Bank loans secured by mortgages on real property.
5. Land sale agreements.
6. Agreements to purchase agricultural inputs.

7. Contract farming agreements.
8. Verbal local or tribal-level agreements involving sales or transport of goods.

This brief overview will, of necessity, only be able to provide a flavor of how Liberians enforce these various kinds of agreements and resolve disputes that arise under them. Larger concession agreements may be subject to international arbitration. Larger bank commercial lending and mortgage disputes might go to the Commercial Court, where many cases are decided pre-trial or in an agreed domestic arbitration. Smaller disputes over loans, land, or various agricultural goods could be heard in a wide range of forums. Depending on the parties, subject matter, location, and amount in dispute, the case could be presented before traditional tribal forums, mediators, or the court system—including to magistrates, specialized or circuit courts.

LEITI Act. A very interesting approach to contract enforcement is implicit in the far-sighted and simply written Liberian Extractive Industries Transparency Initiative Act.¹⁸² The LEITI Act, combined with the useful, if difficult, law on procurements and concessions (discussed in more detail at this report's chapter on Competing Fairly) have had an outsized influence on the important topic of how concession contracts are granted and administered. The Act covers agricultural, forestry, mining, and oil concessions. It sets up an independent board and requires detailed, independent compliance audits. It tracks both compliance with the Public Procurements and Concessions Act (PPCA OR Concessions Act, described above) and payments made. When published on the LEITI website,¹⁸³ the "name and shame" results of the most recent audit led to a spate of cancellations of non-compliant contracts and needed administrative changes. Although this is not exactly contract enforcement in the classic sense, it is an important technique in leveraging transparency to help ensure that Liberia makes and gets better deals with large holders—and that the benefit of those deals goes back to the public treasury. There may be other opportunities for strategic uses of transparency to improve the climate for serious investors.

Land Commission Act and Land Issues. A broader contract enforcement problem is that of land titling. Again, the uneasy compromises between the formal, individualistic and adversarial American-style legal system and the communal

181 Traditional Justice: Practitioners' Perspectives Working Paper Series, Amanda Rawls, International Development Law Organization 2011, p. 66 ("IDLO Report").

182 See [LEITI Act](#).

183 See [LEITI Key Documents](#) Post-Award Process Final Audit Report.

tribal systems of land tenure lead to bedeviling confusion. Even if the Liberian formal legal system of deeded property worked perfectly within its sphere—which it clearly does not—fundamental tensions between the two worlds would remain. Add to this national-level grants of concessions or use rights covering much of the country, and the situation can be explosive.

The social contract with smaller farmers is greatly strained because smallholders' traditional rights are not fully respected or enforced, especially when the government enters into large concession agreements that override or inadequately recognize those rights. The Land Commission Act was passed in August 2009, and the Land Commission was operative as of 2010. Since then, it has taken significant steps including a thoughtful Land Rights Policy, which lays out a roadmap to provide traditional holders more formalized land use rights.¹⁸⁴ Changes in law and practice, however, remain to be implemented. This problem, which is receiving a great deal of development partner attention, is largely beyond the scope of this report, but underlies many difficulties in the smallholder agriculture sector.

Freedom of contract. Other than in a few areas described in more detail in this report's chapter on Competing Fairly, Liberia permits freedom of contract in the agricultural sector, and does not discriminate between Liberians and foreigners. Except for sanitary and health limits, and possible systemic limitations based on import or export restrictions, the AgCLIR team did not hear of any formal restrictions on what people could plant or what livestock could be raised.

IMPLEMENTING INSTITUTIONS

Liberia's court system. The independence of the Liberian judiciary is established under the Liberian Constitution of 1984, Chapter VII, which contains a number of clauses protecting the judiciary from political interference. Thus, for example Article 66 prohibits the Legislature from passing any law that would deprive the Supreme Court of any of its constitutional powers; Article 71 provides limits on removal of judges; and Article 7 (a) protects judicial pay from being decreased or taxed.¹⁸⁵

Parties with a contract dispute in Liberia may avail themselves of a hierarchical court system with nationwide coverage. The following are the various courts of Liberia:

1. The Supreme Court
2. Circuit Courts (14), plus the Commercial Court
3. Specialized Courts – for example, Debt, Probate, Tax, Juvenile, Labor, Traffic, and Sex Crimes
4. Magistrates (79)¹⁸⁶ – original jurisdiction over contract disputes under \$2,000
5. Justices of the Peace

IMPLEMENTING INSTITUTIONS

- Different Levels of Judicial System
- Tribal or Traditional Justice
- Domestic Arbitration
- International Arbitration

The appropriate court for commencing proceedings depends on the type and value of the claim and the location of the parties or the location of the act in question.

Justices of the Peace had been responsible for very small cases, but this branch has withered away because the President has not named any new Justices of the Peace for nine years.¹⁸⁷ This has also reportedly led to increased pressure on magistrates, and from there to Circuit Courts, where backlogs are said to be increasing.

While there are, no doubt, some excellent jurists within the Liberian judicial system, enforcement of Liberia's very complex system of commercial laws rests on a weak foundation, especially at the bottom of the hierarchy. Along these lines, a 2011 American Bar Association training program for magistrates noted that "most of Liberia's current magistrates have neither formal legal education nor training in how to execute their magisterial duties."¹⁸⁸ While this would be difficult in any system, it must be especially difficult in Liberia because of the hyper-development on paper of the country's commercial law.

¹⁸⁴ See [Land Use Policy](#).

¹⁸⁵ http://onliberia.org/con_1984_4.htm#chvii.

¹⁸⁶ See [Globalex on the Judiciary](#).

¹⁸⁷ See [Ministry of Information looks at Court System](#).

¹⁸⁸ See [ABA Magistrate Training](#).

Judges are subject to a sensible and straightforward code of ethics.¹⁸⁹ It is not known how well the code is enforced. The judiciary has reportedly refused to comply with the disclosure requirements of the Anti-Corruption Commission, arguing that those requirements infringe on their carefully guarded independence. However, as far as the AgCLIR team could discern, the judiciary has not developed an alternate, obligatory financial reporting system of its own, and allegations of judicial corruption are frequent.

The Judiciary Act originally provided for an order of priority to hear cases, with jury cases and criminal cases taking priority.¹⁹⁰ While this priority may have been revised, it may in part explain the current large backlog of civil cases, and the multiple reports the assessment team heard about the need to make payments to move commercial dispute cases up the docket.

Other than the new Commercial Court, the reputation of the judiciary is quite mixed, as noted in this recent comment: "...as the judges and other judicial officers are poorly compensated, the judicial system is weak. As a result, judgments can be purchased, and foreign firms tend to be at a disadvantage. Due to the backlog of cases, hearings are usually held following lengthy waiting periods."¹⁹¹

The primary court system in Liberia is reportedly chronically short of resources, and lacks modern systems for case-flow management. As in many countries, the court system is also difficult to access for poorer claimants, and likely skewed to favor the rich. The situation seems similar to that recently found in Tanzania, where:

Most actors in (the)... agricultural sector are rarely in a position to engage the formal mechanisms of the ... (court) to resolve their contract disputes. They typically do not have the time or money to do so; nor, in most cases, do they have written evidence that a contract even exists. In contrast, banks and other lending institutions are far more experienced at enforcing contracts and are more willing to do so.¹⁹²

The right to a trial by jury is enshrined in Article 20 of the Constitution, and can be claimed in contract cases where more than \$500 is in dispute (§12.3, Right to Jury Trial, Judiciary Act of 1972). Again, another well-meaning, but complicating American import. Knowledgeable sources reported that the jury system had grown quite problematic, with many people working professionally as paid jurors. A recently passed jury law, decreasing the number of jurors from 12 to 6 and improving jury administration, may help alleviate the difficulties caused by the jury system.¹⁹³

Domestic Arbitration. Both the Civil Procedure Law and Commercial Code provide a process for judges to appoint arbitration panels. Even if parties to a contract have not previously agreed to arbitrate, it is quite common, at least in the new Commercial Court, to seek to use their power under Title 7, §7.7 to nudge parties to agree to arbitration instead of proceeding with a case. Commercial arbitration thus seems mostly to be happening on an *ad hoc* basis, outside of a broader institutional framework, under direct judicial supervision.

International Arbitration. The Liberian Supreme Court has honored agreements to refer disputes to international arbitration. The precedent was established in a 2000 case that allowed a local Isuzu distributor to be subject to Japanese arbitration.¹⁹⁴ It is, reportedly, one of a series of Supreme Court decisions that firmly establishes the binding nature of arbitration clauses and of arbitration awards, both domestic and international.

When granting major economic concessions, the Liberian government will, at times, agree to subject them to international arbitration. Although there are numerous reports that the government has failed to meet its core obligation to deliver concession lands free of other claims,¹⁹⁵ no concessionaires have taken the drastic step of bringing the government before an international tribunal. Those questioned about this lack of action thought it could be because of a wish to maintain good government relations, concern by concessionaires that they themselves are non-compliant, or a deeper concern that underlying agreements were entered under procedures that did not comply with applicable law—a concern highlighted in the LEITI audit report.

189 Judicial Canons of the Republic of Liberia, See [Judicial Canons](#).

190 See Section 3.11, Order of Business at Quarterly Sessions, at [Judiciary Act of 1972](#).

191 Liberia Investment Climate Statement, 2012, p. at [2012 Investment Climate](#). See also [National Survey Ranks Judiciary as Most Corrupt](#).

192 Tanzania AgCLIR Report (2010) at 163.

193 See [Jury Panel Downsized October 2013](#).

194 *Chicri Brothers, Inc. v. Isuzu Motors Overseas Distribution Corporation, et al.*, Decided March 2000 Term of the Supreme Court as cited [Sherman Law Article](#).

195 Investment Climate Report 2012.

Even if an international arbitration award is granted against the Liberian state, the claim of sovereign immunity may thwart the winner's ability to execute judgment, unless the assets against which execution are sought are strictly commercial assets. Liberia has successfully fought execution of international awards on this ground in the past, and presumably would try to do so again.¹⁹⁶

Traditional Chiefs. Under its parallel legal system, Liberia formally recognizes limited powers of traditional chiefs to resolve intra- and some inter-tribal disputes, including contract disputes, especially over land. Various levels of chief are recognized, and appeals can be made up the line from tribal, to clan, to Paramount Chiefs. After this, the appeals go outside of the tribal system, and are carried up through the county, district, and provincial commissioner, and from there to the Ministry of Interior and the President.

One older study of dispute resolution in the Poro secret society presented the process thus:

In the resolution of cases no formal rules of law are set forth to guide the decision. Rather the arguments before the decision maker are as to questions of fact only, and not as to questions of law. Questions of law are moot—everyone in the community knows what must be done to correct a particular wrong act. ... Among the communities of the Poro “law” is a functionally manipulated institution, and rather than yielding to an abstract definition it can best be thought of as being synonymous with social control.¹⁹⁷

Within the parallel tribal legal system, there is—or at least was—another parallel system of secret societies, where real power resided. According to Richard Fahey, as of the late 1960's, while the tribal chiefs and their trials were officially recognized, the bulk of major conflict resolution was conducted in secret session. The Poro operated just behind the officially recognized chiefs: “All the civil seats of authority, be they clan chief or head of a family are subject to the power of the Poro.”¹⁹⁸ While much may have changed since the late 1960s, back then:

... the qualities used to pick a chief were a man who “would be a good talker to the government and not bring any trouble down upon the people.” Chiefs are elected today, and it is understood that whatever candidate the Poro orders its members to vote for will be elected.¹⁹⁹

Thus, tribal chiefs were, and perhaps still are, elected in a formal process recognized by Monrovia. They may or may not represent the real social power structure. When acting in their judicial capacity, their expressed decisions may, in fact, have already been made by others in secret session, for whom they serve as a mouthpiece. The informal tribal structures could, in this sense, also be considered a key supporting institution in the following section.

SUPPORTING INSTITUTIONS

Liberia has an incomplete and, in part heavily donor-dependent, lattice of supporting institutions to help improve the environment for enforcing contracts in the agricultural sector:

SUPPORTING INSTITUTIONS
• Business Associations
• Law School and Bar Association
• Cooperatives and Unions
• Donors and NGOs
• Financing Institutions Support Services
• Contract Farming
• Commission Sales
• Media

Liberia Chamber of Commerce and Other Business Groups. Although the most recent World Bank “Investing Across Borders” identifies the Liberia Chamber of Commerce as the body responsible for arbitrating commercial disputes,²⁰⁰ this may be an error. The Chamber is not identified in either the Commercial Code or the Civil Procedure Code as the responsible arbitration body. Chamber representatives reported that there have been no arbitrations under its auspices for at least two years. Although the Chamber clearly

¹⁹⁹ Id.

²⁰⁰ <http://iab.worldbank.org/Data/Explore%20Economies/Liberia#/Arbitrating-disputes>.

¹⁹⁶ International Commercial Arbitration and African States – Practice Participation and Institutional Development, by Amazu A. Asouzu, Cambridge University Press, 2001, page 382, citing LETCO case, US District Court, DC, 2, ICSID Reports 390, per District Judge Harris.

¹⁹⁷ Richard Fahey, *The Poro as a System of Judicial Administration in Northwestern Liberia: Its Intraclan and Interclan Functions* 1971 at 4.

¹⁹⁸ Id. at 7.

seems to be a place for the most important Liberian-based businesses to meet and discuss issues, its role supporting contract enforcement, at least for now, seems to be more informal and relational, than through its arbitration committee—while as noted above, court arbitration seems common.

The **Rubber Planters' Association** provides advocacy for planters in this important sector; but does not also, as far as could be determined, provide arbitration or other contract dispute settlement services in any formal way. A Lebanese business association noted having a committee to arbitrate disputes within this important sub-sector of the Liberian business community, but it was not possible to meet them, and others did not know of their activities.

Law Schools and the Liberian Bar Association. The Liberian Bar Association is responsible for administering bar admissions tests to graduating law students. The law faculty in Monrovia graduates approximately 60 students a year, while over 150 typically start the course. Test standards are not strict, and almost every graduate passes. Bar membership is obligatory, and modestly priced. The Bar Association would like to provide continuing education in alternate dispute resolution (ADR), Commercial Court practice, and other topics to ensure that lawyers are better trained to deal with contract disputes. However, without outside donor support, this has proved difficult to organize.

Cooperatives, Farmers' Organizations, and Unions. Under Section 42.34 of the Associations Law, agricultural cooperatives that lend money or provide goods to members are given limited statutory priority rights to collect from the production financed.²⁰¹ Cooperatives play a very small role in the Liberian agricultural economy, which is mostly driven by NGO organizers. The Cooperative Development Agency reports less than 100 cooperatives with fewer than 2,000 total members. A number of these cooperatives have received funding from NGO sources.²⁰²

Other farmers' organizations and unions seem to play a minimal role, if any, in enforcing contracts, other than, as noted in this report's chapter on Competing Fairly, where the role of so-called "unions" in the transport sector seems largely designed to block competition and ensure price discipline.

Donors and NGOs. Liberia is one of the most heavily aid-dependent countries in the world. Thus, it is not surprising that international donor agencies, and the NGOs and other programs they fund, play a disproportionate role in the Liberian legal system. They enter many contracts, help develop many laws and policies, and are behind much of the agriculture-related financing available in the country, especially for smaller farmers or other weaker members of the value chains. Various rule of law programs are deeply involved with helping develop the skills of the judiciary and the bar, as well as to improve legal education. Donors are, as noted above, very active in dealing with land dispute issues.

Outside of the tribal structures, there are some promising donor-funded efforts to establish mediation as a way of resolving smaller contract disputes. Particularly encouraging is the USAID- and SIDA-supported Carter Center, which has made locally oriented and appropriately scaled efforts to train local mediators to be flexible and practical in resolving disputes, largely in family law and land issues. This initiative serves as an interesting bridge between the formalized legal system and the traditional one, and work here could be expanded.

Banks and Financing Institutions. While lending was outside of the scope of this AgCLIR assessment, banks and financing institutions play a major role in enforcing contracts. Banks are, as one might expect, major users of the formal legal system. For example, banks brought approximately 40% of the cases before Commercial Court.

Given the lack of other sources, NGO funding seems dominant among smallholders. If NGOs dealing with smallholders have been having difficulties enforcing contracts or have engaged in widespread forgiveness of obligations, this could provide useful clues for what needs to be changed to ensure more businesslike behavior—and less NGO dependence—among small-holders.

Support Services for Contract Compliance and Enforcement. Liberia's network of support services for contract compliance and enforcement is still at a very basic level of development. There are very few extension agents, and smallholders report that they are not very active. This role is largely being filled by donor-funded NGOs, if at all. Again, agricultural credit was beyond the scope of this report, but the team had the impression that most agricultural inputs were sold on a "cash-and-carry" basis to smallholders. There are fewer than 70 licensed accountants in the country, mostly in Monrovia, and only a handful of CPA firms of any size. It was

201 See [Associations Law - Title 5](#).

202 See for example, [ADF Funded Projects](#).

not possible to get detailed information about the process of forced sales to satisfy judgments, but it seems that they are typically organized by the courts, and held at the courthouse.

Contract Farming. Contract farming is not well developed as a model in Liberia. Lack of formalized contracts and good contract enforcement mechanisms presumably play a role. Some sectors appear to be more formalized than others—with formal contracting in the rice sector driven largely by the state. Some large concessionaires may extend trade credit to their established outgrowers of rubber or palm oil for inputs. However, the vast majority of sales and purchases are simply for cash, on delivery of goods. Although the country does have a registry of secured property, which is gradually being improved and upgraded, factoring or lending against crops in the ground does not seem to have developed yet.

One contract farming area where it is hoped that concessionaires will play an increasing role is in working with local smallholders as outgrowers to provide produce and other food needs to concessions. It seemed unlikely that, without substantial donor support, concessionaires would be interested in entering formal agreements and providing financing or training needed to help local outgrowers reach needed quality and consistency standards. If this hope is to be realized, supporting institutions and enforceable contracting mechanisms need to be developed to turn unorganized outgrowers into viable, long term providers for large concession needs.

Rubber concessionaires noted major problems with theft and fraud, with people constantly stealing tapped rubber from their trees, and reselling it to the concessions as coming from elsewhere.

Commission Sellers. Small producers, or those purchasing from them to transport goods, often deliver goods for sale to “go-buy-chop” women, and then be repaid from the proceeds of the sale in a few days, when they return with their next shipment. The small producers will not know how much the goods were actually sold for, and reportedly may not be paid if the go-buy-chop woman alleges that the goods perished before being sold. Typically, a percentage is retained from each payment, to keep the supplier returning with more goods the next time around.

Media. Liberia has a very active print press, with many papers affiliated with various political factions. There is active coverage of scandals or alleged scandals involving larger contracts.

Though the wording is often quite colorful, it can be at times hard to assess the quality of the investigations or the journalistic integrity behind reports.

SOCIAL DYNAMICS

Throughout this report, impediments to accessing laws and regulations, either on line or in print, have been underscored. This aspect of transparency could use substantial improvement. In some regards, the government has, working with development partners, made impressive transparency strides, including a freedom of information act, the important LEITI Act, and the Procurement and Concessions Act, described above.

The will to reform is mixed, however, and the AgCLIR team received conflicting reports about the ability of government and its various agencies to implement needed changes. Liberia’s deep social and economic divides are hard to overcome, and can undermine growth. Resolving conflicts between trade restrictions and freedom of contract could help improve the environment for agricultural enterprise.

The Challenge of Contracts. Under Liberia’s commercial legal system, there is great difficulty in establishing a workable regime for commercial contracts, especially for smaller contracts. It is a common development phenomenon that bright local experts go abroad, learn international best practices, and then want to put them in place at home. Although Liberia is lucky to have as many foreign trained, local experts as it does, this blessing may have a downside. When foreign training encourages adoption of foreign standards and foreign procedures, without rooting them firmly in local reality, the imports can be troublesome.

Writing complex laws and well-worded policies is the easy part. Donor-funded advisors often stand ready to help do this. The hard part is implementing them. Liberia falls chronically short of the aspirations stated in its ever-increasing stack of official documents. Perhaps part of the problem lies in the documents themselves.

While it may seem odd to recite the number of pages or words in Liberian Laws (250 pages for the Commercial Code; 90,000 words for the Code of Civil Procedure), these numbers indicate how far Liberian formal civil law and its processes are removed from the ability of the vast majority of Liberians to be able to begin to understand or use formal

systems. The numbers can be seen as a symptom of the complexity that has served to make the formal legal dispute settlement system so widely disliked and distrusted.

It seems possible that the sheer difficulty of Liberian commercial law and procedure puts it entirely out of reach for the vast majority of the people. A tiny priesthood of Monrovia-based lawyers and judges might be the only ones in the country with the competence to manage their way through this man-made jungle. There is no small claims court, and no expedited procedure exists to resolve smaller contract disputes.²⁰³ This should receive attention.

In all of this, context is important:

The adult literacy rate in Liberia stands at 55 percent, with 41 percent of females being literate compared to 69 percent of males. The literacy rate in rural areas is significantly lower at 45 percent compared to 74 percent in the urban areas.²⁰⁴

While having first-world commercial laws may benefit a small elite, the sheer inaccessibility of the law is a disservice to everyone else—including the untrained and ill-equipped magistrates who have to apply it. While the poor and illiterate suffer disadvantages in any formal legal system, in Liberia the situation is especially dire. Cloning first-world commercial law and civil procedure onto Liberian conditions pre-ordains bad outcomes, especially for the rural poor. Illiterate women are likely to be especially disadvantaged in a completely incomprehensible, slow, and expensive morass of procedure.

Expense and Abuse of Process. The expense of contract litigation is a major deterrent for ordinary citizens. Minimal expected costs, including lawyers, are likely to be \$1,000 for a circuit court case and half that for a case tried before a magistrate. Given Liberia's GDP per capita, this is hugely expensive.

While most Liberians (for obvious reasons) shun litigation, for some it is a first choice, but not for the right reasons. As noted in the USIP Study:

The formal system is...widely believed to be a forum in which wealthy, powerful, and socially connected people can assert their will. ...[L]itigants choose the formal system primarily if they believe it will give them an unfair

advantage over their opponent. Liberians we interviewed reported using the formal system, or the threat of the formal system, as a means of advancing a contentious social agenda for retaliatory purposes, or for gaining leverage in other matters that have nothing to do with the actual case in question.²⁰⁵

Appeal of and Concerns with Traditional Contract Enforcement Alternatives. The tribal customary justice system's focus on finding social harmony is far more in keeping with traditional values than the right/wrong orientation of American-style litigation. Once someone is determined to be in the wrong, the enforcement focus in tribal dispute resolution is not so much on restitution of the individual injured, but on restoration of peace. Losers will have to make public apologies and often cook a meal for the village, while both parties may have to shake hands and knock kola nuts together as a sign of peace, in front of the village.

As disturbing as trial by ordeal²⁰⁶ may seem to Western-educated individuals, the heart and wisdom in traditional dispute resolution cannot be discounted so readily. The ordeal system has also been softened over time. The Liberian Supreme Court found almost a century ago that death caused by trial by ordeal could lead to a murder charge for those administering the trial.²⁰⁷ There seems now to be wide acceptance among tribal justice administrators that harmful forms of trial by ordeal should be banned, but opinion remains divided whether non-harmful trial by ordeal means of collecting evidence should be permitted.²⁰⁸

203 See [World Bank Institute](#).

204 UN Country Team Report, paragraph 36.

205 USIP Study at 3.

206 Trial by ordeal was an ancient judicial practice by which the guilt or innocence of the accused was determined by subjecting them to an unpleasant, usually dangerous experience. Classically, the test was one of life or death and the proof of innocence was survival. http://en.wikipedia.org/wiki/Trial_by_ordeal.

207 IDLO Report, p. 18

208 d. at 5.

It is certainly easy to find the Hinterland Rules “archaic and discriminatory” as a UN Working Group did in 2011.²⁰⁹ There are also clearly concerns to be raised about customary justice, especially regarding its impact on women, as identified by the UN:

...the functioning of this (tribal justice) system raises legal and human rights concerns. Executive officers perform judicial functions without judicial review; methods used to identify accused persons, particularly in trials by ordeal violate human rights principles; and the norms and practices in this system are generally discriminatory towards women.²¹⁰

That said, one commentator noted that in the USIP survey: “These concerns, however, are raised primarily by representatives of Liberia’s formal legal system, and echoed by international non-governmental organization (NGO) workers. They are raised rarely—if at all—by the Liberians consulted in USIP’s field research.”²¹¹

The IDLO report provides a succinct summary of the social dynamic between Liberia’s parallel system found in the USIP research, and the conundrum it presents to policy makers:

... even if the formal system were to operate fairly, free from corruption and in a timely manner, the average Liberian would still prefer the customary system. The customary system is perceived as more holistic, taking account of the underlying causes of a dispute and seeking to repair the tear in the social fabric, whereas the formal system is seen as overly adversarial, retributive, and narrow in its focus on the specific case at issue. ... in seeking to promote and extend the formal justice system to all Liberians—motivated by a desire to expand access to justice and build trust in the formal system—the Government risks sparking the opposite effect, causing Liberians to feel that their access to *acceptable* justice is diminishing.²¹²

Keeping Your Word. Unlike in other countries, the AgCLIR team did not hear a frequent litany of concerns raised about the lack of written contracts, or the lack of willingness to honor contract terms. This is probably due largely to the limited nature of the team’s survey, and the subsistence nature of most Liberian agriculture, rather than the virtue of Liberian contracting parties. In a culture with such high illiteracy and such expensive, complicated, and remote ways of resolving formal contracts, written contracts are not likely to be the norm. Interviewees reported that contracts are often made orally before witnesses within a village, and this is seen as binding. In a country where social trust has been so broken by war, and there has been such significant displacement, it would be naïve to assume that everyone views their word as binding, or that contract enforcement would be a simple affair.

209 See [UN Country Team Report, 2011](#), Para. 4.

210 See [UN Country Team Report, 2011](#), Para. 23.

211 IDLO Report at 3. A similar values split was found around the topic of human rights:

Interestingly, many Liberians also see human rights as giving an unfair advantage to the perpetrator, at the expense of the victim. ... [U]nderlying this complaint is the belief that justice is achieved by both parties coming together to bring out the truth and agree on redress—a belief directly at odds with the adversarial system of the formal courts. USIP Study, p. 59.

212 IDLO Report at 3.

RECOMMENDATION 1: Study and action to make law more accessible, decrease litigation costs, and deepen use of alternative dispute resolution, including those that bridge the tribal/formal gap.

Why is reform needed?	To improve contract enforcement and increase willingness to invest.
Impact of problem	Widespread distrust of and difficult access to formal legal systems makes contract enforcement problematic, undermines trust, and decreases domestic and foreign investment and lending.
Benefits of reform	Quicker, fairer justice in commercial cases, properly tailored to local needs and the size of the matter in dispute.
Constraints to reform	<ol style="list-style-type: none"> 1. Possible resistance by higher judiciary and Monrovia legal elite to simpler, faster solutions. 2. Resources needed to train arbitrators and mediators. 3. Willingness of courts to delegate power to arbitrators and mediators and decrease rent-seeking opportunities presented by backlog in the docket.
Fit with other donors	Consistent with other donor efforts. Overlap not known. Further research needed.
Best Practices	Unknown. Range of solutions suggested, including mediator training, arbitration, simplification of rules for delegation to mediators and arbitrators.
Cost of reform	Moderate to low for both government and donor. Moderate if attempt is made to formalize ADR.
Action Steps	<ol style="list-style-type: none"> 1. Study pre-trial conference system in Commercial Court as an example of nascent success and develop ideas for expanding to other courts. 2. Develop simplified rules for judges and magistrates on when and how to delegate cases to mediators or arbitrators, since the current process is unclear or underused. 3. Study and expand on Carter Center's locally oriented mediation practice, with specialized training in contract disputes. Look especially for tribal-formal system crossover opportunities, and ways to soften formal adversarial approaches in formal system with more conciliatory, communally appropriate ADR. 4. Review and conform existing arbitration provisions in Commercial Code and in Code of Civil Procedure. 5. Provide large case arbitration training to key private sector players. 6. Study need for formal institutionalization of ADR and continuing role for USAID work in this area. 7. Study "small claims" model where smaller cases are decided in court and parties are prohibited from retaining outside counsel.
Time Frame for reform	Medium term.
Feasibility	Medium, with political will.

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