

# Public Procurement & Concessions Commission

Update on the Contracts and Concessions Review Process

August 19, 2006

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## Scope and Content

The Scope of this process is to undertake a complete review of all contract and concession agreements signed by the NTGL from the period 14<sup>th</sup> October 2003 to 16<sup>th</sup> January 2006. This review is to ensure that the contractual arrangements and agreements entered into on behalf of the People of Liberia by the NTGL were undertaken in an appropriate, transparent and economically justifiable manner. The Contracts and Concessions Review Committee (CCRC) will conduct this review under the auspices of the Governance and Economic Management Assistance Program (GEMAP) in collaboration with the Public Procurement and Concessions Commission (PPCC). The CCRC will work with a technical secretariat, which will comprise of national and international specialists between May and October 2006.

## Implementation Steps

The implementation steps taken were as follows:

1. A list of contract and concession agreements entered into during the tenure of the NTGL consisting of ninety two (92) contracts was recorded. See final list attached as **Annex 1**.
2. A Guiding Framework was approved by the Government of Liberia and the Governance and Economic Management Assistance Program (GEMAP) – Economic Governance Steering Committee (EGSC) which would guide the review process, ensure fairness and absolute absence of “*conflict of interest*”.  
A Contract and Concession Review Committee consisting of:
  - i. Public Procurement & Concessions Commission (PPCC) – Lead
  - ii. Ministry of Justice – Member
  - iii. Liberia Chamber of Commerce – Member

- iv. Liberia National Bar Association – Member
  - v. Internationally Recruited Contracts & Concessions Expert (IRCCE)  
This committee is supported by a Technical Secretariat (TS) comprising of the following:
    - i. IRCCE – Lead
    - ii. International Attorney: Expert in international & procurement law
    - iii. Local Attorney: Expert in contracts/concessions & Liberian Constitutional Law.
    - iv. Local Administrator: Local administrative support staff
    - v. Subject Matter Experts (SME) in areas of a) minerals energy, general services and construction, telecommunications, natural rubber, equipment, manufacturing, real estate, scrap, and transportation.
3. These two bodies have been fully constituted except with the arrival of the International Lawyer on 20<sup>th</sup> August 2006; TORs for eight (8) Subject Matter Experts (SMEs) (\*Telecoms, Oil exploration, Diamond exploration, Gold exploration, Mineral Finance & Commodity markets, Real estate & Construction, Rubber, Investment incentive) have been drafted and are being cleared by GEMAP for recruitment of staff.
  4. Several official solicitations for contract and concession agreements entered into during the tenure of the NTGL were published in several local dailies and the PPCC web (<http://www.ppcc.gov.lr>). Procurement and concession entities were written along with the companies with whom the contracts/concessions were entered into. The solicitation requested that copies of all contracts and concessions so entered into should be sent to the PPCC along with all of the relevant documents. There has not been a strong response to date as it is known that a number of contracts which are believed to exist, have still not been sent to the PPCC for the review process. Steps are being taken to address this situation.

#### Resource Mobilized

The World Bank (WB), European Commission (EC) and United States Aide for International Development (USAID) have undertaken to fund various components of the review process.

To date, the EC has provided the Contracts and Concessions Review Expert, offices, logistics, and equipment for the Technical Secretariat; while USAID has provided the Local Attorney, Administrator, and SME for Minerals. The Government of Liberia through the General Auditing Commission and the Ministry of Finance has seconded and Auditor and Tax Auditor to aid the TS in its work. The International Lawyer recruited by the World Bank has arrived also arrived and joined the TS.

### Number of Contracts for Review

Table – 1 below shows that CCRC recorded ninety-two (92) contracts and concessions by sectors for review.

### Contracts/concessions by Industry In alphabetical order

Table-1

<u>Item</u>	<u>Industry</u>	<u>Description</u>	<u>Number</u>	<u>Entity</u>	<u>Status</u>
1.	Administration	Passport Printing	1	MFA	Operational
2.	Agriculture	Rubber	2	MOA	Operational
3.	Air Transport	Airlines	2	MFA	Pending
4.	Construction	Various	7	Various	Various
5.	Equipment	Medical/	2	MOH/NPA	On-going/canc
6.	Fishery	Sea Product	1	MOA	Unknown
7.	Forestry	Lease	1	FDA	Unknown
8.	Industry	Manufacturing	15	Various	Various
9.	Mineral	Exploration	32	MLME	Various
10.	Oil offshore	Exploration	5	NOCAL	Pending
11.	Scrap	Purchasing	4	MLME	Cancelled
12.	Services	Consultancy	11	Various	Various
13.	Telecom	GSM	5	LTC	Operating
<b>TOTAL</b>			<b>90</b>		

### Review Plan

Pertaining to the Interim Public Procurement Policy and Procedures (IPPPP) regulation, (sub-part 3 of part D-“Records of the process”-IPPPP guidelines) the concession bidding process original documents must be kept by the tendering entities. The TS has been busy requiring access to the tendering entities registrars and in view of comparing with the CCRC existing contract list (Compilation phase 2). National Archives and the Ministry of Foreign Affairs have also been directly contacted. The TS has required delivery of a copy of their contract & concessions from these registers. To date, the TS is still expecting the listings.

However, the TS have achieved the internal (CMC/PPCC) contract & concessions compilation phase 1. In line with the TS working plan; available agreements have been filed and sorted. However, not all of the missing contracts have been identified. The final draft list of contract & concessions under review was endorsed by CCRC on 11<sup>th</sup> of August, but it is expected that more contracts will be added.

### Implementation Speed and Timeline for Completion

Although the CCRC started on a slow pace, it has now geared up to move at a faster pace. The Draft Report on Mittal Steel Liberia Ltd. has been submitted, and work has started on the Firestone Rubber Plantation contract, which may be postponed due to the absence of the SME for Natural Rubber.

Contracts are being reviewed based on the strategic need for their services in the country and their value thresholds. The timeline set for the completion of the review process is set for December, 2006.

### Reasons Determining need for the Review

The Need Assessment conducted by the United Nations and World Bank on the economic transition of Liberia from war to recovery and development, determined that the public procurement and the awarding of concession contracts policy, procedures and practices were loose ended and needed reforms in two phases. The first phase was to prepare Interim Public Procurement Policy and Procedures (IPPPP) and Interim Guidelines on Concession Agreements in Liberia (IGCA) to be used during the tenure of the NTGL. The Contract and Monopolies Commission (CMC) was established by the Comprehensive Peace Agreement in Ghana to have oversight responsibility of all activities of contractual nature entered into by the NTGL.

Reports of the (CMC) indicated that contract and concession agreements were being entered into by NTGL which did not conform to the IPPPP and IGCA. Hence, these reviews were commissioned to ensure that contracts and concessions entered into by the NTGL were in the interest of the country and people of Liberia.

### Implications for Investment Climate

A major duty of PPCC and its partners was informing the public of the purpose and scope of the review process so as to provide stability in the business community.

This exercise in no way provides a legal justification for reviewing, modifying or canceling contracts by successive governments in Liberia. Nor does it establish precedent in Liberian law for arbitrary review of contracts and concessions. Contract law in Liberia must be respected at all times. This contract and concession review is necessitated by the exceptional circumstances, as outlined in GEMAP, surrounding the long-term civil conflict and the general breakdown of the rule of law, especially as it relates to public procurement and concessions.

Investors are assured of an exceptional investment climate in Liberia and encouraged to take advantage of it.

## Lessons Learned

This review process taught many lessons:

1. The Interim Public Procurement Policy and Procedures (IPPPP) and the Interim Guidelines on Concession Agreements in Liberia (IGCA) were not sufficiently publicized and the procedures taught. Hence, procuring and concession entities did not know the documents to be prepared, the procedures by which to prepare them and how. As a result:
  - Proper documents were not prepared, and the procedures for preparing documents were not followed as provided for in the IPPPP and IGCA.
  - Records were not properly kept to enhance the review process
  - CMC neither develop a check-list or follow the procedures in gathering and filing documents, and therefore did not maintain the right kinds of records.
2. Procuring and concession entities are now alerted to the existence of the PPCC Act and are beginning to follow the basic procedures/processes.
3. Training programs are being developed to build institutional and staff capacities, with a view of developing a career path for procurement and concession practitioners.

\*\*\* MISSING CONTRACTS

**NTGL - CONTRACTS SIGNED & EXECUTED OCTOBER 2003 - 2005**

By Sector

Up date 15 August 2006

NAME OF COMPANY	CONTRACTOR	COUNTRY	DATE SIGNED	DURATION	MINISTRY/ AGENCY	SECTOR	GENERAL DESCRIPTION	CMC COMPL	STATUS
***Backwell Group	Hassan El-Moussaoui	UK	10/18/2005	3 years	MOFA	Administration	Passport Printers	Yes	Operational
Agro Resources Liberia (ARC)	Cherif M. Abdallah		9/8/2005	42 years	MOA	Agriculture	Rubber Plantation	No	Operational
Firestone		USA	1/1/2005		MOA	Agriculture	Rubber program	Yes	Operating
***Liberty Airlines	Raynold A.Mitchell	Liberia	12/23/2003		MOFA	Air Transport	Airline	Partial	Pending
***Liberty Airlines	Winston Tolbert	Liberia		5 years	NIC/MOF	Air Transport	Invest incentive		
American/African Constructions	Coumabah Dah Bah	Liberia			Presidency	Construction	Exe. Mansion rehabi		
FMT	G. Frimpong	Liberia	5/25/2004		Presidency	Construction	Engin build. Rehab		
GSS GROUP LTD	Ehud Melnik	Ntherland	8/22/2005	12,5 years	NPA	Construction	Container Park		
Hard Rock Crusher Inc.	Ezzrat N. Eid	Liberia	4/16/2004	05 years	NIC/MOF	Construction	Crush rocks product		
Hunan Construct. & Engineer group	Chen Guoping & Yu	China	7/14/2005	3 years	Youth&Sports	Construction	SKD Stadium	Yes	Operating
Liberia-China Commod Trading center	Feng Bo Jiang	China		50 years	NIC/MOF	Construction	Trading Center	Yes	Pending
Sam Shawki Fawaz entrepreneurs	Shawki Fawas	Liberia	7/18/2005	03 years	NIC/MOF	Construction	Public works		
***Wilbert Inter.Import/export	W.D. Stubblefield	UK	2/7/2005	5 years	NPA	Equipment	Pre-financing Equip	No	Cancelled
Taylor & Taylor Co.	Chief Exe. Officer	Ghana	10/13/2005		MOH	Equipment	Equipment purchase	Yes	on-going
Eninsul Group	Gbellay Brown	Liberia	1/13/2006	03 years	NIC/MOF	Fisheries	Sea products		
Malag Nassar	P.Thomas	Liberia	6/1/2004		FDA	Forestry	Lease Agreement		
***Afro Group	George Nehme	Liberia	5/6/2004	05 years	NIC/MOF	Industry	Soap & detergents		
Duraplast Inc.	Rasphal Singh	Liberia	8/3/2005		NIC/MOF	Industry	PVC manufacture		
Eden Preferred Water System	R.E. Walters	Liberia	4/11/2005	02 years	NIC/MOF	Industry	Water production		
F&K detergents Inc.	M. K. Kafel	Liberia	9/28/2005	02 years	NIC/MOF	Industry	Detergent manufactur		
Fouani Brothers Inc.	Adnan H. Fouani	Liberia	9/28/2005	02 years	NIC/MOF	Industry	Candles manufacture		
Kamaplast Inc.	Kamel Eid		12/23/2003	5 years	NIC/MOF	Industry	PVC Manufacture	No	Operating

Liberia Cement (CEMENCO)	Pramod Cemawat		2/18/2005	5 years	NIC/MOF	Industry	Cement Manufacture	No	Operating
Liberia Mineral water	Gbellay Brown	Liberia	12/19/2005			Industry	Mineral water		
Liberia Polyurethane foam	Samir El Jundi		3/2/2005	5 years	NIC/MOF	Industry	Matress manufactur	No	Operating
Liberia Resources Co.	Alford Morgan	Liberia	8/5/2005	03 years	NIC/MOF	Industry	Rubber production		
Metalum (Liberia) Ltd	George H. Zakhria	Liberia	3/3/2004	05 years	NIC/MOF	Industry	Metal manufacturing		
Premier Milling Corp.	Ellie E. Saleeby	Liberia	8/31/2004	5 years	NIC/MOF	Industry	Flour manufacture	Yes	Operating
Rainbow Industries Co.	Nabil Ezzeddine		5/6/2004	5 years	NIC/MOF	Industry	Paint manufacture	No	Operating
Sethi Brothers Inc.	Rasphal Singh	Liberia	2/27/2004	05 years	NIC/MOF	Industry	Metal manufacturing		
Super Sound Inc.	Girish Kumar	Liberia	4/14/2004	05 years	NIC/MOF	Industry	Video & CD products		
***Hope National Investment Co.	Melee I.L. Kermue		10/13/2003	05 years	MLME	Mineral	Exploration Gold/Diam	Accept	Operational
AMLIB United Minerals	Nathaniel Richardson	Liberia	8/4/2004	05 years	MLME	Mineral	Exploration Gold/Diam	No	
BHP Biliton World	Ciaran Halpin	Canada	5/11/2005	05 years	MLME	Mineral	Exploration Iron ore	Accept	Operational
Gemco	Jurie Erwee	Liberia	9/28/2004	05 years	NIC/MOF	Mineral	Mineral agreement		
Geotess Int. Corp.	Muastapha Sidee		12/13/2004	05 years	MLME	Mineral	Exploration Gold/Diam	No	Operational
Mano River Iron Ore	Tom Elder		5/18/2005	05 years	MLME	Mineral	Exploration Iron ore	Accept	Operational
Mano River Iron Ore Liberia Inc.	Dr. Tom Elder		5/18/2005	05 years	MLME	Mineral	Exploration Iron ore	Accept	Operational
Mittal Steel Holdings N.V.	M.P. Singh	Netherlands	8/17/2005	25 years	MOF/MLME/NIC	Mineral	Iron ore concession	Yes	Operational
W.Africa Mining (WAMCO)	Michael St. Yrian	UK	1/19/2005	10 years	NIC/MLME	Mineral	Diamond exploration	No	Cancelled
***Akewa global services	Funke Odebumi	Liberia	10/3/2005	03 years	MLME	Mineral	Exploration Mineral		
***DMCC	Mark Slowen		3/4/2005	05 years	MLME	Mineral	Exploration Mineral		
***Fundy Minerals Ltd.			4/25/2005	0,5 year	MLME	Mineral	Exploration Gold	Yes	
***Global Infrastructure Holding			4/1/2005		MLME	Mineral	Iron Ore Mining	No	Case withdrawn
African Aura Resources Ltd.	Lloyd B. Kennedy	UK Virgin Isl.	2/27/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
BHP Billiton World Exploration Inc.	Ciaran Halpin	Canada	5/11/2005	05 years	MLME	Mineral	Exploration Iron ore	Yes	Operational
Broadway Mineral Resources PLC	Ian H. Hamilton		2/5/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
Geotess International Co.	Mustapha Sidee		12/13/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
Hummingbird resources		UK	11/3/2005	03 years	MLME	Mineral	Exploration Mineral		
Liberian Gold Corp.	Leslie Wright		3/5/2005	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational

Liberty-Craton Dev	Leonard A. Lindstrom		10/20/2005		MLME	Mineral	Exploration Mineral		
Liberty-Deveton Mining	Leonard A. Lindstrom		9/22/2005		MLME	Mineral	Exploration Mineral		
Liberty-G-10 Exploration	Leonard A. Lindstrom		24/10.2005		MLME	Mineral	Exploration Mineral		
Liberty-Gold & Mining	Leonard A. Lindstrom		6/22/2004		MLME	Mineral	Exploration Gold/Diam	No	
Liberty-Gold&Diamond mining Inc.	Leonard A. Lindstrom		6/27/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
Liberty-Golden ventures Inc.	Leonard A. Lindstrom		10/26/2005		MLME	Mineral	Exploration Mineral		
Liberty-Magma mineral resources	Leonard A. Lindstrom		10/26/2005		MLME	Mineral	Exploration Mineral		
Liberty-T-Rex resources	Leonard A. Lindstrom		10/20/2005		MLME	Mineral	Exploration Mineral		
Precious Minerals Mining Co.	John Gbedze		6/22/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
Trans Coast Enterprise	Hishim H. Hishim		3/8/2005	05 years	MLME	Mineral	Exploration Gold/Diam	No	Operational
Transcoast Enterprise	Hishim H. Hishim		3/8/2005	05 years	MLME	Mineral	Exploration Mineral		
Western Mineral Resources Co.	N. Karl Smithson		4/22/2004	05 years	MLME	Mineral	Exploration Mineral	Accept	Operational
Yar River mineral & Agro Co.	Zaupe B. Dehkee, I	USA	6/11/2004	05 years	MLME/NIC	Mineral	Exploration Gold/Diam	No	Operational
Repsol Exploration SA	J.L. Alcover Santos	Spain	3/28/2004	10 years	NOCAL	Oil exploration	Exploration B.16&17	Partial	Pending
Broadway Consolidated PLC		Isle of Man		09 Years	NOCAL	Oil offshore	Exploration B.13	Partial	Pending
Oranto Petroleum Ltd		Nigeria		09 years	NOCAL	Oil offshore	Exploration B.11&12	Partial	Pending
Regal Lib. & Euro. Hydrocarbons ltd		UK		10 years	NOCAL	Oil offshore	Exploration B.8 & 9	Partial	Pending
Woodside W Africa petroleum Ltd		Australia	1/1/2005		NOCAL	Oil offshore	Exploration B. 15	Partial	Pending
***North Star Enterprise Inc.	Adolphus Dolo	Liberia	4/17/2004	0,4 year	LIMINCO/MLME	Scrap	Scrap Purchase	No	Cancelled
C.S. (Liberia) Inter.Invest.Group Co.		Liberia	11/8/2004		LIMINCO/MLME	Scrap	Scrap Purchase	No	Cancelled
NIOC	Luther Kennedy	Liberia	3/24/2004	0,2 Year	MOF/MLME	Scrap	Scrap purchase	No	Pending
Prim Africa, Inc./Balaji	Clarence Tay		7/23/2004	0,4 year	LIMINCO/MLME	Scrap	Scrap Purchase	No	Cancelled
***OSTERREICH Staatdruckerei	Claudia Tenschert Str.	Austria	9/1/2005	05 years	MOFA	Services	Passport printers	Yes	Operational
***System Development consult	Harold Monger	Liberia	6/6/2005	2 Months	NTGL	Services	Consulting services	Yes	Completed
Architecture & Eng. Consult (A/E)	S. O'Connor	Liberia	3/24/2004		NTLA	Services	Work consulting		
Architecture & Eng. Consult (A/E)	S. O'Connor	Liberia	11/30/2004		NASSCORP	Services	Work consulting		
Bur. Nat. Etudes Tech/Dev (BNETD)	Ahoua Don Mello	Ivory Coast	2/18/2005	0,2 year	NTGL/MRD	Services	Electricity	Yes	Operational



							Consulting		
Bureau Veritas (BIVAC)		France	9/11/2004	03 years	MOF	Services	Pre-shipment Inspect		
Edwin A. Williams	E.W. Williams	Liberia	5/2/2004	10 years	NIC/MOF	Services	Casino license		
Mech. Eng.SAL (MEG)	Joseph Nasr		10/13/2005	03 years	LPRC	Services	Storage	Yes	Operational
Nick TC Scan		Ghana	7/28/2005			Services	Port equipment		
Strategic Consulting Group	Wilson K. Tarpeh	Liberia	1/4/2005	02 years	RIA	Services	Consulting services		
***INLOTT TECHNOLOGIES	Alfred Coleman, III	India/Lib.	4/8/2004	12 years	Lib. Nat.Lottery	Services	On-Line Lotteries	No	Pending
***INTRADY/COMAD	Y.B. Yehuda	USA	1/26/2005		Lib. Telecoms	Telecom	Telecoms	No	Operating
Cellcom	Werner Straus	Isreal/USA	11/14/2003	10 years	Lib. Telecoms	Telecom	GSM Telecoms	No	Operating
Comium Services	Dany E. Chaccour		3/3/2004	20 years	Lib. Telecoms	Telecom	Cellular Mobile	No	Operating
LoneStar Communication Co.	Gabriel Knuckles	Liberia	2/14/2005	05 years	LIMINCO	Telecom	Lease Agreement	No	pending
LoneStar Communication Co.-	Khaled Mikkawi	Liberia	3/30/2005	05 years	LIMINCO	Telecom	Lease Agreement	No	pending
Maxtech ventures		Canada							
Montserrado Group									
Subsea Resources								Accept	Operational
Universal Press									