

AN ACT ESTABLISHING THE LIBERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (LEITI)

APPROVED JULY 10, 2009

PUBLISHED BY AUTHORITY
MINISTRY OF FOREIGN AFFAIRS
MONROVIA, LIBERIA

PRINTED JULY 13, 2009

PREAMBLE

WHEREAS, Liberia is endowed with vast quantities of diamonds, gold, iron ore, tropical timbers and other natural resources which are held by and in the name of the Government of Liberia for the benefit of all Liberians;

WHEREAS, the exploitation of Liberia's forest and mineral resources for many decades has not had adequate or meaningful beneficial impact on the national economy or the livelihood of Liberians, but has led to deprivations and conflict due largely to the lack of transparency and accountability in the operations and regulation of logging, mining, oil and related companies and the persistence of opportunism in the award and performance of concessions/licenses for exploitation of these resources;

WHEREAS, the government and people of Liberia recognize the potential positive contribution that forest and mineral resources can make to economic and social development of the Country, and have agreed to realize these potentials through improved resource governance that encompasses and fully implements the Principles and Criteria of the international Extractive Industries Transparency Initiative (EITI); and

WHEREAS, Chapter 10, Article 89 of the Liberian Constitution empowers the Legislature to enact statutes for the creation of agencies and commissions as may be necessary for the effective operation of Government

NOW THEREFORE, it is hereby enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled:

SECTION 1.0 PRELIMINARIES

SECTION 1.1 SHORT TITLE

This Act shall be cited as the Liberia Extractive Industries Transparency Initiative **(LEITI) Act of 2009**.

SECTION 1.2 DEFINITIONS

In this Act, unless the context otherwise requires:

- a. **“Government”** shall mean the Government of the Republic of Liberia
- b. **“Civil Society”** means the entire segment of the Liberian population that is not in government.
- c. **“Chairperson”** Means the head of the LEITI and its Multi-stakeholders Steering Group
- d. **“Independent Firm”** means an accounting or auditing firm that has no existing relationship with either the Government or any of the companies that are part of the LEITI.
- e. **“MSG”** is the acronym for the Multi-stakeholders Steering Group established in section 6.0 of this Act as the governing body of the LEITI, and
- f. **“President”** means the President of the Republic of Liberia.

2.0 Establishment of the Liberia Extractive Industries Transparency Initiative (LEITI)

2.1 There is hereby established an autonomous agency of the Government to be known as the Liberia Extractive Industries Transparency Initiative (hereinafter referred to throughout this Act as the “LEITI”).

2.2 The LEITI shall comprise a broad coalition of stakeholders, and shall accordingly be managed as a multi-stakeholders body in keeping with the provisions of this Act. The coalition of stakeholders referred to herein shall include but not be limited to officials of government; members of Parliament, members of extractive companies; and civil society organizations including an association or union of workers in the extractive sectors.

2.3 The LEITI shall have the power to:

- a. sue and be sued;
- b. enter into contracts and acquire, hold and alienate movable or immovable property by whatever lawful means; provided same is done for and in the discharge of its statutory functions, as provided herein;

- c. establish counterpart and technical relationships with similar and other agencies, institutions and organizations in Liberia and abroad, as may be necessary for the effective discharge of its functions, and
- d. encourage, facilitate, perform and/or require the doing or performance of whatever is necessary or expedient for the effective discharge of any and all of its functions and the achievement of its objectives; and

3.0 **OBJECTIVES OF LEITI**

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

3.2 Without limiting the generality of the provisions of Section 3.1, the specific objectives of the LEITI shall include, but not be limited, to the following:

- a. to require and maintain transparency over all material payments due from and/or made by extractive companies to all agencies and levels of the Government of Liberia as well as all revenues collected from the companies by the Government;
- b. To require all companies engaged in the extraction of agriculture, forest and mineral resources in Liberia to join the LEITI;
- c. To promote the effective participation of civil society in the design, implementation, evaluation and modification of actions, activities, processes and institutional arrangements associated with resource governance in Liberia;
- d. To provide and/or serve as a platform bringing together the Government of Liberia, civil society, and relevant private companies for effective implementation of the criteria and principles of the Extractive Industries Transparency Initiative and other measures aimed at good resource governance;
- e. To promote better public understanding of the non-renewable nature of most extractive resources; the causes of resource-based conflicts; and the benefits of transparent and prudent resource governance ;

- f. To promote the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources;
- g. to assist, by working with other relevant institutions of Government and through independent periodic post-award audits or investigations, in ensuring that the process of awarding public concessions, contracts, licenses, permits and any other rights concerning the exploitation of diamond, gold, oil, timber, agriculture any other forest and mineral resources of Liberia is in compliance with applicable laws;
- g. To encourage and facilitate discussion and adoption of appropriate policies for fair sharing of the benefits accruing from exploitation of the natural resources of Liberia; and
- h. To ensure that pursuit of the objects set forth in Section 3-2 (a-h) is sufficiently established and made an integral part of the normal operations of Government.

4.0 FUNCTIONS/MANDATE OF THE LEITI

4.1 In pursuing its objectives, as set forth in Section 3.0 herein, the LEITI shall perform the following functions:

- a. To develop and update reporting templates to be used by all concerned agencies/levels of government and extractive companies for the regular disclosure and reporting, on a disaggregated basis, of all taxes, royalties and other fees paid to all agencies and levels of the Government and the revenues received by the Government from the Companies;
- b. To require all extractive companies and covered agencies and levels of government to disclose, at least once every year, the data of all payments made and revenues received in respect of the extraction of Liberia's forest and mineral resources;
- c. To conduct, through independent firms, a reconciliation of all payment data disclosed by extractive companies and all revenues data disclosed by all agencies and levels of Government pursuant to Section 4.1(b) hereof;
- d. To conduct, as frequently as may be necessary and through independent

firms:

- i. appropriate audits and/or investigations of the payments and revenues data submitted pursuant to Section 4.1(b) hereof in order to determine that the payments made and revenues received correspond with what ought to have been paid and/or received; and
- ii. appropriate audits and/or investigations of the process by which each material concession, contract, license, and other right is awarded by the Government in respect of forestry, mining, oil, agriculture and other designated resource sectors of Liberia in order to determine that each concession, contract, license, and similar right was awarded in compliance with applicable Liberian laws;
- e. To promptly publish the reports of all audits, investigations, and/or reconciliations conducted pursuant to the provisions of Section 4.1(c) and Section 4.1(d) hereof, and to disseminate such published reports through widely accessible media;
- f. To serve as one of the national depositories of all concessions, contracts, and licenses and similar agreements and rights granted by the Government of Liberia to individuals and companies in respect of the logging, mining, oil, forestry, agriculture and other designated sectors; and to grant members of the public access to such concessions and agreements in keeping with their status as public documents;
- g. In furtherance of fair sharing of forest and mineral revenues, to monitor and reflect in its reports, the data (along with the transfer thereof) of all funds that belong to or are due to any community, county, group or institution based on the terms of an applicable concession, contract, or similar agreement or provision of law;
- h. To bring to the attention of the Government, as part of its EITI Report and for appropriate actions, all institutional and procedural deficiencies as well as lapses, understatements, misrepresentations, and violations of law, including tax delinquencies observed during the audits, investigations, or reconciliations of payments and revenues data submitted by all companies and the relevant agencies and levels of Government;
- i. To submit annual reports to the President and the Liberian Legislature as well as the public on its operational activities, including utilization of funds re-

ceived in connection therewith; and

- j. To perform and undertake any and all actions as may be necessary to achieve its statutory objectives.

5.0 SCOPE/FOCUS OF THE LEITI

5.1 The scope of the LEITI shall be to promote (1) revenues transparency, and (2) contract transparency in the natural resource sectors specified in Section 5.3 herein below.

5.2 For the purpose of this Act, revenues transparency shall mean regular disclosure, reconciliation or audit and publication of all data of material payments and revenues connected with the extractive sectors covered by the scope of the LEITI.

5.3 For the purpose of this Act, contract transparency shall mean (1) public accessibility of material concessions/licenses and agreements related to the sectors within the scope of the LEITI as per Section 5.4 hereof; and (2) the post-award review and/or audit of the process by and through which concessions, contracts, and licenses are awarded for exploration and/or exploitation of minerals, forests and other resources in order to ascertain that each award was made in compliance with applicable laws.

5.4 The sectors of extractive and other natural resources covered by and within the scope of the LEITI are: (1) The Mining Sector; (2) the Oil and Natural Gas Sector; (3) the Agriculture and Forestry Sectors; and (4) such other sectors as the MSG may subsequently determine with the consent of the Government.

6.0 MANAGEMENT

6.1 The Governing body of the LEITI shall be the Multi-stakeholders Steering Group ("MSG").

6.2 The management of the LEITI along with the implementation of all activities and programs of the LEITI shall be done by or under the authority and supervision of the MSG.

6.3 Without limiting the generality of the provisions of Section 6.2 hereof,

the MSG shall (1) establish a Secretariat to be responsible to carry out and/or co-ordinate the day-to-day operations of the LEITI; (2) have the powers to adopt any and all rules necessary for the internal governance of the LEITI; and (3) to adopt measures and take actions necessary for achieving the mandate and objectives of the LEITI, including, in particular:

- a. To prepare and/or approve the work plan of LEITI;
- b. To prepare and/or approve the Budget of LEITI;
- c. To authorize and/or approve the solicitation of external assistance;
- d. To recruit and dismiss the Head and the Deputy Head of the LEITI Secretariat, and to approve the recruitment of all other staff and consultants;
- e. To hire or approve the engagement of the Independent Administrator and/or Auditor to be responsible to perform any of the reconciliations, audit and investigations provided herein;
- f. To approve the commissioning of all consultancies/studies;
- g. To approve and authorize publication of the LEITI Report;
- h. To determine the sanctions to be applied against any company and/or agency government failing to submit a report required by the EITI, or otherwise comply with requirements of the LEITI;
- i. To develop and/or approve an LEITI financial and procurement policy, and any and all other policies and procedures associated with or required for effective and transparent implementation of the LEITI; and
- j. To take any and all other actions necessary for achieving the objectives of LEITI.

6.4 The MSG shall comprise of at least fifteen (15) members to be drawn from the Government, civil society, and the private sector as follows:

- a. Government: seven (7) representatives to include the Minister of Finance; the Minister of Lands, Mines, & Energy; the Managing Director of the Forestry Development Authority; and the President/CEO of the National Oil Company of

Liberia (NOCAL) or its successor as permanent members;

- b. CIVIL Society: Four (4) representatives to include (1) Publish What You Pay-Liberia or a successor organization; and (2) a representative of a recognized association or union of workers in the extractive sectors as permanent members; and
- c. Private Sectors: Four (4) representatives to include at least one representative each from the mining, forestry and oil sectors as permanent members.

6.5 Members of the MSG shall be appointed by the President who shall designate one of them as the Chairperson and another as the Co-Chairperson. In the appointment of members of the MSG to represent civil society and the private sector the President shall hold appropriate consultations with members of the groups.

6.6 The Members of the MSG shall serve for a renewable term of three (3) years. A member of the MSG may resign his or her office at any time upon notice.

6.7 A member of the MSG may be removed from office for reason of conflict of interest or proved misconduct.

7.0 REPORTING

7.1 In keeping with its objectives and as a multi-stakeholders body, the LEITI shall report to the president and the Liberian legislature as well as to the general population.

7.2 The reports to be prepared, submitted and published by the LEITI shall include, but not be limited to: (1) The EITI Report of payments and revenues; (2) The Report of Audit/Review of Concessions and Contracts; and (3) The LEITI Annual Report of Operations. The EITI Report shall comprise of the audited and/or reconciled data of all payments made by covered extractive companies and the revenues received from the companies by all relevant agencies and levels of Government, along with the opinion and recommendations of the Auditor or Reconciler. The Report of Audit/Review of Concessions and Contract shall contain the findings and opinion of the Auditor or Investigator regarding the legal compliance of the processes and procedures applied in respect of concessions and contracts awarded during the audited period. The third and final report, the LEITI Annual Report of Operation, shall contain a detailed statement of all activities carried out by the

LEITI, including appropriate financial statements.

8.0 FINANCIAL MATTERS

8.1 The work of the LEITI shall be financed by legislative appropriations made through the national budget.

8.2 The LEITI may, directly and indirectly, request and receive technical assistance, donations or grants from Liberia's Development Partners and other international multilateral institutions in furtherance of its operations.

8.3 The LEITI shall adopt a system of sound financial management policies in conformity with financial regulations of the Government of Liberia and generally accepted international accounting principles to ensure prudent and efficient management of funds. The LEITI shall specifically cause to be kept proper books and records of accounts for funds and resources received and expenditure incurred or made;

8.4 The LEITI shall be subject to audit by the General Auditing Commission. The LEITI may also be audited by such other private Auditor(s) as the MSG may determine.

9.0 EFFECTIVE DATE

This Act shall take effect immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOT WITHSTANDING.

2009

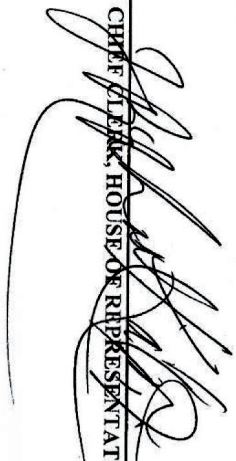
FOURTH SESSION OF THE FIFTY SECOND
LEGISLATURE OF THE REPUBLIC OF LIBERIA

HOUSE'S ENGROSSED BILL NO.12 ENTITLED:

"AN ACT ESTABLISHING THE LIBERIA
EXTRACTIVE INDUSTRIES TRANSPARENCY
INITIATIVE (LEITI)"

On motion, Bill read. On motion, the Bill was adopted on its
first reading and sent to Committee Room on Tuesday,
February 24, 2009 @ 13:00GMT.

On motion, Bill taken from Committee Room for its second
reading. On motion, under the suspension of the rule, the
second reading of the Bill constituted the third reading and the
Bill was adopted, passed into the full force of the law, and
ordered engrossed today Thursday, April 23, 2009 @ 13:11
GMT.


CHIEF CLERK, HOUSE OF REPRESENTATIVES

2009

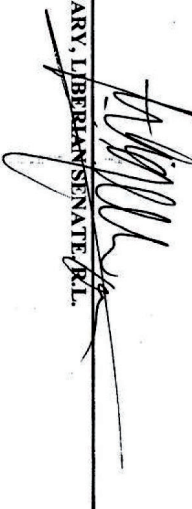
FOURTH SESSION OF THE FIFTY-SECOND
LEGISLATURE OF THE REPUBLIC OF LIBERIA

SENATE'S ENDORSEMENT TO HOUSE'S ENGROSSED BILL
NO.12 ENTITLED:

"AN ACT ESTABLISHING THE LIBERIA
EXTRACTIVE INDUSTRIES TRANSPARENCY
INITIATIVE (LEITI)"

On motion, Bill read. On motion, the Bill was adopted on its
first reading and sent to Committee Room on Tuesday, April
28, 2009 @ 11:34 A.M

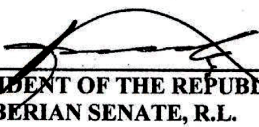
On motion, Bill taken from the Committee Room for its second
reading. On motion, under the suspension of the rule, the
second reading of the Bill constituted the third reading and the
Bill was adopted, ordered engrossed and passed into the full
force of the law today Thursday, June 11, 2009 @ 11:58 A.M


SECRETARY, LIBERIAN SENATE, R.L.

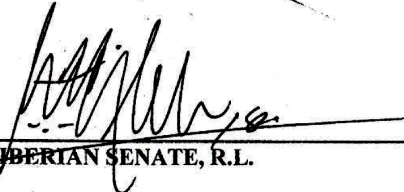
2009

ATTESTATION TO:

**"AN ACT ESTABLISHING THE LIBERIA EXTRACTIVE
INDUSTRIES TRANSPARENCY INITIATIVE (LEITI)"**



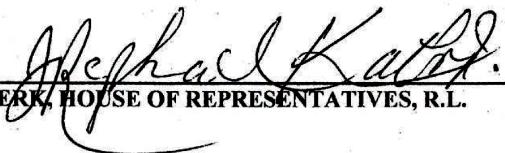
VICE PRESIDENT OF THE REPUBLIC OF LIBERIA/PRESIDENT
OF THE LIBERIAN SENATE, R.L.



SECRETARY, LIBERIAN SENATE, R.L.



SPEAKER, HOUSE OF REPRESENTATIVES, R.L.



CHIEF CLERK, HOUSE OF REPRESENTATIVES, R.L.



Office of the Chief Clerk

REPUBLIC OF LIBERIA
THE HONORABLE HOUSE OF REPRESENTATIVES

Capitol Building
P.O. Box 9005
Monrovia, Liberia



2009

**FOURTH SESSION OF THE FIFTY-SECOND LEGISLATURE OF
THE REPUBLIC OF LIBERIA**

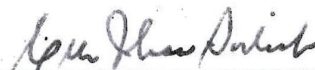
SCHEDULE OF THE HOUSE'S ENROLLED BILL NO. 11 ENTITLED:

**"AN ACT ESTABLISHING THE LIBERIA EXTRACTIVE INDUSTRIES
TRANSPARENCY INITIATIVE (LEITI)"**

**PRESENTED TO THE PRESIDENT OF THE REPUBLIC OF LIBERIA
FOR EXECUTIVE APPROVAL.**

RECEIVED THIS 10th DAY OF July A.D. 2009

AT THE HOUR OF 1:50 P.M.



THE PRESIDENT OF THE REPUBLIC OF LIBERIA

Published by the LEITI Secretariat
4th Floor, Ministry of Finance Building
Email: info@leiti.org.lr
Website: www.leiti.org.lr
Telephone: +231 6 434 547