

Report No. 58011-LR

The Inspection Panel 

**Foreword to the
Report and Recommendation**

**LIBERIA: Development Forestry Sector
Management Project (Trust Funds Nos.
TF057090-LR; TF096154-LR; and,
TF096170-LR)**

February 7, 2011

Foreword

The Inspection Panel issued its Report and Recommendation to the Board on Liberia: Development Forestry Sector Management Project on December 8, 2010.

In response to questions raised by Executive Directors in preparatory meetings before the Board meeting, on February 1, 2011, the Panel issued the Addendum to this Report, which contains supplementary information on the Panel's findings and analysis on two of the eligibility criteria, and a clarification of the Recommendation.

Taking into account the discussion at the Board of Executive Directors meeting on February 3, 2011, the Panel revised paragraph 115 of its Eligibility Report, and also to ensure that this paragraph was fully consistent with the Addendum.

A handwritten signature in black ink, reading "Roberto Lenton". The signature is written in a cursive style with a large initial "R".

Roberto Lenton
Chairperson, Inspection Panel
7 February 2011

Report No. 58011-LR

The Inspection Panel 

Report and Recommendation

**LIBERIA: Development Forestry Sector
Management Project (Trust Funds Nos.
TF057090-LR; TF096154-LR; and,
TF096170-LR)**

December 8, 2010

The Inspection Panel
Report and Recommendation
On
Request for Inspection

LIBERIA: Development Forestry Sector Management Project (Trust Funds Nos. TF057090-LR; TF096154-LR; and, TF096170-LR)

1. On September 24, 2010, the Inspection Panel (the “Panel”) received a Request for Inspection relating to the Development Forestry Sector Management Project. The Request was submitted by the Sustainable Development Institute (SDI), acting on behalf of the communities of Central River Cess Statutory District, River Cess County, Liberia (the “Requesters”).² The Request for Inspection includes: i) a letter, dated July 31, 2010, signed by 54 representatives of the communities of Central River Cess Statutory District, asking the Panel to investigate the Project; ii) a report prepared by the non-governmental organization Global Witness, dated September 24, 2010; and, iii) a list of the communications from SDI and/or Global Witness in which they expressed concerns. The 54 representatives state that they are worried about their personal security and asked the Panel to keep their complaint anonymous.
2. The Panel registered this Request on September 30, 2010, and notified the Executive Directors and the President of the International Development Association (IDA) in accordance with the Resolution establishing the Inspection Panel (“the Resolution”).³ On November 1, 2010, Management submitted its Response to the Request.
3. As provided in paragraph 19 of the Resolution, the purpose of this report is to determine the eligibility of the Request and to make a recommendation to the Executive Directors as to whether the Panel should investigate the matters alleged in this Request.
4. Panel Member Eimi Watanabe together with Panel Senior Operations Officer Serge Selwan visited Monrovia, Liberia, between November 15 and 21, 2010. During its visit, the Panel team met with the Ministry of Finance, the Forestry Development Authority, representatives of multilateral and bilateral organizations (including the

² The term “Requesters” refers interchangeably to SDI and/or the communities of River Cess County.

³ IDA Resolution 93 – 6, Resolution Establishing the Inspection Panel (“the Resolution”), dated September 22, 1993.

European Union, GTZ (Gesellschaft für Technische Zusammenarbeit, the German corporation for technical cooperation), United Nations Mission In Liberia and United States Agency for International Development), and of international non-governmental organizations (NGOs) (namely, Fauna and Flora International and the International Union for Conservation and Nature). The Panel also met with staff of the Bank Country Office and staff of SDI in Monrovia. The Panel team also visited Neezuin in River Cess County and met with members of communities of three districts: Central River Cess, Timbo, and Yarnee Statutory Districts.

5. The Panel wishes to thank the Country Office staff for its logistical support during the visit and for setting up many of the meetings the Panel had. The Panel wishes also to thank SDI for its assistance in the meetings with the communities. Finally, the Panel expresses its appreciation to all with whom it met, including Government officials and donors representatives, for having been available and forthcoming during these meetings.

A. The Project

6. The Request raises issues related to the Liberia – Development Forestry Sector Management Project (the “Project”), a Technical Assistance Project, which is financed by three different Grants for a total amount of US\$2.8 million.
7. According to Management, the project was processed in accordance with the procedures set forth under OP/BP 8.50 Emergency Recovery Assistance and the Trust Fund for Liberia (TFLIB) Board Paper. The TFLIB Board paper, approved by the Board of Executive Directors on August 25, 2004, authorizes “*approval of TFLIB projects by the Regional Vice President with project appraisal documents and grant agreements being made available to the Executive Directors for information purposes.*” The Project was approved in a manner consistent with the procedures described in the Board paper.⁴
8. The Letter of Agreement for the first Grant was signed on September 26, 2006. According to the Letter of Agreement, the purpose of the Grant is “*to assist the Beneficiary in building robust and transparent economic and fiscal governance structures as a foundation for good governance, and economic recovery and growth, within its forestry sector.*”⁵
9. According to the Project Appraisal Document (PAD), the Bank’s medium term engagement is to assist Liberia “*harness the potential of forest to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development, [and] protect the vital local and global environmental services and*

⁴ Management Response, para. 37.

⁵ Trust Fund for Liberia (TFLIB) Grant for the Development Forestry Sector Management Project (Grant Number TF057090), dated September 6, 2006, Annex, 1.1. Purposes and Activities.

*values of forests, based on an integrated package of key reforms in the sector.*⁶
The PAD adds that the Bank will assist the Government to implement the forestry program in close coordination with the Liberia Forestry Initiative (LFI).⁷

10. According to the PAD, the Project will be implemented following all the principles of the Bank's Forests and Environmental Assessment policies. It adds that a Strategic Sectoral Environmental Assessment (SEA), financed by the Project, will analyze possible negative environmental and social impacts of the entire forestry sector.⁸
11. Also according to the PAD, the Project supports, *inter alia*: institution-building in the public sector (including the review and improvement of concession management legislation); sustainable management of community forests; sustainable agro-forestry systems; sustainable small-medium private sector development; and, a forest development grant facility.⁹ Key outcome indicators include, *inter alia*, completion of critical institutional reforms (in particular Forestry Development Agency (FDA) institutional reform, forestry policy, and forest taxes reform), and implementation of the results of the concession review through Executive Order or other instrument.¹⁰
12. Management notes that because of the limited capacities in Liberia, the Project is being executed by UNDP. Implementation has been the responsibility of the Government through the FDA. The Bank's role has been to supervise the project in a manner consistent with OP/BP 13.05 on Project Supervision.¹¹ Management states in the Response that the Project has focused on supporting the implementation of critical institutional reforms in the FDA to improve forest governance, training; technical assistance; sectoral, technical, and capacity analyses; capacity-building;

⁶ Project Appraisal Report ("PAD"), para. 19.

⁷ Initially called Liberia Forestry Initiative and renamed the Liberia Forest(s) Initiative (LFI), according to the PAD, "*the Liberia Forestry Initiative is a partnership driven initiative in which the World Bank plays a lead in providing technical advice and in catalyzing donor support.*" See PAD, para. 19. The Management Response states that the LFI was launched at the initiative of the United States Government in 2004 in an effort to catalyze a partnership to support a cross cutting approach to forests sector reform and to support efforts to build transparency, sustainability and good governance in the management of Liberia's forests. The LFI quickly attracted strong support from local organizations as well as from the international community and created a partnership that reflected the interests of a wide and diverse group of stakeholders. The World Bank joined the LFI in July 2004. The Initiative eventually involved the IMF, the UN system (FAO, UNDP, UNEP, UNMIL), other donors (USAID and the US Forest Service, European Commission), international NGOs and research and advocacy institutions – the Center for International Forestry Research (CIFOR), the International Council for Research in Agro forestry (ICRAF), the International Institute for Tropical Agriculture (IITA), Conservation International (CI), Fauna and Flora International (FFI), the International Union for the Conservation of Nature (IUCN), Forest Trends – and civil society participants (SDI, Green Advocates, etc.). See Management Response paras. 27 and 28.

⁸ PAD, para. 38.

⁹ PAD, para. 22 and Annex 1: Results Framework and Monitoring, p. 13.

¹⁰ PAD, para. 10.

¹¹ Management Response, para. 38.

small community projects; a communications program; and support to the CoC system¹² to track the legality of timber entering the market.¹³

B. Financing

13. The Project was initially financed under the TFLIB through a Grant Agreement signed on September 26, 2006 and amended on December 20, 2006, for a total amount of US\$2.0 million.
14. In addition, according to Management, since March 2010 two Trust Funds (TFs) were linked to the Project with separate Agreements. These financing measures were undertaken to provide bridge financing for the Chain of Custody (CoC) system until it becomes self-financing. A total amount of US\$800,000 was mobilized from the two trust funds.¹⁴ The Project is due to close on June 30, 2011.
15. In addition to these sources of financing, the PAD adds that the co-financing from other donors reached over US\$14 million. The PAD states that on September 2006 the total co-financing was US\$14,725,000.¹⁵

C. The Request

16. The Requesters state that they are filing this Request for Inspection (see Annex A) in reaction to increasing frustrations among communities living within recently awarded logging concessions. They add that they learned that the Bank “*worked with the Government to predict how much money the Government can make from logging (...) [and] have been told that these numbers may be too high.*” They state that they are worried that this will lead the Government to allow the companies awarded concessions “*to log too much of the forest.*” According to the Requesters, the Project “*has helped to create a logging industry in Liberia that will not work and is violating [their] rights.*”¹⁶
17. The Requesters state that this project is contributing to “*unrealistic expectations about what the forests can produce*” and they are concerned the government will

¹² According to the Management Response, a Chain of Custody system is a tracking system that allows logging companies, traders, exporters and wood processing companies to demonstrate that timber is of legal origin. In Liberia, the system that is currently operating was designed to track the flow of wood from the stump (where individual trees are logged and registered in the system), through the supply chain to the point of export. Chain of custody is an essential part of any sustainable forest management certification scheme. In Liberia, the system is also used to ensure that all forest fees have been paid. See Management Response, para. 29, footnote 7.

¹³ Management Response, para. 39.

¹⁴ Management Response, paras. 36 and 50.

¹⁵ PAD, Annex 6: Co-Financing, p. 29.

¹⁶ Request for Inspection, letter from the Communities of Central River Cess Statutory District, River Cess County, Liberia (Community letter), p. 1.

lower its standards.¹⁷ They add that the Liberian law was broken when some of the concessions were awarded. They state that they do not understand why the Bank has not used its influence with the Government to resolve this problem.¹⁸

18. They also add that in 2008 they were told that a certain concessionaire would provide the communities, over its 25-year contract, jobs, money, and other benefits under a Social Agreements that they signed.¹⁹ However, the concessionaire is not able to keep its commitments. The Requesters state that the community set up a committee representing their grievances before the concessionaire and held meetings in that regard, but neither concessionaire nor Government officials attended their meetings to discuss these grievances with them.²⁰
19. The Requesters state that the communities of River Cess County, having lived through the worst abuses of Liberia's "*conflict timber era*" characterized by widespread human rights abuses and devastating logging practices, are deeply worried about the concessionaire's performance.²¹ They state that they have experienced false promises and destructive logging before, when large parts of their forests were destroyed leaving them with no benefits, and human rights abuses were committed against some of the people in the forests.²²
20. In short, the Requesters from the affected communities of River Cess County raise two issues of harm, namely that they have not received their rights in terms of sharing in benefits from commercial logging in their area, and that their natural environment is being degraded. The Request claims that these issues of harm were partly caused by the Management's actions and omissions, and non-compliance with the following Bank policies: Environmental Assessment, Forests, Natural Habitats, and Supervision. The Requesters believe that the forest management system created has contributed to; an imbalance in approaches favoring commercial logging at the detriment of community forests and conservation; a lack of benefit-sharing between concessionaires and communities benefiting from the forest, where commercial concessions have been awarded; and, a negative impact in the operation of a certain concessionaire on the resources of communities.
21. On Environmental Assessment, the Requesters stated that because of the Project's large-scale, export-oriented logging that envisaged two-thirds of Liberia's forests

¹⁷ Community letter, p. 2.

¹⁸ Community letter, p. 1.

¹⁹ According to the Management Response, Social Agreements (or their equivalent), have been introduced in a number of countries where forest concessions have been awarded on public land that is already customarily occupied and used by communities. In the case of Liberia, communities are sometimes situated within concession areas, or adjacent to the concession boundary. In exchange for ceding use-rights to the concessionaire, the Social Agreement provides for compensatory benefits to communities for restrictions of access or use of forest resources directly or indirectly arising from the concession. In Liberia, these have been established as a financial levy on timber production of US\$1.50 per m3 of production. See Management Response, para. 71.

²⁰ Community letter, p. 1.

²¹ SDI letter, p. 2.

²² Community letter, p. 2.

under concession, it should have been a Category A and not a Category B Project. They add that no Environmental Management Plan has been developed and that according to their assumptions, the SEA, which in September 2010 was yet to be published, was insufficiently thorough.²³

22. On Natural Habitats, the Requesters state that Liberia's forests have been recognized as important and endangered by Fauna & Flora International (FFI) and the World Wide Fund for Nature (WWF). They add that, hence, Management should consider the country's forests as critical natural habitats.²⁴
23. On Forests, the Requesters state that the Bank financing is affecting critical forests. They add that the commercial sector supported by the Project has not adopted an international certification scheme, and Management made no known effort to ensure that the sector is progressing towards such certification. The Requesters also add that Management did not undertake sufficient studies of the sector and what forest uses would be best for the country and the people who live within them prior to its financing of the Project.²⁵
24. Concerning Project Supervision, the Requesters state that Management's unreasonable expectations as to what Liberia's commercial logging sector can produce without having provided sufficient supporting data has increased the risk that the government will lower standards in order to meet these expectations. It also failed to comply with the Project Supervision Policy because the Liberian law was broken during the allocation and management of logging concessions.²⁶
25. The Requesters hope that the Bank will undertake the following actions in order to mitigate the damage they believed the Project caused to communities living in Liberia's forests: i) acknowledge the breaches in Liberian law and require that future support for Liberia's forestry sector be conditional upon the maintenance of the rule of law; ii) provide material support for mechanisms designed to oversee the concession granting process; iii) make funding for Liberia's forestry sector conditional upon both the announcement of a moratorium on new industrial-scale logging concessions and the adoption of recommendations produced by a contract review process; iv) commission a survey of the environmental, social and economic values of Liberia's forests, to include a look at alternatives such as community-based uses, the generation of revenues from climate funding, biodiversity and carbon stock; v) ensure timely disclosure of Bank and Government documentation regarding forestry activities; and, vi) support the creation of an officially-mandated independent forest monitoring mechanism to monitor activities in the forestry sector, including concession allocation and management, community uses, conservation projects and forest conversion projects.²⁷

²³ Request for Inspection, letter from Sustainable Development Institute (SDI letter), p. 4.

²⁴ SDI letter, p. 6.

²⁵ SDI letter, p. 5.

²⁶ SDI letter, p. 3.

²⁷ SDI letter, p. 6.

26. In addition, to these actions listed above, the Requesters hope that the Bank would undertake an additional list of actions at the global level in its work on forests. The Requesters hope that the Bank ensures that: i) all its Projects are designed and executed without bias towards large-scale, concession-based logging and sincerely take into account alternate uses of forests; ii) all its Projects addressing forest use, be undertaken only after having conducted a thorough survey of alternate uses of forests; iii) all future Bank Project addressing forest use, be undertaken only after an accurate Environmental Assessment classification, with an assumption that projects that could affect a country's logging industry have a classification of Category A; and, iv) that the Environmental Assessment and Environmental Management Plans for all future Bank projects that address forest use be published in sufficient time so as to allow all stakeholders an opportunity to assess the project's impacts prior to approval and implementation. These studies should take into account a country's institutional capacity and governance situation and include an analysis of the risks and potential impacts of governance failures.
27. The above claims may constitute non-compliance by Bank Management with various provisions of the following operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OP/BP 4.04	Natural Habitats
OP/BP 4.36	Forests
OP/BP 13.05	Project Supervision
World Bank Policy on Disclosure of Information dated June 2002	

D. Management Response

28. As stated earlier in this Report, Management submitted its Response on November 1, 2010. In its Response (see Annex B). Management states that it did not have the opportunity to address the concerns raised by the Requesters before the Request was filed. It adds that though SDI communicated with Bank staff on a regular basis about a wide range of issues regarding the Project, it has no records of the Requesters expressing the concerns raised in this Request.²⁸ Management states that it believes it made diligent efforts to pursue concretely its mission statement in the context of the Project and that the Requesters' rights or interests have not been adversely affected by a failure of Management to implement its policies and procedures.²⁹
29. Management considers that, in light of the huge challenges in the forests sector in Liberia and the extremely weak administrative capacity, the approach chosen was the right one.³⁰ Management believes that the project is fulfilling its objectives in

²⁸ Management Response, para. 5.

²⁹ Management Response, para. 74.

³⁰ Management Response, para. 3.

most respects, but also recognizes several areas for improvement. Management adds that although the preparation, implementation, and negotiation of Social Agreements did not fall within the scope of the Project's agreed activities, it agrees that problems in developing and implementing Social Agreements should be addressed as a matter of urgency, and supports measures to improve legal compliance.³¹ Management adds that Audits of Social Agreements are taking place and the report will be available before the end of the year.³²

30. Management states that it prepared an action plan that addresses the areas that were raised in the Request and which Management believes require improvement. It states that Africa Regional Management is committed to strengthening safeguards implementation to better monitor and manage environmental and social risks, as well as to undertake more consultations so that the concerns of project-affected persons are adequately considered.³³
31. As background information, Management states that Liberia's forests cover around 46 percent of its land area – 4.4 million ha. They include two of the last three remaining large blocks of Upper Guinean Rainforest in West Africa, and are an enormously valuable natural asset both because of their globally important biodiversity and because of their economic value. They are home to approximately 240 tree species, 2,000 flowering plants, 125 mammal species, 590 bird species, 74 reptiles and amphibians and over 1,000 insect species. Rural people depend heavily on forests for building material, fuel wood, wild foods, and medicinal plants, as well as a huge range of other non-timber forest products, and they are a very important safety net during times of economic stress.³⁴
32. Management adds that historically, the timber economy prospered in the past but did relatively little to contribute to rural development because big commercial interests had largely captured the industry. During the civil war, between 1989 and 1996 and later when Charles Taylor was president, from 1997 to 2003, timber played a significant role as a means of financing the war.³⁵ In 2001, the United Nations imposed some sanctions on Liberia in response to the role of Charles Taylor's government in the conflict in Sierra Leone.³⁶ In May 2003, sanctions were extended to include a ban on timber production and export, which was used primarily to finance the internal conflict.³⁷
33. Management recalls that in order for timber sanctions to be lifted, the United Nations Security Council required the National Transitional Government of Liberia to "*establish oversight mechanisms for the timber industry that will promote responsible business practices, and to establish transparent accounting and*

³¹ Management Response, para. 74.

³² Management Response, para. 73.

³³ Management Response, para. 75.

³⁴ Management Response, para. 16.

³⁵ Management Response, para. 17.

³⁶ Management Response, para. 18.

³⁷ Management Response, para. 19.

auditing mechanisms to ensure that all government revenues...are used for legitimate purposes.” In addition, Government was expected to exert “full authority and control over the timber production areas, and to take all necessary steps to ensure that Government revenues from the Liberian timber industry are not used to fuel conflict or otherwise in violation of the Council’s resolutions but are used...for the benefit of the Liberian people, including development.” Government was encouraged to promote “responsible and environmentally sustainable business practices in the timber industry.”³⁸

34. In 2005, the Transitional Government established a Forest Concessions Review (FCR) Committee that included representatives from civil society and from various other stakeholders. The information produced by the FCR would assist in laying institutional foundations and in building a stakeholder consensus necessary to support further reforms in the forest sector.³⁹ In July 2005, the FCR recommended that all existing forest concessions be cancelled. In February 2006, the newly elected President Johnson-Sirleaf, in responding to the recommendations of the FCR, cancelled, by Executive Order No. 1, all forest concessions. On June 19, 2006, the UN Security Council voted not to renew timber sanctions. New forest legislation – the Forest Sector Reform Law – was signed by the President in October 2006, and a regulatory framework for implementing the law was approved in August 2007.⁴⁰
35. Management states that the lifting of UN sanctions was explicitly an outcome of progress made in launching an ambitious forests sector reform process.⁴¹ It adds that key to the reform process has been the Liberia Forests Initiative (LFI).⁴² According to Management, the Bank supported technical assistance in the forests sector through a number of different projects since 2004. Through these Projects, the Bank contributed, *inter alia*, to the FCR, forest inventory, fiscal/tax reform, a reform of FDA focusing on establishment of the Strategic Planning Unit, a Land Tenure study, a due diligence report on the companies that had tendered in the first round of forest concessions, and is providing support for implementing the CoC system.⁴³
36. Management adds that, specifically, the Bank; i) financed the international lawyer for the FCR; ii) financed the review of draft laws in relation with the new Forest Law of 2006 and the Community Rights Law on Forest Lands of 2009; iii) financed the establishment of the Strategic Planning Unit within the FDA; iv) facilitated the

³⁸ Management Response, para. 20.

³⁹ Management Response, para. 22.

⁴⁰ Management Response, para. 25.

⁴¹ Management Response, para. 26.

⁴² The LFI was developed in explicit acknowledgement of the potential of Liberia’s forests to contribute to economic growth through timber production, but only if greater transparency and accountability could be achieved. It also sought to balance this perspective by encouraging strong forest conservation efforts through protected areas management, and the engagement of communities in forest management – the so-called commercial, conservation and community “3Cs” approach. See Management Response, para. 27.

⁴³ Management Response, para. 32 p.8.

discussions leading to Liberia participating in the Extractive Industries Transparency Initiative, including the inclusion of timber in the initiative; v) supported training for certification for the CoC system; vi) financed of the CoC through two separate Trust Funds; vii) supported Liberia in participating in activities led by the Forest Carbon Partnership Facility (FCPF), which assists developing countries in their efforts to reduce emissions from deforestation and forest degradation – called REDD – by providing value to standing forests; and viii) GEF financing supported the management of Sapo National Park, the creation of the protected areas networks, and community livelihood activities around Nimba Forest Reserve, Lake Piso Protected Area, and small communities infrastructure around Sapo National Park.⁴⁴

37. In a more direct response to the Requesters' claims, Management states that it wishes to reiterate that the Bank is not financing commercial forest harvesting operations in Liberia, and does not do so more generally except within the narrowly defined parameters of OP/BP 4.36. Management adds that the Bank is not in a position to respond to allegations of illegality in the sector, but has followed its own procedures in bringing relevant allegations to the attention of the Institutional Integrity Vice-Presidency, which investigates allegations of corruption.⁴⁵
38. Management states that the preparation of timber production and revenue projections was not part of the project's design or objectives.⁴⁶ Various timber production and revenue scenarios have been prepared by LFI partners and the Bank, which through the Diagnostic Trade Integration Study noted the uncertainties implicit in the various scenarios, and the challenge of getting the sector fully operating.⁴⁷ In 2007, the FDA Forest Adviser funded through this Project was asked by the FDA to review its revenue forecasts. The purpose of the review was to explore the revenue implications of differences in assumptions regarding the allowable cut. Subsequently, and at the request of the FDA, the FDA Forest Adviser from time to time prepared and reviewed further revenue scenarios.⁴⁸ The FDA prepared production and revenue projections as inputs to Liberia's 2008 Poverty Reduction Strategy. Management acknowledges that it would have been an opportune time, while preparing the Joint Staff Advisory Note, to comment on the assumptions underlying these projections and the relative degrees of realism.⁴⁹ However, in Management's view, the fact that the FDA Forest Adviser prepared a range of revenue scenarios, based on data provided to him by the FDA, does not represent a failure on the part of the Bank to supervise the project diligently.⁵⁰
39. On the Categorization of the Project, Management states that the PAD clearly states that, "*the project will not finance any activity that would cause conversion or*

⁴⁴ Management Response, para. 33.

⁴⁵ Management Response, para. 78.

⁴⁶ Management Response, para. 43.

⁴⁷ Management Response, para. 44.

⁴⁸ Management Response, para. 46.

⁴⁹ Management Response, para. 47.

⁵⁰ Management Response, para. 49.

degradation of critical natural habitats and will give preferences to unforested or degraded forest land for establishment of plantations. The project will not support industrial-scale commercial logging.” In view of the Project’s likely environmental impacts, the project was therefore classified in environmental screening Category B.⁵¹ Management adds that it does not believe that technical assistance projects like this one should be classified as Category A simply because they concern complex and risky sectors like forestry. Rather, Management believes that risks should be appropriately evaluated and managed in each project (as is the case in this project).⁵²

40. Concerning the SEA, Management states that its objectives were to: (a) identify key social and environmental considerations in the forests sector; (b) examine key challenges facing the implementation of Liberia’s so-called “3Cs” approach to forestry, which seeks to balance development measures in the commercial logging, conservation, and community forest areas; (c) examine how the forest policy and law are addressing key social and environmental considerations; (d) identify institutional and capacity gaps for effectively addressing these key considerations; (e) develop an action plan for how the Government and stakeholders in the sector can meet these challenges; and (f) develop monitoring and evaluation criteria for the implementation of the action plan.⁵³
41. Management adds that although the Government has formally endorsed, through the FDA, the findings of the SEA and has agreed to its disclosure, it has taken nearly two years for this critical step to be completed. Management notes this failing, and maintains that the question was repeatedly raised during regular supervision.⁵⁴ The SEA was disclosed on October 2, 2010.⁵⁵
42. Concerning the classification of the Liberian forests, Management states that it believes that Liberian forests have been correctly classified and that their wholesale classification as critical forests or critical natural habitats is not warranted. Management adds that the project does not finance industrial-scale commercial harvesting operations, and hence there was no requirement that project activities should meet the certification criteria described in OP 4.36.⁵⁶
43. Finally, Management proposes an action plan on two aspects of its work. Both sets of action include deadlines. First in relation to this Project, Management proposes to: i) recommend to FDA that a rapid social assessment be completed during the remainder of project implementation; ii) address broader sector wide poverty and social impacts as part of a more detailed analysis of the forests sector, including a review of the Social Agreements under the forest concession agreements; and iii)

⁵¹ Management Response, para. 52.

⁵² Management Response, para. 80.

⁵³ Management Response, para. 62.

⁵⁴ Management Response, para. 65.

⁵⁵ Management Response, Annex 1: Claims and Responses, p. 31.

⁵⁶ Management Response, para. 79.

integrate findings of the SEA into the design process of possible future Bank operations in the sector; to work with Government to disseminate the SEA in Liberia.⁵⁷

44. Secondly, in relation to the broader sector reforms, Management proposes to: i) support a further review of resource base estimates for the awarded timber concessions in Liberia; ii) discuss with the Government, based on this review, the need for additional assessments of the new, as yet unallocated, concessions, and to what extent more detailed and comprehensive projections on revenue potential would need to be prepared by FDA and Ministry of Finance; iii) recommend that Government launch an independent legal compliance review of the existing concessions, possibly in conjunction with the Extractive Industries Transparency Initiative (EITI); iv) carry out a review to confirm its understanding that actual and proposed protected areas are outside of the areas currently under forest concessions, or planned for future concessions; v) to develop follow up recommendations to Government based on the findings of this review; vi) recommend to FDA that a review of the quality of implementation of the Social Agreements should be completed as a follow up to the UN Panel of Experts review; vii) meet the Requesters to discuss their concerns and ways in which the Bank can help address the critical issues raised in the Request; and, viii) recommend to FDA that consultations with relevant communities in River Cess County be held and their grievances documented.⁵⁸

E. Eligibility

45. The Panel must determine whether the Request satisfies the eligibility criteria set forth in the 1993 Resolution establishing the Panel and in paragraph 9 of the 1999 Clarifications,⁵⁹ and recommend whether the matters alleged in the Request should be investigated.
46. Criterion (a): *“The affected party consists of any two or more persons with common interests or concerns and who are in the borrower’s territory.”*
47. As noted earlier, Panel Member Eimi Watanabe together with Panel Senior Operations Officer Serge Selwan visited Liberia between November 15 and 21, 2010. The Panel team met with SDI in Monrovia and visited Central River Cess Statutory District and met with approximately one hundred people from communities affected by logging activities related to the Forest Management Contract (FMC) ‘B’ and ‘C’.⁶⁰ The latter meeting included elders, women, youths,

⁵⁷ Management Response, Proposed Management Action Plan, p. 25.

⁵⁸ Management Response, Proposed Management Action Plan, p. 25.

⁵⁹ Conclusions of the Board’s Second Review of the Inspection Panel (“the 1999 Clarifications”), April 1999.

⁶⁰ According to the Management Response, the Forest Management Contract (FMC) is a long term (25 year renewable) concession on “public land” for the sustainable forest management of commercial logging. It

local level administrative officers, local dignitaries including two Paramount Chiefs and the Speaker of the Traditional Council of River Cess County, members of the Community Forestry Development Committee, religious leaders, teachers, and representatives of other NGOs working in the area. The Panel confirmed that many of the participants were among the 54 signatories of the Request. The Requesters live in Project-affected areas and have common interests and common concerns.

48. The Panel thus confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel.
49. Criterion (b); *“The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.”*
50. The Requesters claim that Management did not comply with Bank Policy by *“producing logging production and revenue projections that are too high”* and that *“if the government did base its projections upon those of the World Bank, the Bank’s management team has encouraged unreasonable expectations as to what Liberia’s commercial logging sector can produce and has increased the risk that the government will lower standards in order to meet expectation.”* The Requesters claim that the Management, in non-compliance with OP/BP13.05 on Project Supervision, continued to support the government when *“the government has broken the law during the allocation and management of logging concessions.”*
51. The Requesters claim that the Project did not comply with OP/BP4.01 Environmental Assessment by classifying the project as Category B rather than Category A, since, in their view, *“the project has promoted a model of large-scale, export-oriented logging that envisaged two-thirds of Liberia’s forests under concession.”* The Requesters also add that Management did not publish the Project’s Environmental Assessment as per Bank Policy.
52. The Requesters claim that Management did not comply with OP/BP 4.36 on Forest Policy as in their view, (1) Liberia’s forests should have been classified as critical, and because the Project *“has been poorly managed and risks unsustainable logging, the project is risking the degradation of these critical forests;”* (2) *“the commercial sector supported by the project has not adopted an international certification scheme and the management team has made no known effort to ensure that the sector is progressing towards such certification;”* (3) the Management undertook the Project *“without first conducting sufficient studies of the sector”* and *“what forest uses would be best for the country and the people who live within them.”*

ranges from 50,000 through to 400,000 hectares, with concessions under 100,000 hectares being reserved for majority owned Liberian companies. The Concession is intended to be located on Open Dense or Closed Dense forest within a permanent forest estate. Harvesting is rotational and logging is selective according to an approved management plan. See Management Response, para. 50, footnote 25.

53. The Requesters maintain that the mismanagement of the Project “*threatens the sustainability of Liberia’s commercial logging sector, and thus threatens the degradation of the country’s natural habitats,*” which is in contravention of OP 4.04 on Natural Habitats.
54. The Panel confirms that the Request assert in substance a serious violation by the Bank of its claim that the Bank has violated its operational policies and procedures in connection with the Project, which has or is likely to have material adverse effects on the requesters.
55. Criterion (c): “*The request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.*”
56. The Panel notes that it received from SDI, as part of the Request for Inspection, a list of communication for the period August 2006 to September 2010 pertaining to the issues raised in the Request, with some specifics on the type of communication, and issues raised. The list includes communication as well as general briefs and press releases issued by SDI and Global Witness. For the purposes of determining the eligibility of this Request, the Panel considered the items on the list that are from SDI the Requester.
57. The Panel notes that Management, in its Response, “*asks that the Panel consider this Request ineligible for investigation because Management did not have the opportunity to address the concerns raised by the Requesters before the Request was filed.*” Management felt that by going directly to the Panel without first bringing their concerns to the attention of Management, the Requesters precluded Management “*from intervening and clarifying, or, where warranted, resolving issues, on a timely basis.*”
58. The Panel notes that the eligibility of the Request and Requesters is determined by the Panel independently of any views that may be expressed by Management. The Resolution establishing the Panel states that “*the Panel shall determine whether the request meets the eligibility criteria (...) and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*”⁶¹ The 1999 Clarifications add that “*the Panel will determine the eligibility of a request for inspection independently of any views that may be expressed by Management.*”⁶²
59. The Panel further notes that in SDI’s view, the LFI, whose members included both the Bank and SDI, was the appropriate forum in which ongoing concerns about the sector were raised and information was shared and discussed, among all stakeholders. As such, they considered that the LFI meetings held on a regular basis were the most appropriate way of raising their concerns with the Bank. The Minutes

⁶¹ The Resolution, para. 19.

⁶² The 1999 Clarifications, para. 6.

of more than one of these meetings indicated that the Bank also participated in these meetings during which SDI raised its concerns about the Project.

60. More specifically, according to the Minutes of one of the LFI meetings, dated September 1, 2009, SDI had raised concerns relating to: i) violation of conditions for the awarding of concessions; ii) failure to conduct due diligence review vis-à-vis the financial capabilities of the concessions; iii) misleading projections and timelines relating to volume of timber to be exported, the revenues that they will generate, and the timeframe required for such activities; and iv) lack of investment in the sustainable development of the forest. This issue was also raised as early as July 2007 as part of the discussion on non-timber forest products and the lack of clarity regarding the sources of data used to articulate the strategy of LFI. The records indicate that Bank staff and the Project-funded forest advisor were present at these meetings.
61. On the issues related to Social Agreements, SDI shared with the Panel a communication sent in May 2010 to LFI members. This communication was the result of a large meeting held on April 27-29, 2010, which included community representatives sitting on Community Forestry Development Committees (CFDCs), community based-organizations, women organizations, and local leaders. According to the document, which called for, *inter alia*; the renegotiation of social agreements and the adoption of awareness exercises related to discussing and signing social agreements, “*contract holders and managers of forest resources have consistently failed to respect community rights and ensure fulfillment of community benefits.*”
62. It is the Panel’s view that the concerns were brought to the attention of Management prior to the Request for Inspection, primarily through the LFI partnership, either at meetings or through communications to the list-serve of partners. However, Management may not have reacted when concerns relating to logging concessions were raised, since in Management’s view, “*the Bank project was not involved in the preparation of timber production and revenue figures or in supporting Government logging concessions.*”
63. The Panel recognizes the view of Management that “*there has been no direct communication by the Requesters with Bank Management or staff expressing the concerns raised in this Request.*” While Management was made aware of the concerns through the policy discourse and information sharing within LFI, the Panel appreciates the view of Management that there might have been a greater direct opportunity to respond and work towards resolving the issues had SDI also approached Management directly.
64. The Panel concludes the requirement of Paragraph 9(c) has been met, but in fairness to Management, notes that it would have been constructive had the Requesters also communicated their concerns with respect to Bank’s actions more directly to Management.

65. Criterion (d): *The matter is not related to procurement.* The Panel notes that the subject matter of the Request is not related to procurement.
66. Criterion (e): *The related loan has not been closed or substantially disbursed.* As stated above, the closing date for the Project is June 30, 2011. As of the date the Request was filed about 63.5 percent of the total amounts from the three Grants was undisbursed. The Request therefore satisfies the requirement in Paragraph 9(e).
67. Criterion (f): *The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request.* The Panel confirms that it has not previously made a recommendation on the subject matter of the Request, and therefore, the Request satisfies Paragraph 9(f).
68. The Panel is satisfied that the Request meets the eligibility criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications. The Panel notes again, however, that the process may have been aided had the Requesters raised their concerns more directly with Bank Management, beyond the context of the LFI forum.

F. Observations on Issues Raised in the Request

69. As a basis for the recommendation on whether the Request warrants an investigation, the Panel wishes to record a number of observations.
70. The Panel notes Liberia's civil war history and the role played by the timber trade in financing the warring parties. Emerging from 14 years of devastating war, the capacity of Liberia's institutions was extremely weak. The Panel notes, in this context, the Bank's seemingly flexible and responsive approach to engagement in the forest sector.
71. The Panel concurs with the Requesters, that in the light of the devastating consequences suffered by communities and the environment through unfettered logging practices during the civil war, there are justifiable grounds for the Requesters' fears regarding the potential consequences of logging concessions being given to unqualified companies that are not delivering.
72. The Panel shares the concern that given that two-thirds of Liberia's forests are envisaged to be under concession, it is critical that the entire process leading to the awarding of concessions are managed transparently and effectively, and in the best interests of the Liberian people.
73. During its meetings in Monrovia, the Panel was informed by Government, donors, and NGO representatives that the Bank should remain involved in the forest sector,

and should play a more focused role in supporting sustainable forest management. SDI also stated that *“the Bank should be more engaged to make the government perform so that people benefit from forestry.”* There was also agreement that both SDI and the Bank are important stakeholders in the forest sector and they both need to remain engaged.

Stakeholders Views on Commercial Logging in Liberia’s Forest Sector

74. There was total convergence among all the stakeholders that the Panel met in Liberia that in the first years of LFI there was an emphasis was on commercial forestry to the detriment of the other components of the “3Cs” (community forestry and Conservation). The reason given was to attain the lifting of the United Nations Security Council Sanctions, and to start generating revenue and creating jobs to rebuild the devastated society and economy.
75. Stakeholders also agreed that there were problems with the concession process (prequalification, bidding, social agreements, etc.), which needed to be improved, as well as a need for an independent monitoring of concessions. In the Midterm Report of the Panel of Experts on Liberia submitted to the UN Security Council on 17 June 2010 (S/2010/319), the UN Panel of Experts notes in paragraph 53 that *“at least some of the contracts were awarded under circumstances that were not always in accordance with the legal framework and to companies that did not always meet the standards of the due diligence process.”*

Project Setting

76. Most documents outlining development strategies in Liberia focus on the core challenge of capacity development. For example, the Liberia National Capacity Strategy document issued by the Ministry of Planning and Economic Affairs states on page 8; *“The Government of Liberia has recognized the urgency of the capacity challenges in the country and the fact that addressing capacity constraints head-on is necessary for overcoming fundamental barriers in advancing the national development agenda”* and describes the capacity challenges as manifesting itself at the individual, institutional, societal levels.
77. These factors appear to be important in understanding especially the initial years of this Project, with its flexible and somewhat unfocused approach. The Project was processed under OP/BP 8.50 Emergency Recovery Assistance, whose main objectives are *“to restore assets and production levels in the disrupted economy.”* The resulting Economic Recovery Loan (ERL) does *“not attempt to address long-term economic, sectoral or institutional problems,”* and each ERL project *“retains flexibility,”* and are approved through an abbreviated process as described in BP 8.50. It was explained to the Panel that with the 2009 Poverty Reduction Strategy, Bank’s portfolio as a whole has become much more focused and structured.

Bank’s Involvement in Commercial Logging

78. While the Panel notes that the Bank has not directly supported industrial scale commercial logging, it has supported activities with the intent to enable such

logging to take place in a more regulated and transparent manner. Management lists a number of contributions it made towards supporting improvements in commercial logging processes, including:

- 1- Contributed to the Forest Concession Review (FCR), forest inventory, and fiscal/tax reform;
- 2- Funded a due diligence report on the companies that had tendered in the first round of forest concessions;
- 3- Prepared the Diagnostic Trade Integration Study (December 2008), which among other things, assessed the potential of value-added wood processing;
- 4- Assisted the Government in developing the Liberia Extractive Industries Transparency Initiative (LEITI);
- 5- Identified with the Government opportunities in the extractive industries value chain and priority issues related to governance;
- 6- Financed the review of draft laws;
- 7- Financed the establishment of the Strategic Planning Unit;
- 8- Supported training for certification; and,
- 9- Supported financing of the Chain of Custody (CoC)

79. The Panel notes that some of the activities above were supported by the Project, but also notes that the activities were undertaken as part of the LFI, with other LFI partners also providing support to strengthen the transparency of the commercial logging and concession processes. In the Panel's view, this feature, in addition to the fragmented and small scale nature of the Project's activities, could make it potentially difficult to attribute or trace harms relating to commercial logging to Management's actions or omissions in complying with its policies.
80. During its visit, the Panel observed that the Bank Project-funded Forestry Advisor to FDA was widely regarded by many involved in the sector as World Bank staff, speaking on behalf of the Bank. This resulted from the fact that the Advisor was based in the Bank's Country Office in initial years and was listed as World Bank in minutes of LFI meetings, while later on he was embedded in FDA.
81. In addition, given the severe capacity challenges as described above, the Advisor undertook a wide range of activities within FDA, as requested and as needed. This lack of clarity of roles and responsibilities may have created confusion, with various actions and responsibilities being directly attributed to Management. The Panel raised this issue with Management in Monrovia.

Supervision and Revenue Estimates

82. The Requesters claim that the Bank "*worked with the Government to predict how much money the Government can make from logging (...) [and they] have been told that these numbers may be too high.*" They are concerned that this will lead the Government to allow concessions "*to log too much of the forest*" if the government did base its projections upon those of the World Bank. Most stakeholders interviewed by the Panel in Liberia concurred that expectations on revenues to be generated from commercial logging were unrealistically high. The Requesters

believe that these problems are caused, in part, by Bank non-compliance with its policies.

83. Management contends, in its Response, that the Forestry Advisor to the FDA, funded through this Bank Project, *“prepared a range of revenue scenarios, based on data provided to him by the FDA.”* Management recognizes that projections that were published in the Poverty Reduction Strategy in particular (without Bank involvement) were high. However, Management contends that *“there is no evidence establishing a causal link between production and revenue projections and the risk of lowering of standards, as national scenarios had no impact on the development or production estimates for individual concessions,”* and considers that this does not represent a failure on its part in supervising the Project diligently. Nonetheless, Management acknowledges that it would have been an opportune time, while preparing the Joint IDA-IMF Staff Advisory Note on the Poverty Reduction Strategy in June 2008, *“to comment on the assumptions underlying these projections and the relative degrees of realism.”*
84. Management also sees a need for better revenue estimates. Management has included in its action plan a further review of resource base estimates for the awarded timber concessions, and, based on this review, Management will discuss with Government the need for additional assessments of the new, as yet unallocated, concessions, and to what extent more detailed and comprehensive projections on revenue potential would need to be prepared by FDA and Ministry of Finance (see also below, discussion of Management’s action plan).

Social Agreements with Logging Companies

85. Community members from FMC ‘B’ of the River Cess County complained to the Panel that a template agreement, prepared in advance, was presented to them in October 2008 by visiting officials, which they were urged to sign by the same evening. They were given little time to read and digest this agreement, let alone negotiate it. They feel that it was forced upon them. They also complained to the Panel that subsequently, the concessionaire did not keep its promise and that the communities received nothing from this concessionaire. They added that the concessionaire is not even presenting itself to the promised quarterly meetings. The community members informed the Panel that they want to have a closer dialogue with the companies.
86. The community members also informed the Panel that they were puzzled over the fact that, in relation to FMC ‘B’, while the Social Agreement was signed with a certain company, the Harvesting Certificate issued by FDA concerning the same concession, co-lists this company and another as joint concessionaires. Community members informed the Panel that they have complained to FDA and have gone to the Capital to see lawmakers, but still nothing has materialized. They expressed their anger and mounting impatience, indicating that they are ready to take matters into their own hands unless something happens soon. The Panel notes that what they would like to see is a renegotiation of the Social Agreements. Some of the

community members expressed the view that concession contracts should cover five years, instead of the current 25 years.

87. In addition to the issue of the Social Agreements, community members expressed dissatisfaction with the companies' behavior in the forest. The community members said that employees of the company take various resources from the forest without payment, the employees use the creek which provides drinking water for the community as their latrine, and they use the community's clinics instead of providing them with the same. They further complained to the Panel that while the company promised them verbally to provide employment, it has brought in workers from outside claiming that it needs technically skilled workers. Community members claimed that some of the work provided does not require specific skills, and that some community members already possess required skills such as in the use of chain-saws. They also expressed their readiness to receive training.
88. The great majority of the community members at the meeting supported the statement made by a participant, "*we don't want them to stop logging, but we want the process to be transparent.*" The great majority also expressed their utter exasperation with the current company engaged in FMC 'B', asking the Panel to take it with it when it leaves River Cess County. A community representative from another concession area (FMC 'C') stated to the Panel that the unsatisfactory process in the preparation of the Social Agreements as well as its consequences was also being experienced by them. The Panel highlights that issues related to the Social Agreements should not be taken lightly, and there has been already an incident where company trucks were blocked in exchange for ransom.
89. The Panel has also been informed that some community leaders involved in the Request have been repeatedly contacted and questioned about this Request, which adds to the urgency with which the community level issues need to be addressed.
90. The Panel notes that all the stakeholders it spoke to agreed that the current system of social agreements is not working and needs reform.
91. In light of the need for urgent response at the community level, the Panel welcomes the point in Management's Action Plan (see below) that Management will recommend to FDA that a rapid social assessment be completed by March 2011. Further, Management proposes to review the Social Agreements under the forest concession agreements. The Panel notes the potential importance of the review in leading to concrete action to ensure that communities affected by logging activities will be fully compensated and benefit appropriately from revenues generated.

The Project's Environmental Categorization

92. The Panel notes that the Requesters state that because of the Project's "*large-scale, export-oriented logging that envisaged two-thirds of Liberia's forests under concession,*" it should have been a Category A and not a Category B project. Management states that because the Project's objective do not include industrial-

scale logging and because of the Project's likely environmental impacts, the Project was classified as category B. Management also states that it does not believe that technical assistance projects like this one should be classified as Category A simply because they concern complex and risky sectors like forestry.

93. The Panel observes that the modality of the Project, in this case technical assistance, is not a determinant factor for environmental categorization. As it has found in previous reports involving sensitive sectors like forestry, the Panel notes that technical assistance to support or establish a policy environment, management framework, and institution building could have a significant influence, positive or otherwise, on activities such as large-scale logging that in turn may have highly significant social and environmental implications.

Disclosure of the Strategic Environmental Assessment

94. The Requesters claimed that Management violated its own Policies by not completing and disclosing its Strategic Environmental Assessment. Management acknowledges that it has taken nearly two years, from the time the draft SEA was circulated for comments in Liberia to the final endorsement by Government, for its disclosure. Nevertheless, Management "*maintains that the potential for harm, resulting from delays in disclosure, was mitigated by extensive consultations and dissemination of earlier briefs.*" The SEA was finally disclosed on the Bank's external website on October 2, 2010. The Requesters acknowledged the disclosure without providing the Panel comments on the quality of the final document that has been disclosed.
95. The Panel notes that, Management, in its Response, proposes to work with Government to disseminate the SEA in Liberia, and to integrate the findings of the SEA into the design process of possible future Bank operations in the sector.

Lack of Analysis of Alternative Forest Uses and Social Impacts

96. The Requesters consider that no thorough survey was conducted examining different possible forest uses, including community uses. They also consider that it is uncertain whether the commercial logging path is the best way for communities to benefit from their forests. During its visit, the Panel was informed by a bilateral representative that revenues generated from non-timber forest products (including pit-sawing and bushmeat hunting) could be greater than revenues generated from commercial logging.
97. Management is of the view that the extent and quality of the studies that were generated in preparation of the Project provided a sufficient basis for understanding the sector. However, Management agrees that implementation would have been better informed at an earlier stage if a social assessment had been completed in a timely manner, and proposes now to undertake a rapid social assessment for the forests sector to address this deficiency, followed by a broader sector-wide poverty and social impact analysis as part of its action plan (see also below, discussion of Management's action plan).

98. The Panel notes that the Requesters are raising the critical issue of alternative forest uses that sustain the livelihoods of communities in and around the forest areas. The Panel notes that the planned detailed analysis of the forest sector proposed in the Management Response, to address broader sector wide poverty and social impacts, could provide a basis to address the issue of alternatives and identify forest resources and the ways in which people depend on them.

Degradation of Critical Forests

99. The Requesters point to the importance and the endangered nature of Liberia's forests, which they feel is further endangered by the risk of unsustainable logging due to the poor management of the project. Their view is that Liberia's forests should be classified as critical. Management believes that Liberian forests have been correctly classified and that their wholesale classification as critical forests or critical natural habitats is not warranted. They further state that in the course of project preparation, Liberia's forested critical natural habitats were identified and mapped as Conservation Suitability Areas, where commercial logging would not be permitted. These Conservation Suitability Areas include Liberia's existing and officially proposed protected areas, and *"if due process was followed, they do not overlap with forest concessions."*
100. The Panel shares the concern of the Requesters given the current concession processes, and therefore agrees with Management that there is a need for a review to confirm *"that actual and proposed protected areas are outside of the areas currently under forest concessions, or planned for future concessions,"* followed by recommendations to the Government.

G. Observations on Management Action Plan

101. In its Response, Management stated that it *"believes that the Requesters' rights or interests have not been adversely affected by a failure of the Bank to implement its policies and procedures,"* and further, that *"the project is fulfilling its objectives in most respects."* Management also contested the eligibility of the Request.
102. Nevertheless, Management presented in its Response an action plan *"to address key issues in the sector."* These actions include:
- 1- Recommending to FDA to complete a rapid social assessment during the remainder of project implementation;
 - 2- Carrying out a detailed analysis of the forests sector, including a review of the Social Agreements under the forest concession agreements which will also address broader sector wide poverty and social impacts;
 - 3- Integrating SEA findings into the design process of possible future Bank assistance in the sector;
 - 4- Working with the Government to disseminate the SEA in Liberia;

- 5- Supporting a further review of resource base estimates for the awarded timber concessions in Liberia;
 - 6- Discussing with the Government the need for additional assessments of the new, as yet unallocated, concessions, and to what extent more detailed and comprehensive projections on revenue potential would need to be prepared by FDA and the Ministry of Finance;
 - 7- Recommending to the Government to launch an independent legal compliance review of the existing concessions, possibly in conjunction with the EITI;
 - 8- Carrying out a review to confirm Management's understanding that actual and proposed protected areas are outside of the areas currently under forest concessions, or planned for future concessions;
 - 9- Developing follow up recommendations to the Government based on the findings of the above-mentioned review;
 - 10- Recommending to FDA that a review of the quality of implementation of the Social Agreements be completed as a follow up to the UN Panel of Experts review;
 - 11- Proposing to meet with the Requesters to discuss their concerns and ways in which the Bank can help address the critical issues raised in the Request; and,
 - 12- Recommending to FDA that consultations with relevant communities in River Cess County be held and their grievances documented.
103. The Panel notes Management's statement in its Response, that the issues raised by the Requesters, *"such as strengthening governance in the sector, ensuring adequate analysis of all aspects of the value of the Liberian forest (economic, environmental, and social), disclosing on a timely basis lending and safeguards documents on Bank-financed activities in the Liberian forests sector, and independent monitoring of forestry activities in Liberia – are all good points that the Bank is endeavoring to address in this and other projects, in the dialogue with the Government of Liberia, in its economic and sector work, and in the Management Action Plan."* Management considers that this action plan responds to, and addresses, the concerns raised in the Request and which Management believes require attention or improvement.
104. During the course of its visit, with Management's prior concurrence, the Panel shared the substance of the action plan with SDI. Some of the key points of relevance to the community level Requesters were also shared with them. The Panel notes that in the initial interaction with the Panel, SDI and community members expressed encouragement with the plan as it demonstrates an acknowledgement of the problems facing the people of River Cess County and Liberia's forest sector more broadly.
105. Prior to the Panel's departure from Monrovia, SDI informed Management and the Panel that the action plan proposed by Management did not address all the concerns they believe to be related to the forests sector in Liberia. They also raised points in

need of clarification about items in Management’s action plan.⁶³ In addition, SDI expressed hope to initiate a discussion as to how the Bank’s involvement in Liberia’s forests sector can move forward. The Panel welcomes this increased and direct interaction between Management and SDI.

106. Subsequently, on December 2, 2010, shortly before the Panel’s issuance of its Report, the Panel received a note from the Requesters raising new concerns on the scope and implementation of the action plan, including intimidation of community members. The Panel, therefore, met with Management to seek clarification on this matter. Management informed the Panel that all stakeholders have a common interest in Liberia’s efforts to *“manage its forests in a balanced way for long-term sustainable economic growth; to support the livelihood of local and rural communities; and to ensure that its important national and global heritage is conserved.”* Management stated that, in addition to the action plan in the Management Response, which would be carried out according to the proposed timeline, the Bank’s engagement in Liberia’s forestry sector is exemplified by *“the high level policy dialogue that has already commenced between the Government and the Bank on the sector.”*
107. Management further stated that the Bank *“is: (a) providing assistance to the Liberia Extractive Industries Transparency Initiative (L-EITI), the first EITI effort to include timber; (b) supporting the efforts to reduce emissions from deforestation and forest degradation (REDD) through an FCPF grant to the Government of Liberia; (c) helping to establish and expand the Protected Areas Network and Community Forestry, through GEF grants to the Government; and (d) continuing work with the Government and donors communities on transparency, accountability, and rule of law under the Liberia Forestry Initiative.”* Management added that it is endeavoring through these efforts and its ongoing dialogue with the Government that *“issues such as the holistic value of the forest and monitoring are addressed.”*
108. Management concluded that the Bank *“engagement in this important sector in Liberia is serious, and if the Government so wishes, the Bank will continue to assist Liberia in harnessing the potential of its forests to reduce poverty in a sustainable way, contribute to economic development, and protect local and global*

⁶³ More specifically, SDI raised questions about the funding of some of these actions, and on their measurable outcome. They stated that the analysis proposed in the action plan *“must be a holistic survey of possible forest uses”* and should *“address (1) the impact of logging on communities, (2) cost-benefit analysis of community benefit from NTFPs, and community forest use including small scale logging, (3) accurate timber, biodiversity and carbon stock projections (4) logging areas that overlap with proposed protected areas.”* They also asked for clarification on Management’s intention to advise the Government to establish a comprehensive independent forest monitoring mechanism. On another note, SDI believed that, when providing additional funding to the sector, the Bank should condition that funding upon a moratorium by the Government of Liberia on new industrial scale logging concessions until the LEITI contract review is completed. They also state that the contract review office at LEITI should be institutionalized with an identified sustainable funding source.

environmental services.” Finally, Management indicated that it would advise the Panel, by June 2011, on progress in the dialogue and program with Liberia.

H. Conclusion

109. The Panel examined the eligibility of the Request for Inspection in light of the criteria provided in the 1993 Resolution and Paragraph 9 of the 1999 Clarifications and was satisfied that the Request and Requesters meet these eligibility criteria.
110. On criterion (c), in fairness to Management, it would have been constructive had the Requesters also communicated their concerns with respect to Bank’s actions more directly to Management.
111. The Panel’s analysis also took into consideration actions proposed by Management to address issues raised in the Request for Inspection, pursuant to paragraph 5 of the 1999 Clarification to the Panel Resolution, including issues of harm or potential harm to the Requesters.
112. The Panel considers that the main concern of the Requesters, namely, the harm or potential for serious harm resulting from mismanagement of logging concessions, is legitimate and understandable given Liberia’s recent history and current challenges and problems in management of the concessions
113. It is the Panel’s view that the actions described above (paragraphs 102-109), and as further confirmed by Management, constitute a meaningful platform for dialogue to address issues raised in this Request that pertain to the Project and possibly to influence the design of future Bank-financed operations in the sector. This could help ensure that Liberian forest management becomes more sustainable, and transparent, and to the benefit of the communities whose livelihoods depend on them, in addition to preventing harmful forestry practices that Liberia experienced in the past and which the Requesters fear may happen again.
114. SDI has indicated its willingness to engage with Management as it moves forward on the action plan and the design of future Bank operations in this sector. The Panel welcomes this important opportunity for collaboration, given their shared concerns. The Panel notes that the Panel process seems to have aided the Requesters to raise their concerns more directly with Bank Management, beyond the context of the LFI forum.
115. In light of the above considerations, the Panel does not recommend an investigation of whether the Bank has complied with its Operational Policies and Procedures with respect to the allegations contained in the Request for Inspection.
116. The Panel needs also to draw the attention of the Board to a matter of serious concern. The Panel received information indicating that members of the affected

community represented in this Request have been put under pressure and intimidation since bringing their complaint to the Panel. This is a matter of great concern to the Panel, firstly in terms of the implications for the affected people themselves, and secondly for its potentially deterring effect on the ability of people to bring their concerns to the Inspection Panel without fear of reprisal, thus undermining the integrity of the Inspection Panel process and ultimately the Bank's accountability. The Panel notes the importance of ensuring that any such actions are stopped, and appreciates that Management has expressed its commitment to address this issue with the highest authorities of Liberia.

Addendum

Supplementary Information on the Panel Report and Recommendation LIBERIA: Development Forestry Sector Management Project (Trust Funds Nos. TF057090-LR; TF096154-LR; and, TF096170-LR)

The Panel has received questions from Board Members about its findings with respect to two of the eligibility criteria, namely paragraph 9(b) and 9(c) of the 1999 Clarifications to the Panel Resolution. The Panel also has been asked about its recommendation. The Panel is pleased to provide the following additional information in response to these questions.

Criterion 9(b)

Paragraph 9(b) of the 1999 Clarifications to the Panel Resolution states the following technical eligibility criterion: *“The Request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.”*

This criterion is discussed in paragraphs 49 to 54 of the Panel’s Report and Recommendation. Below the Panel summarizes the claims of the Requesters, and then presents the main considerations that informed the Panel’s analysis and findings.

1) Claims of Requesters

As indicated in the Panel’s Report, the Requesters, 54 community members from River Cess County and a Liberian environmental NGO,¹ asserted several significant claims of non-compliance and harm to the affected community and environment. These include the following:

- First, the Requesters claim in substance that the Project failed to consider sufficiently what alternative forest uses, including community uses, would be best for the country and the people who depend on the forests for their livelihood, as required by Bank policy. They also contend that the studies should have classified Liberia’s forests as *“critical”*, under Bank Policy on Natural Habitat and on Forests, which would have triggered important actions to protect the natural environment. The Requesters maintain that these instances of non-compliance and mismanagement of the Project threaten the sustainability of Liberia’s forests and the logging sector, and the degradation of the country’s natural habitats.
- Second, the Requesters believe that the Bank has focused under this Project upon industrial scale and export-oriented logging and raised unrealistic expectations as to what revenues Liberia’s commercial logging sector can produce, ignoring other critical non-timber forest values and uses. This has heightened, in their views, the risk of an

¹ Sustainable Development Institute (SDI).

unsustainable model for logging in the country, with potential harms to both themselves as affected communities and the environment.

- Third, the Requesters claim that the Project should have been classified as Category A because of its potential for significant impacts on people and the environment. Additionally, they believe that the non-disclosure of the Strategic Environmental Assessment (SEA) has hampered needed consultations and participation by affected people in the community, and other stakeholders, on major Project-related issues of concern to them.
- Fourth, the affected communities also claim, in particular, that they have not received their rights, under the signed agreements, in terms of sharing in benefits from commercial logging in their area, and that their natural environment is being degraded.

Management disagrees with the claims raised by the Requesters, or their attribution to Bank activities. Management states, among other things, that this is a classical technical assistance project, which also financed limited community works, workshops and operational costs.

2) Panel findings and analysis

The Panel found that a causal link between Project activities and alleged harm, in the event of Bank non-compliance, could not be ruled out. In assessing this eligibility question, the Panel examined the claims of the Requesters in the context of the specific types of activities supported by the Project and the role of the Bank. The Panel ascertained that the Project went beyond the provision of advice to government, and supported a number of activities relating to the concession reform process.

In particular, the Panel found evidence that the Project is supporting a range of important activities that have potentially significant impacts on forests and forest-dependent communities, including those of the community-level Requesters of River Cess County. These activities include: the development and implementation of new forest regulations and policies, sectoral analyses and logging revenue projections, the Chain of Custody system to track the legality of timber entering the market, and the Forestry Reform and Monitoring Committee. The Project also supported the Strategic Environmental and Social Assessment, which is a specific source of concern in the Request.

In the Panel's view, a lack of policy compliance by Bank Management in financing or supporting the activities listed above, if it has occurred, has the potential to affect the concession and commercial logging process in a way that leads to potentially adverse effects for Requesters, as noted in more detail below:

- A lack of policy compliance in the work on forest-related regulations and policies may mean that the new regulatory framework would not provide the necessary protection for the affected community and the environment.
- A lack of policy compliance of the studies supported under the Project, if it occurred, could have resulted in a failure to analyze adequately non-timber forest projects (NTFPs),

and produced unrealistically high logging revenue projections. This may have led to shifts in economic activities based on inadequate consideration of revenues and livelihood sources, and heightened the risk of unsustainable logging to the detriment of the affected community and the environment. During the eligibility visit, the Panel was able to ascertain that NTFPs are particularly important for communities living in and around forests, as in River Cess County.

- Similarly, a failure to adequately examine alternative forest uses, including community uses, could contribute to forest uses and logging that does not give adequate consideration to the rights and needs of forest dependent community members and their livelihoods.
- A lack of policy compliance in designating some parts of the forest as “critical”, if it occurred, would mean operationally that some areas of the forest would be classified for less protection than is required under Bank policy. This could lead to a range of corresponding social and environmental impacts for the environment and affected communities.
- A lack of policy compliance in disclosure of the SEA, if it occurred, could mean that affected people did not have adequate opportunity to participate and consult on the important actions being taken under the Project.

As described above, it is the specific Project activities in the present case that provide the basis for key claims of the Requesters, and indicate the types of harms that might arise if relevant policies are not met. This important point is illustrated in earlier work of the Panel, including its DRC forest investigation, where the Panel found that certain types of technical assistance activities in the area of forests and logging concession reform could have significant impacts on affected people and the forests, highlighting the importance of proper policy application. The Panel’s findings in this case were welcomed by the Executive Directors.

The Panel’s finding that the eligibility criterion has been met in this case does not mean that any Bank project involving technical assistance would provide the basis to meet this eligibility criterion. This determination is very much context driven and depends on the specific situation and types of activities involved.

The Panel also wishes to note that it cannot, and did not, make any definitive assessment of the allegations at this stage of its process. In line with the 1999 Clarification paragraph 7 that in respect of eligibility field visits, “*the Panel will not report on the Bank’s failure to comply with its policies and procedures or its resulting material adverse effect; any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation.*” As noted in the 1996, “[w]hat is needed at this preliminary stage is not to establish that a serious violation of the Bank’s policy has actually resulted in damages suffered by the affected party, but rather to establish whether the complaint is *prima facie* justified and warrants a full investigation because it is eligible under the Resolution.”

In view of the above facts, the Panel concluded that Criterion 9(b) was fulfilled.

Criterion 9(c)

Paragraph 9(c) states the following technical eligibility criterion: “*The Request does assert that its subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.*”

The NGO Requester assert that they had brought their concerns to Management’s attention. Management, however, states that “*Management has no records of the Requesters expressing the concerns raised in this Request to Bank Management or staff.*”

This criterion is discussed in paragraphs 56 to 63 of the Panel’s Report and Recommendation. In the sections below, the Panel outlines the analysis that led to its determination that this criterion was met.

The Liberia Forest Initiative, where the alleged issues of harm were raised by the NGO Requester, is described in the Project Appraisal Document as a coalition of donor governments, lending agencies, non-governmental organizations and civil society participants committed to the long-term sustainable management of Liberia’s forest estate through a shared multi-donor program sponsored by parallel financing mechanisms. LFI is **not** an open-ended public consultation or conference where participants raise criticism and concerns. It is a closed membership, collaborative and operational mechanism where some 15 partners coordinate their activities in support of forestry reform. The World Bank has played a key role in the LFI since its inception, and has been its Coordinator since 2009.

Records indicate that on more than one LFI meeting, the NGO Requester, who is also a member of the LFI, raised issues related to the harms described earlier and called attention to the alleged failures by the World Bank that led to these harms. The Panel met with other LFI partners during the eligibility visit and confirmed that issues alleged in the Request were raised at these meetings, and that those who raised them held the Bank responsible for these harms. Records indicate that Bank staff were present at meetings to hear these concerns directly, as was the Bank-financed forest advisor (who was widely perceived as Bank staff and a central figure).

The Panel notes that an January 2010 publication by the NGO Requester (listed in the Report as attachment to the Request for Inspection) that was distributed to all LFI members several months before the Request for Inspection was submitted, discussed, among other issues, the *unrealistically high* timber related revenue projections, and adds, “*The FDA and World Bank in large measure share responsibility for these baseless projections*” (page 15, SDI, Liberia – The Promise Betrayed, January 2010). The publication also refers to remarks of the Bank forestry advisor in reaction to NGO Requester’s concerns, which were raised in the Request for Inspection.²

In addition, during meetings with the Panel, the NGO Requester referred to both e-mail correspondence and conversations with the Project-funded forestry advisor as contacts with the Bank. The Advisor was listed in the minutes of the LFI meetings as World Bank and carried a

² This was at the LFI Retreat on September 1, 2009, in Monrovia.

World Bank email account. As noted in paragraph 81 of the Report, this misconception that the Project-funded forestry advisor is Bank staff, was near universal in Monrovia.

Based on the above, the Panel concluded that the allegations of harm and Bank's responsibility in it have been brought to Management's attention, and that the Management also had an opportunity to take steps to address the allegations. As provided in the Resolution, this was a factual assessment made independently by the Panel team after listening to all parties concerned and conducting in situ interviews.

The Panel's finding hinges on the particular facts of the present case. It does not mean, for example, that this criterion would be met simply by raising issues at an open-ended public meeting. The Panel found that the criterion was met in the present case, but only after a careful review based on its field visit to Liberia, and with the important caveat that more direct contact would have been constructive -- both to assess the response by Management and to avoid ambiguity in being able to access the Panel.

In view of the above facts, the Panel concluded that Criterion 9(c) was fulfilled.

Clarification on the Recommendation

As already stated, the Panel appreciated Management's proactive role in presenting an "*Action Plan*"³ to "*address key issues in the sector,*" and the NGO Requester had indicated its willingness to engage with Management as it moves forward on the "*Action Plan*" and the design of future Bank operations in this sector. The Panel concluded not to recommend an inspection primarily on this basis.

In its Report, the Panel did not take any additional role, going beyond the formal role given to it by the Board, which is the determination of eligibility and recommendation on whether to investigate or not the matters alleged. The implementation, monitoring and supervision of the "*Action Plan*" provided by Management is, without question, entirely a Management prerogative.

Following a constructive meeting of the Panel with Management on December 4, 2010, to clarify issues concerning the "*Action Plan,*" Management sent the Panel Chair a message with information on key initiatives in which Management is actively engaged in the forest sector. The message added that Management "*would be pleased to advise you by June 2011 on progress in our forest dialogue and program with Liberia.*" It is this information from Management that the Panel intended to transmit to the Board of Executive Directors.

³ This document was referred to, in the Management Response, as "*Management Action Plan.*"