

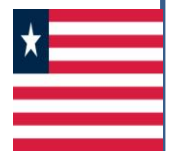
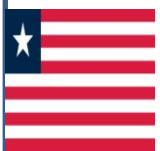


# REPUBLIC OF LIBERIA



## NATIONAL PETROLEUM POLICY

NOVEMBER 2012



# FOREWORD

The “blessing” or “curse” of a country’s natural resource, including hydrocarbon or petroleum, can depend on how well the citizenry is informed and aligned with policy and laws. With the “blessing” as the target, the formulation of this Policy scrupulously involved an extensive consultative process with Liberian citizens nationwide and in the Diaspora, with governmental and non-governmental stakeholders and interlocutors, including civil society organizations, academia, operating International Oil Companies in Liberia, among others. Input from these stakeholders helped to strengthen the hand of this Policy. This petroleum policy aims to set an informed guideline for the necessary reforms of laws that will govern the management of Liberia’s Petroleum Sector in a manner that ensures that its future petroleum resources equitably benefit the People of Liberia. These reforms are expected to affect the following instruments: the National Oil Company Act of 2000, the Petroleum Law of 2002, the oil revenue framework, and the model production sharing contract.

As Liberians look forward to the necessary reforms in this regard, it must be our prayer that our potential hydrocarbon and petroleum resources lead to the “blessings”.

Randolph A.K.W. McClain, Ph.D.  
**Chairman, Hydrocarbon Technical Committee (HTC)**  
**PRESIDENT & CEO, National Oil Company of Liberia**  
*On behalf of the*  
*Hydrocarbon Technical Committee*

# ACKNOWLEDGEMENT

The Government of Liberia, through its Hydrocarbon Technical Committee (HTC)\*, expresses thanks and appreciation to the Energy Governance and Capacity Initiative (EGCI) of the Government of United States of America and the Petroleum Advisory Group (PAG) comprising of the Norwegian Oil for Development, Revenue Watch Institute (RWI), the African Center for Economic Transformation (ACET) for technical assistance provided during the development of this policy.

We recognize the efforts of the drafting committee headed by the Law Reform Commission (LRC) for putting together the policy paper which went through scrutiny from many stakeholders to arrive at the final policy.

We remain grateful to the international and local Civil Society organizations (CSOs), the International Oil Companies (IOCs) operating in Liberia and the Governance Commission (GC) for contributing to this policy especially providing inputs during the consultation and redrafting phases. The total involvement of all participants re – emphasizes the desire to ensure that this policy represents the general aspirations of the people of Liberia.

To the religious community and youth, we acknowledge your participation and meaningful contribution to this policy.

We express our appreciation to all Liberians who participated in the development of this process; whether directly through the consultative meetings, via radio and local dailies, or by submitting independent opinion and suggestions. And finally, to the Subcommittee of the HTC headed by the Vice President for Technical Services of NOCAL, we want to say thank you for all the hard work.

## **\*Hydrocarbon Technical Committee**

1. President & CEO, National Oil Company of Liberia (NOCAL)	Chairman
2. Minister of Justice	Member
3. Minister of Finance	Member
4. Legal Advisor to the President, R.L.	Member
5. Minister of Lands, Mines, & Energy	Member
6. Minister of Labor	Member
7. Chairman, National Investment Commission	Member
8. Executive Director, Environmental Protection Agency	Member

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## **POLICY GOAL:**

**MANAGE LIBERIA'S PETROLEUM RESOURCES IN AN ENVIRONMENTALLY RESPONSIBLE MANNER, TO OPTIMIZE RETURNS FOR LIBERIA AND ENSURE EQUITABLE BENEFITS TO THE PEOPLE OF LIBERIA NOW AND IN THE FUTURE.**

### **I. INTRODUCTION**

Liberia experienced its first petroleum exploration in the late 1940s when the Government awarded the country's first exploration contract. The contractor however did not perform thus causing the contract to fail.

Subsequent attempts at exploration were made between the late 1960s and 1972 with no declaration of commercial discoveries. Also during this period, the Governments of the United States and Liberia jointly conducted an aeromagnetic survey which, after interpretation, exposed the presence of sedimentary basins on the continental shelf (up to 600 meters depth of Liberia). New blocks were awarded to a number of companies which did not result in the discovery of commercial deposits. This result diminished investors' interest in Liberia's petroleum sector for more than a decade.

Subsequent exploration activities by AMOCO proved futile and it relinquished all acreage and ceased operations in Liberia in 1989. Subsequent seismic surveys by various companies confirmed the presence of six sedimentary basins ranging in thickness from 4000 feet to approximately 20,000 feet.

The discovery of petroleum in deepwater in the offshore area of countries in the Gulf of Guinea, especially in West Africa, has drawn much interest in the region including significant interest in Liberia. As a result of this interest, exploration activities in Liberia's offshore territory recommenced in 2000 after a decade of dormancy with the conduct of extensive 2D and 3D seismic surveys (from 2000-2010) and the drilling of five exploratory wells within the last two years.

The announcement in February 2012 of an oil discovery in Liberia has intensified this interest. At the time of the writing of this policy, it is uncertain whether this discovery will prove to be commercially viable, or whether Liberia will ultimately produce commercial oil. But given the heavy interests and the potential and risks associated with the oil sector, the country must take steps now to ensure that any oil production would benefit its people. It has been made clear that the sector needs to be regulated properly in order to achieve maximum benefits for the people of Liberia.

### **II. NECESSITY**

Oil and gas deposits are finite and non-renewable resources; nonetheless, they have the potential to generate immense wealth over time. Because of their finite nature, they must be managed

carefully to ensure that the revenues generated continue to have an impact on the lives of the people after the resources have been exhausted. Oil and gas revenue mismanagement also has the potential to result in conflict that could ruin a nation, thus becoming more of a cursed resource than a blessing used to benefit the nation. In order to avoid this downside, this petroleum policy paper comprehensively addresses exploration and production of the country's oil and gas potential. This policy should help Liberia derive significant economic benefit in the event that there is commercial production of oil and/or gas, while limiting environmental and social risks. An examination of existing laws governing the sector strongly suggests the need for revision to bring them in harmony with national and international standards and best practices. This policy represents the first step in that process.

### **III. CONTENT**

The Petroleum Policy covers Liberia's governance of the upstream petroleum sector, including activities related to reconnaissance, exploration, development, production, transportation of non-refined petroleum and decommissioning, as well as provisions for the management of revenues generated by upstream petroleum. It is divided into nine (9) thematic areas that seek to ensure that the people of Liberia derive maximum benefit from oil exploration and any commercial production. These thematic areas are as follows:

1. Resource Ownership and Maritime Boundary
2. Legal Framework and Institutional Oversight
3. Good Governance, Transparency and Accountability
4. Licensing and Contracting
5. Work Program and Operations
6. State Participation and Fiscal Regime
7. Revenue Management
8. Local Content
9. Health, Safety, Environment and Social Impact

The thematic areas emanated from consultative meetings held with various stakeholders including civil society organizations, agencies of the Government of Liberia, development partners, international oil companies, and ordinary citizens. Additionally, these thematic areas were reviewed and approved by the inter-ministerial Hydrocarbon Technical Committee (HTC) provided for in the New Petroleum Law of 2002. In short, this Petroleum Policy has undergone extensive review and is expected to guide the development of petroleum activities and the legal framework governing the sector including the revision of the New Petroleum Law, NOCAL Act and Model PSC, the development of a new petroleum revenue management law and the establishment of regulations.

This Petroleum Policy addresses certain provisions within the National Energy Policy relating to upstream petroleum activities. In the event that there is a conflict between this petroleum policy and the National Energy Policy, the petroleum policy supersedes as to that particular conflict.

Currently, the emphasis in the Liberian petroleum sector is placed on offshore activities. While this is a comprehensive upstream petroleum policy relating to both onshore and offshore activities, in the event of significant onshore petroleum activities, this policy may need to be supplemented.

## **1. RESOURCE OWNERSHIP AND MARITIME BOUNDARY**

*It is a generally accepted principle that deposits of oil & gas and mineral resources do not belong to private individuals but are the wealth of the entire nation. Liberia shares this principle, as enshrined in its Constitution. The State manages these resources, in trust, for the equitable benefit of all Liberians; present and future. As a sovereign, the State is charged with protecting and maintaining its international boundaries, including maritime boundaries. Oil reservoirs may straddle international borders; therefore, it is important that our policy and future laws address this issue, which can create international conflict and disputes.*

### **A. Resource Ownership**

The development of the oil and gas sector has the potential to provide significant financial resources that will allow the Government of Liberia to undertake economic development for the benefit of the Liberian people.

This Policy adheres to the principles enshrined in the Constitution of the Republic of Liberia. Under these principles, petroleum deposits within Liberia's territorial borders and within its Continental Shelf belong to the Republic. As the custodian of petroleum resources, the Government manages them on behalf of the people of Liberia, and shall do so sustainably to ensure that any benefits derived from petroleum operations are enjoyed by present and future generations.

Private property rights do not extend to ownership of petroleum deposits and the Constitution further gives the State the authority to exercise eminent domain on the condition that private land owners are justly compensated for the use or expropriation of their land for development of the oil and gas sector.

The natural resources of Liberia, including oil and gas, must be managed by the Government in a manner that optimizes benefits to Liberian citizens as a whole. To ensure efficient development of petroleum resources, the Government may enter into contracts with third parties that have the technical and financial capacity to assist in the execution of its responsibilities in the sector. All contracts entered into must be consistent with the Constitution and the laws of Liberia. In partnering with international oil companies, the Government shall ensure that maximum benefit accrues to the people of Liberia.

### **B. Maritime Boundary**

This Petroleum Policy acknowledges that it is a fundamental principle of international law that the territorial sovereignty of a state does not extend beyond its boundaries. Each sovereign has exclusive authority over its own territory. This Policy further acknowledges however that under international law a state has particular rights over the exploration and use of resources in its Exclusive Economic Zone and the Continental Shelf.

At the time of the drafting of this Policy, the maritime boundaries between Liberia and La Côte d'Ivoire, and Liberia and Sierra Leone, are not delimited. In order to avoid disputes and protect the interests of Liberia and its investors, the Government shall seek to establish these maritime boundaries. Any question relating to these maritime boundaries shall be resolved expeditiously and amicably in accordance with international law and treaties as ratified by the Republic of Liberia.



## **2. LEGAL FRAMEWORK AND INSTITUTIONAL OVERSIGHT**

*For every industry to be fully effective and responsive to the needs of the State and its people, first and foremost it needs to be bound by policies, laws and regulations to avoid problems within the industry. The natural resources sector has the potential for great economic significance and consequently there is a particular need to assure the Liberian people of transparency and accountability. The emerging oil and gas industry in Liberia is no exception to the potential problems, misperceptions and feelings of mistrust amongst the citizenry. In order to effectively serve the interest of citizens and maintain an attractive climate for investors, the petroleum sector shall be governed by law and managed by institutions with well-defined roles and subject to rigorous checks and balances.*

### **A. The Sector Shall be Governed by Appropriate Laws and Regulations**

The Constitution of Liberia serves as the organic law that governs the activities in any sector, including the oil and gas industry.

Laws, regulations and policies governing the petroleum sector serve as the main authorities for the exploration and exploitation of petroleum. The Government shall consult extensively with a wide range of stakeholders during the formulation of these laws, regulations and policies.

The legal framework needs to be transparent and strike a balance between predictability and flexibility. Any new contracts reached in this sector shall be consistent with the overall legal regime and shall not seek to establish separate systems or rules. The new legal instruments will establish that in the event of any discrepancy between applicable laws and subsequent contracts, the provisions of the relevant law shall prevail.

### **B. Institutional Structure**

#### **i. Policy Oversight**

The Ministry of Lands, Mines and Energy, any Ministry, or agency given jurisdiction over petroleum matters, will exercise policy oversight of the sector and ensure that the implementation of this policy is scrupulously undertaken. The authority of the Ministry has to be clearly enunciated to provide policy oversight and guidance of the petroleum sector, by setting strategy and developing laws and regulations, in consultation with other relevant ministries and agencies. As the Ministry of Lands, Mines and Energy currently has oversight responsibility for the energy sector, the Government of Liberia commits to strengthening the Ministry in terms of technical and human resources in order to be able to monitor compliance with policy issues in the petroleum sector.

#### **ii. Independent Regulator**

Based on experience gained from oil producing countries, there is a need for the establishment of an independent regulatory body that is separate from the National Oil Company (which will be responsible for the State's commercial interests). The independent regulator may be established outside of a ministry structure and its independence will stem from its financial autonomy and measures protecting against politicized appointment or removal of personnel. This regulatory body will conduct effective monitoring to ensure that parties in the petroleum industry fulfill their operational obligations and maintain high standards of health, safety,

environment, labor, emergency preparedness and other issues, in accordance with the applicable legal framework and international best practices.

This independent regulatory body shall be established as soon as practicable and no later than the commencement of commercial production. Upon the endorsement of this policy, preliminary work shall commence immediately for the establishment of the independent regulator including a robust capacity building program, designing management structure, drafting more detailed terms of reference, and any other administrative issues which will be needed to fully operationalize the regulatory agency. With regard to the timing of the separation, consideration should be given to the requisite time that would be needed for capacity development of the independent regulatory body.

The regulatory authority shall ensure transparency and coordination in its collaboration with other stakeholders including agencies with jurisdiction over the environment, health, labor and other relevant areas. The independent regulator will also establish a collaborative relationship with all levels of Government and local authorities. The Government of Liberia will invest in building the technical capacity of the personnel of the regulator.

The call for coordination does not however remove the authority of other regulating agencies from their normal regulatory functions.

### **iii. Commercial/Operations**

NOCAL shall maintain its mandate over commercial and operational activities which include exercising the right to state equity participation on behalf of the Government of Liberia, the management of any in-kind petroleum to which Liberia may be entitled, and fostering the development of Liberian expertise in the sector. NOCAL and the Government will invest in developing NOCAL's commercial capacity to carry out this role effectively.

During a transitional period until the establishment of the independent regulator, as provided for above, NOCAL shall carry out its regulatory mandate in a neutral, independent and technical manner and shall be bound by the rule of law. The separation of regulatory powers shall be meticulously handled to avoid any voids which might be created as a result of an immediate separation.

## **3. GOOD GOVERNANCE, TRANSPARENCY AND ACCOUNTABILITY**

*The size of potential earnings often associated with the petroleum industry has historically left the industry open to serious malpractice, abuse, and conflicts. This is particularly the case due to the fact that petroleum revenue flows, unlike taxes, are not collected directly from citizens. If not properly managed, the petroleum industry can also create risks of environmental and social damage and conflict. This is why it is of utmost importance to have a strong system of transparency and accountability in place to prevent any potential conflict in Liberia. The absence of transparency and accountability in the petroleum sector would not only result in lack of good governance, but would also affect the implementation of Liberia's development agenda negatively.*

*In order to achieve good governance, the legal framework governing the petroleum sector in Liberia must be consistent with the Constitution and relevant laws*

## **A. Petroleum Sector Shall Abide by Principles of Good Governance**

The petroleum sector must be characterized by the principles of good governance which include transparency, accountability, access to information, respect for the rule of law, and citizens' participation. This will ensure that the sector shall operate in the best interest of the Liberian people. In addition to applying these principles, the Government shall embark on programs that are sustainable and focus on the recruitment of qualified nationals. The Government shall also practice strict fiscal discipline and make sound investments based on prudent financial planning.

## **B. Government Shall Operate with Maximum Transparency and Accountability**

The Government of Liberia adheres to generally accepted principles of transparency and accountability in the conduct of all governmental affairs. To reinforce this policy, the Government of Liberia shall ensure that all activities within the petroleum sector are conducted with transparency and accountability.

The Government of Liberia shall adhere to the principles and procedures of the Liberia Extractive Industry Transparency Initiative (LEITI) and shall comply with reporting and other requirements of this initiative as well as other transparency and accountability initiatives undertaken by the Government. The principles of LEITI applicable to the petroleum sector include amongst others, disaggregated reporting on all material payments, requiring all petroleum companies to join LEITI, conducting reconciliations of company payments and Government receipts, and the publishing of contracts, concessions, licenses and audit reports.

In order to support robust citizen participation in Liberia's petroleum sector, the Government of Liberia shall encourage the active engagement of civil society organizations.

As a fundamental aspect of good governance within the natural resources sector, the Government of Liberia supports access to justice in the petroleum industry. The legal framework shall establish the right for citizens to seek legal redress, in a manner that protects the public interest.

In accordance with the laws of Liberia, particularly the Freedom of Information Act of 2010 and international best practices, information pertaining to the petroleum sector, including legal, policy, planning, commercial, seismic and scientific data shall be made available to the public in a manner that facilitates maximum access. The disclosure of all such information shall be subject to exceptions contained in the Freedom of Information Act and other relevant laws of Liberia.

## **C. Government of Liberia Shall Adhere to Recognized Principles of Equality and Gender Balance**

The Government of Liberia adheres to recognized principles of equality and gender balance. Consequently, every Liberian shall be given equal opportunity for employment and access to training in the petroleum sector regardless of gender, religious affiliation, cultural background and beliefs, and political affiliation.

## **D. Scrutiny of Officials of the National Oil Company/Regulatory Body/Relevant Ministry**

The potential to generate large revenues for the petroleum sector inherently creates the need for a higher degree of accountability and transparency. The Government of Liberia's duty to verify that no official of Government or civil servant partakes in mismanagement, conflict of interest, or corrupt practices, is thus heightened. All public officials with responsibility relating to the petroleum sector shall be prohibited from having personal and direct interests in petroleum companies or service providers.

In order to further ensure accountability, NOCAL and the regulatory body shall publish annual reports.

## **4. LICENSING AND CONTRACTING**

*Petroleum contracts and licenses confer exclusive rights for the exploration and exploitation of petroleum over a limited area and for a limited period. This policy sets out the basic criteria to be adopted for obtaining the rights to conduct petroleum activities in the country. Contract awards shall be concluded between the National Oil Company of Liberia (NOCAL), on behalf of the Government, and the contractor.*

The Government of Liberia recognizes the different forms of licensing within the petroleum industry. To this end, the Government shall adopt a hybrid form of Production Sharing Contracts. All contracts, entered into by NOCAL on behalf of the Government shall be in accordance with the Public Procurement Concession Act (PPCA). The Government of Liberia shall establish a reasonable time under which a bid winner can be allowed to continue negotiation for a contract. Notwithstanding, any break in negotiation shall be of mutual consent between the government and the awardee.

The award of petroleum licenses and/or contracts shall be based on a transparent competitive bidding process aimed at getting the best returns for the country and attracting well qualified partners. Bid rounds shall be announced as and when they are considered necessary. The Government shall consider a phased approach to the development of the petroleum resources in order to maximize sustainable commercial benefits and avoid overstressing the Government's oversight capabilities.

The Government shall require pre-qualification of bidders and shall publish the bid criteria. Criteria for prequalification and bidding shall be well-defined. Only companies that meet the Government's criteria for pre-qualification shall be permitted to bid. The Government's criteria for pre-qualification shall place emphasis on the financial and technical capacity to undertake petroleum activities. The bidding criteria shall be based substantially on the quality of the work program and the added value in terms of services and benefits that contribute to the development goals and interests of Liberia.

Award of blocks by direct negotiation shall be allowed only where a competitive process has failed to attract bids that yield sufficient returns for the country. The reasons for resorting to direct negotiation in the event of a failure of bid rounds shall be made public prior to the commencement of such negotiation. The Government shall set criteria for the award of blocks by direct negotiation.

Until the establishment of the independent regulator, NOCAL will lead the process of bidding on behalf of the Government, in conjunction with the other members of the HTC. Once the independent regulator is established, it shall lead the bidding process. Contract negotiations will be conducted by the Government ministries and agencies comprising the Hydrocarbons Technical Committee (HTC).

The area of exploration and production of petroleum shall be divided into blocks. The size of the blocks shall be determined by Government and shall not exceed 2,000 sq. km. In the case of straddling where a reservoir spans more than one block, unitization shall be applied.

The Government shall set criteria for transfer of licenses or contracts, ownership interests and operatorship. Payment of transfer fees and due diligence shall apply in the review of such transfers. Transfer rules shall be clear and applied with limited discretion, to ensure predictability and certainty. Any proposed transfer shall be subject to approval by the Government. The approval requirement and other criteria shall also apply to indirect transfers of ownership such as transfers of ownership in an offshore entity that controls a Liberian entity with a license, particularly in light of the tax implications that such transfers may have. Full disclosure shall be made of all persons having beneficial interests in licenses or production sharing contracts.

The assets of each block shall be managed independently and the principle of “ring fencing” shall apply so that damages, losses or liabilities associated with one block are not transferred to others and do not negatively affect other blocks.

There shall be a preference for awarding a block to a minimum of two qualified companies in order to reduce speculation and to promote the sharing of exploration and financial risks in petroleum operations. Where a block is owned by a consortium of companies, the Licensee/Contractor shall be considered a single entity despite the number of companies it may represent. All companies operating under a single license or contract shall share joint and several liabilities for operations conducted under such license.

Requirements shall be designed to address each stage of the life cycle of a field: exploration, appraisal, development, and production. During each stage, the license/contract will automatically expire at the end of the established term, unless the company has sufficiently progressed to warrant a chance to move into the next term. During each stage of petroleum operations, the contractor shall inform the Government of Liberia regarding the different skillsets and labor force required.

This policy addresses predominately offshore activities due to the current drilling programs and basin prospects. Onshore activities will be addressed in more detail if the Government decides to advance and develop its onshore programs. However, for onshore exploration and production, the license/contract confers the right to conduct petroleum exploration and production, but does not exempt companies from other legal/regulatory requirements including but not limited to rights of access of landowners.

## 5. WORK PROGRAMS AND OPERATIONS UNDER A LICENSE

*The benefits of petroleum operations to Liberia and its citizens shall remain paramount at all times. Liberia shall manage its oil operations in line with international best practice, and shall require regular consultation between Government and contractors on work plans, regular relinquishment of acreage, sound maintenance of data in Liberia and penalties for non-compliance with laws and agreed rules. All operators of a petroleum license or contract shall establish an office in Liberia under Liberian laws and jurisdiction.*

Given the finite nature of petroleum resources, all petroleum companies shall be expected to optimize production, utilizing only the best available technology and field practices with minimal damage to the environment. To this end, the Government shall monitor reservoir performance closely and shall engage in discussions with petroleum companies, when necessary, on improvements in the field development plan to ensure optimal recovery at all times but at a rate appropriate for the development of the country and its economy.

The State may grant a prospecting (reconnaissance) license for an area to a person or a group of persons and all data/reports for such activities shall be submitted to the state by the contract holder(s). A reconnaissance license shall be for a limited period and shall not grant any exclusive rights or any preference in the award of exploration/exploitation rights.

The exploration program shall be divided into 3 phases:

- a) First exploration period for 3 years
- b) Second exploration period for 2 years
- c) Third exploration period for 2 years

Operators shall conduct their activities diligently and efficiently in conformity with internationally acceptable best practices prevailing in the petroleum industry and with due regard to health, safety and the environment so as to ensure sustainable development of the resources.

The Government shall establish effective systems for monitoring and auditing petroleum operations to ensure compliance and shall, for that purpose, have the right of access to sites and materials, including but not limited to having representatives on all rigs, platforms, and production facilities.

In order to protect national interests, important plans and any subsequent changes to plans aimed at monitoring activities, such as Field Development Plans, long-term and yearly production programs, phase-out and decommissioning plans shall be submitted to the Government and shall be subject to its approval. Decommissioning plans shall be accompanied by an environmental assessment report indicating the likely impacts and the proposed mitigation measures. This will ensure that the appropriate actions are taken to restore the environment to its original state.

Operators shall be required to provide the Government with periodic reports on their petroleum activities. The frequency of reporting shall be determined by the Government. However, the Government shall be notified immediately of any discovery made and all data pertaining to such discovery shall be submitted promptly to the Government.

In addition to other required audits under the Laws of Liberia, the Government shall conduct annual financial audits of the contractor to verify compliance with the work programs.

All data derived from petroleum operations shall belong to the state. A licensee or operator shall maintain in Liberia, complete and accurate records of all petroleum operations carried out by the company. Such data must be collected and stored within Liberia in a responsible and sustainable manner for easy access and use.

The Government shall establish procedures and criteria for a step-by-step relinquishment of licensed areas, which shall be enforced transparently, and consistently to ensure that exploration is carried out within acceptable time limits. Relinquishment in the exploration context shall be linked to the exploration program phases described above. Relinquishment of licensed areas shall be accompanied by data acquired for such relinquished areas. Surface rents shall be levied and shall be incremental to encourage the gradual relinquishment of those parts of the area where the petroleum companies do not plan to undertake activities. The procedures will require that any proposed area to be relinquished shall include a report on the state of the environment and appropriate remediation must be conducted as necessary.

In furtherance of national and global efforts to reduce emissions of greenhouse gases, protect the environment and considering the fact that natural gas is a valuable resource, the Government shall maintain a policy of no flaring or venting of natural gas, except for the purposes of testing, in emergencies and for safety reasons. Due to the high potential of natural gas for export and domestic use as a clean energy source, the Government shall provide incentives for the utilization of natural gas. The contractor shall remain responsible for the handling of associated gas.

In order to maximize efficiency and production, spare capacity in infrastructure, such as installations and pipelines, shall be made available to other users on fair and equitable terms, provided such use does not unreasonably interfere with the owners' operations.

A contractor that determines that production is no longer commercially viable must relinquish that production area and surrender it to the Government. Such relinquishment or surrender allows the Government to grant new licenses for the relinquished and/or surrendered area as a means of maintaining production in order to maximize resource recovery.

The Government shall establish procedures for remedial actions and penalties in cases of non-compliance by the petroleum companies.

## **6. STATE, CITIZENS PARTICIPATION & FISCAL REGIME**

*The Government of Liberia shall establish a fiscal regime that will appropriately promote the interests of the people of Liberia in the event of commercial petroleum production. By committing in law to a fiscal regime that combines elements that will provide revenue to Liberia in the early stages of any production with more progressive elements that increase the State's share as profitability rises, the Government will balance the interests of citizens and investors. An essential mechanism by which the State will benefit from its resources will be through the State's commercial participation in the petroleum industry.*

*Liberia will establish the main fiscal terms in law. This will provide investors with a transparent, predictable and flexible fiscal system that provides a level playing field and limits the potential for differential treatment. For the State, monitoring and forecasting of revenue flows from a standardized fiscal regime can make the task of*

*budgetary planning much easier. In addition, with the main fiscal terms set in law, citizens will not be left wondering how the benefits from their natural resources are being managed.*

### **A. The Fiscal Regime Shall Maintain Robust Incentives for Reliable and Responsible Investors while Providing a Fair and Equitable Return to Liberia**

As a State in the early stages of its petroleum development, Liberia will need to partner with international investors to develop its resources for the foreseeable future. These investors must be reliable and responsible. They must also possess the relevant technical capacity and financial strength to partner with Liberia in developing its petroleum resources. To ensure this, due diligence must be conducted and accepted before the Government of Liberia can proceed with negotiations. In order to ensure a reasonable return on investments under a variety of economic circumstances, the fiscal regime shall include progressive, flexible elements that give the State an increasing share of profits as the overall profitability of a project rises and help protect the viability of projects for investors in times of high costs or low oil prices.

The fiscal regime shall also provide revenue streams to the nation in the early years of a project; this is necessary because Liberia is still in need of funds in the immediate term to meet urgent development needs. Examples of such elements are signature and production bonuses, customs duties, funds for social development and royalties (which provide a secure revenue stream from the commencement of oil and gas production). In times of low prices and high costs, the State will benefit from these revenue streams that are less sensitive to profitability.

### **B. The Government of Liberia Shall Maintain a Transparent and Predictable Fiscal Regime for Petroleum Activity**

To ensure predictability, transparency and stability, the fiscal terms in the oil and gas sector shall be subject to public scrutiny, whether those terms are in law or in contract. The fundamental fiscal terms shall be set out in the law, leaving few elements of the fiscal terms to be determined by negotiation in individual contracts. Liberia has already committed to transparency of fiscal terms for its other natural resource sectors, and it reaffirms this commitment by including transparency of petroleum fiscal terms in this policy.

The predictability of the fiscal regime is important. The inclusion of fiscal instruments that provides flexibility also ensures a hedge against changing circumstances for the Government and the investor. This flexibility, embedded through the progressive fiscal tools, puts into place mechanisms to avoid revisions to the balance of benefits when marginal changes in economic circumstances occur. This will reduce the need for revision of contractual terms.

### **C. The State and Citizens will Participate in the Oil Sector**

The State shall participate in the oil sector, and may do so in many ways. The state shall have the option to take participating interest in petroleum operations. The Government of Liberia's participating interest shall be "carried" until commercial production.



It is a fundamental principle of the Constitution of the Republic of Liberia that citizens, to the maximum extent feasible, shall participate in the benefits of the natural resource wealth bestowed to the Republic. .

The Government shall pursue every possible option and avenue to ensure that all citizens benefit from oil and gas resources. This necessitates a multidimensional view of citizen participation, recognizing that a long-lasting and reliable career in the oil and gas sector, providing goods and services to the sector, or benefitting from cheaper domestic energy may ultimately be rewarding and create even greater wealth for a larger segment of the population.

## **7. REVENUE MANAGEMENT**

*The revenues that can accrue to a state that is rich in petroleum resources can be very significant, depending in large part on the prospectivity of the country's geological basin. Development of Liberia's petroleum resources is at an early stage and it is difficult to determine with any certainty the magnitude of potential petroleum revenues that could be attained by Liberia. The Government undertakes to ensure that if Liberia ultimately earns significant petroleum revenues, they are managed in a manner that facilitates sustainable development and secures the greatest social and economic benefits for its people. Based on this undertaking, the Government shall ensure accurate collection of revenues and commit to using these revenues to achieve equitable and sustainable national development for the present and future generations. It shall take measures that protect the economy against the risks stemming from the volatility of oil prices and production. Citizens shall be informed of revenues flowing to the government and they shall be consulted as to how these revenues can best be used to develop the country.*

### **A. The Government of Liberia Shall Put in Place Mechanisms to Facilitate Efficient Collection of Revenues**

Strong revenue administration is a necessary pre-requisite to allowing the government to collect its fair share of the proceeds from petroleum resources. Citizens must be confident that fair and accurate revenue collection is occurring on their behalf. The Government of Liberia shall put in place mechanisms to facilitate the collection, verification and utilization of revenues accruing from oil and gas activities. There shall be regular reviews of reported costs to prevent transfer pricing abuses and ensure that cost recovery is in line with market value so that revenues to the State are not undermined. Accordingly, the Government shall develop and maintain a strong audit capacity to verify that petroleum revenues are collected and accounted for in accordance with law.

Revenue flows shall be governed by the public financial management principles of Liberia to ensure transparency and accountability of the funds. Every citizen of Liberia is entitled to know the size, nature and timing of current and forecast revenues to the Government from the oil and gas sector. Similarly, the Government has a duty to demonstrate that every dollar of oil and gas revenue is accounted for to the public. Therefore, the Government shall inform citizens regularly about potential oil revenues, including production forecasts, oil price projections and any associated uncertainties. Information on actual revenues from oil and gas activities, including production volumes and sale price, shall be published regularly such as quarterly on Government websites, daily newspapers, and in accordance with the principles of the Liberia Extractive Industries Transparency Initiative (LEITI). Liberia shall also consider providing accounting provisions that go beyond LEITI requirements. Revenues deriving from the sale of profit oil and

any oil to which the State is entitled by virtue of its equity participation will be reported in a transparent manner like other Government revenues.

## **B. Revenues Shall Be Safeguarded in Designated Petroleum Accounts**

It is important that procedures are put in place to safeguard the revenues that may be derived from the oil and gas sector, and to protect the economy against some of the risks that are commonly associated with large-scale oil production.

Petroleum revenues are unique due to their time-limited and unpredictable nature. Therefore, the Government shall put in place, as soon as practicable but no later than the commencement of commercial production, a Petroleum Revenue Management Act that creates mechanisms to manage these revenues. A designated portion of any revenues shall be transferred to a petroleum fund or funds to be established in accordance with the petroleum revenue management act.

The petroleum fund(s) shall be designed to serve as a provision for intergenerational equity, a source of future funding to sustain the economy, and a tool to help stabilize public expenditure in the face of oil price and production fluctuations. The flow of revenues to designated accounts and funds will also facilitate transparency and the ability to easily account for all revenues accruing to the State, and will help smooth the flow of expenditure over the lifetime of oil production in Liberia.

In order to ensure that NOCAL has predictable funds sufficient to ensure that it can reasonably finance its operations and investments, the Government shall develop mechanisms for enabling NOCAL to engage in multi-year budgeting based on procedures established in the organic instrument creating NOCAL.

## **C. Revenues Shall Be Used in a Sustainable Way which Benefits Current and Future Generations of Liberians**

The Government must establish strong principles governing the use of revenues to ensure that Liberia's non-renewable resource wealth generates lasting benefit for all levels of society.

It is important for Liberia to maintain an appropriate balance between using revenues for current expenditures on the one hand and establishing savings for the future and guarding against the revenue volatility inherent in the petroleum sector on the other. To this end, in designing and managing the mechanisms described above, the Government shall establish fiscal rules to determine how revenues may be used to meet current consumption and investment needs, and how much may be saved to guard against volatility and provide for future spending.

The Government of Liberia shall maintain a strategic balance between spending on current consumption and investment and shall ensure that spending from petroleum revenues shall be invested in priority sectors of the economy. If the revenues are to be harnessed for a sustained increase in living standards, a substantial part of such revenues must be invested outside the resource sector; in the nation's physical infrastructure, education, health care, agriculture, the environment and social protection. Investment priorities shall be determined by long term

development plans that encourage balanced growth and sustainable development of the whole nation.

In order to involve the citizens in decisions about how the country's resources might be spent, the Government shall hold nationwide consultations periodically to inform the public of spending and investment plans. This will allow citizens to voice their needs and preferences with regard to expenditure priorities and public service delivery.

## **8. LOCAL CONTENT**

*The petroleum sector shall be managed in a manner that promotes the development of Liberia. Beyond the provisions for revenue generation discussed above, this shall be achieved through mechanisms designed to promote the development of Liberian companies, the transfer of technological knowledge to Liberians and the training and employment of Liberians.*

Local content programs shall be designed to empower Liberians to participate in the oil and gas sector and promote added value in the Liberian economy through a systematic development of capacity and the utilization of indigenous Liberian human and material resources and services in the petroleum industry and related sectors. By localizing the production of services and materials used in the oil and gas industry in Liberia to the maximum degree possible, Liberia can create far-reaching positive economic spillovers.

The Government of Liberia shall support the development of Liberian owned companies to participate in the Liberian petroleum industry. A Liberian owned company is defined as “a firm, enterprise, company or any business venture wherein a minimum of 51% of its share is owned by Liberians.” The Associations Law and other legal instruments shall be amended to reflect this definition. The Government shall support the participation of Liberian owned companies in its petroleum industry, including by helping them strengthen their capacity in service delivery and improving conditions for access to capital.

In order to promote these goals, the Government shall adopt a petroleum local content strategy which will protect Liberian business interests and adequately develop the competence of Liberians to derive maximum benefits from petroleum resources. In order to develop this strategy, the Government shall review and amend the definitions and procedures governing local content to ensure that local content promotion programs provide genuine benefits to the development of Liberian industry and to reduce the risk that they will be used as vehicles for corruption or the enrichment of outside interests.

The Government shall develop programs aimed at building a skilled and competent Liberian work force that will be able to compete and participate in the oil and gas industry. In order to do so, it shall support the development of training institutes or programs to help build specialized skills in strategic areas related to petroleum operations or services, technical and job training programs at Liberian high schools and universities and scholarships for higher education. Within twelve (12) months of the effective of the PSC, the Government shall require contractors to submit a recruitment and training plan for Liberians.

The Government shall develop its own human and institutional capacities in order to meet the demands that will emerge in-country as a result of the development of the oil and gas sector and effectively prioritize areas where there is an opportunity for the sustainable development of Liberian content.

In addition to its own direct efforts, the Government shall create standards in laws, regulations and contracts to encourage international oil companies to:

- prioritize employment of qualified and competent Liberian citizens in the oil and gas and other associated industries;
- train Liberians in relevant fields relating to the oil and gas sector;
- contribute to institutions involved in the training of Liberian citizens in order to enable Liberian citizens to be eligible for and meet the requirements of positions in the hydrocarbon and associated industries;
- use Liberian goods and services in the conduct of petroleum activities to the extent feasible;
- contribute to community development programs;
- support Liberia's efforts to achieve gender equality and expertise over time;
- undertake joint venture activities in order to transfer technological knowledge.

The Government shall prioritize local and International Oil and Services Companies with proven track records of support for local content during the bidding process.

The Government shall require international oil companies to issue regular public reports on their contributions to local content development. These reports should contain the degree to which they are using Liberian contractors, identify the Liberian companies and the principal projects in which they are engaged, and the composition of ownership. These reports shall also provide updates on the progress of training Liberians and nurturing local companies in line with national objectives.

## **9. SAFETY, HEALTH, ENVIRONMENT AND SOCIAL IMPACT**

*Petroleum exploration and exploitation is fraught with significant risks to health, safety and the environment. It is the responsibility of licensed oil companies, their agents, and contractors, to protect the environment where they work or any areas in the country that could be impacted by their operations; the Government shall legislate, regulate and monitor compliance. If not properly regulated and safeguarded, the sector can adversely impact the health and safety of the country's citizens and communities, customary land use patterns, and the long term social and environmental sustainability of the nation.*

This Policy requires that all laws, contracts, agreements, and licenses, emanating from the petroleum sector be in harmony and compliance with the environmental laws of Liberia and international best practices. Hence, key principles of the environmental law such as the principle

of taking proper precaution, individual responsibility, and the “polluter pays” principle, will be preserved.

Other instruments for the effective administration of these laws – Environmental and Social Impact Assessments (ESIA), and Environmental and Social Management Plans (ESMP) – shall be required prior to the commencement of petroleum operations. In addition to these assessments, the contractor/operator shall be required to develop Oil Spill contingency plans and Emergency Preparedness Response Plans. The likely environmental and social impacts identified shall be explained to the inhabitants in the areas of the petroleum operations, and mitigation measures shall be developed in close consultation with such inhabitants. .

The Government may not, by contract or otherwise, bargain away the right of future governments to impose applicable health, safety, and environmental regulations on licensees or contractors.

Compliance and enforcement mechanisms such as monitoring, auditing and restoration orders, regulation of environmental issues and concerns specific to the petroleum sector shall be formulated in consultation with the relevant authority to ensure that health, safety, and environmental policy objectives are advanced.

An initial plan for mitigation of environmental risks shall be included as an element that companies bidding for oil contracts must submit.

The Government recognizes several potential causes of negative impacts on human health from oil and gas activities. Oil spills can contaminate water sources leading to sickness and disease. Gas blowouts result in fires that destroy property and may lead to loss of human lives. Gas flares and dust result in the contamination of the air leading to sickness. This policy shall promote the application of international best practices for the prevention of pollution and rapid emergency response mechanisms designed to mitigate air and water pollution. In collaboration with other relevant policies, the Government shall support control measures against the release of hazardous gases, chemical wastes and spills into the atmosphere, water bodies, aquifers and soils to ensure that water remains safe for animals, fish, and plants, as well as for human consumption.

By this, the Government of Liberia shall ensure effective collaboration between relevant line ministries and agencies during the development and implementation of licensing processes, assessments and studies, emergency response, and oil spill contingency plans. Licensees shall be required to put in place proper mechanisms to respond to pollution in all aspects of their operations.

This policy recognizes that drilling in communities and water ways used by the population can be hazardous. The Government shall promote methods and encourage the use of technologies that seek to achieve the desired results of drilling in an efficient manner such as deviation and/or directional drilling or other internationally recognized best available technology that minimize these hazards.

Health hazards do not occur in isolation. While pollutants and toxins are directly inhaled by humans causing diseases, they also invade the food chain, entering fish, animals and vegetables. Thus, the quality of water and food shall be monitored and tested for unacceptable levels of pollutants and toxins such as lead and mercury. This policy shall, in collaboration with other relevant policies, support the review, updating and implementation of waste disposal standards

together with the establishment and enforcement of the necessary inspection, monitoring, evaluation and control mechanisms. Considerations shall be made, where possible, for the use of alternatives to toxic chemicals.

The holders of a license, their parent companies, subsidiaries, and contractors shall be strictly, jointly and severally liable for any pollution, damage and other harm to the environment and property or injury to persons resulting from their operations; the principle of ‘strict liability’ shall apply in all such cases.

Licensees, contractors and their agents and sub-contractors shall be required to comply with all sub-regional, regional and international conventions and treaties in the petroleum, maritime, fishing and other related sectors to which Liberia is a signatory.

Adequate planning for decommissioning and restoration shall be maintained throughout the lifecycle of petroleum exploration and production as prescribed by law. At the end of a petroleum activity, the environment shall, to the extent possible, be brought back to its original state. Companies shall provide financial assurances to ensure that the environment will be restored at the end of production and upon relinquishment. The contractor shall obtain prior approval from the Government for its decommissioning plans and the Government shall monitor the manner in which decommissioning of installations is performed. The contractor shall be solely responsible for the protection of the environment during decommissioning and shall bear all costs of decommissioning, both direct and indirect. In the event that Government decides to make use of any of the project infrastructure, the contractor shall be given adequate notice of use of such infrastructure. The use of such infrastructure shall be negotiated by the Government and the contractor.

The Government shall ensure that health, safety, environmental and security issues are integrated into the planning and development of the petroleum sector in accordance with national environmental health and safety regulations and standards, labor law and internationally accepted standards. Petroleum companies active in Liberia shall carry appropriate insurance and provide adequate compensation for employees injured during petroleum activities.

In circumstances where specific issues or topics in the areas of health, safety and environment, are not addressed above, “international best practice” will apply. In addition, the Government commits to undertaking regular consultations with citizens on issues that impact the environment including the preparation of ESIA’s and regular updates on the status of environmental effects and mitigation measures. Further, where oil is discovered onshore and petroleum operations ensue, the Government commits to providing just compensation for the relocation of the population or the disruption of livelihoods.

The Government commits to strengthening the technical and human capacity of the Environmental Protection Agency and other relevant agencies to ensure rigorous monitoring of the petroleum sector.