

Renegotiating Sustainable Agricultural Concession Agreements:

The case of Liberia

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November 2021

When a democratically elected government was installed in 2006 after years of civil war, Liberia was in disarray. The new government decided to promote large-scale land deals as a tool to attract foreign direct investment (FDI). Ciata Bishop (former Executive Director of Liberia's National Investment Commission and Director General of the National Bureau of Concessions) was an integral part of the team responsible for negotiating and renegotiating large-scale agricultural contracts in the immediate post-war period.

Liberia, like other developing countries in the region, needs more and better investment in agriculture, and concession agreements (large-scale land-based contracts where a government grants certain rights [concessions] to the private investor for a specific duration of time) have been one tool in the country's arsenal to achieve this. Notably, this tool has been used to help the country attract land-based investment to revive the economy while also addressing critical public needs. In this first instalment of IISD's Stories of Change series, we speak with Ciata to understand how concession agreements and the laws governing them were used to enhance sustainable investment in agriculture.

Background

From 1989 through 2003, Liberia experienced a devastating civil war fraught with human rights abuses, displacement, and crippling poverty. Liberia's economy was heavily dependent on aid, loans, and foreign remittances. Today, Liberia is mostly known for steadily transforming itself into a peaceful democracy. In 2020, [agriculture, forestry, and fishing accounted for 42%](#) of the country's GDP. As in other developing countries in the region, agriculture is seen as a key development priority to enhance food security, create jobs, and alleviate poverty. Rubber and oil palm are the primary products produced on a large scale.



Why were large-scale investments in agriculture so critical to building back Liberia's economy after the war?

Liberia has had long-term agricultural agreements with foreign investors since the 1920s. These were long-term land leases or general investor–state contracts like concessions. After the war ended, the few remaining concessionaires were the agriculture companies such as Firestone, Equatorial Palm, and the Liberia Agriculture Company.

When Madame Ellen Johnson Sirleaf assumed the presidency in 2006, she launched her priority Poverty Reduction Strategy. This focused on quickly reviving the country's economy and increasing FDI to address critical public needs.

Those of us in government tasked with delivering on this strategy knew that the large-scale, land-based contracts in place at the time were not benefiting our people. The terms of the agreements were outdated and based on a “scoop and ship” mentality, where agricultural or mining products were extracted and exported as raw materials with little domestic processing.

We needed to recover from the devastating 14-year civil war, boost the economy, and create jobs. Things had to change and could not remain the same. It was against this backdrop that the mandate was given to review and renegotiate all agreements, including the agricultural concession agreements. Agriculture was identified as a priority sector because of its potential for impact.

Could you tell us about the key legal reforms that paved the way for Liberia's contract renegotiations?

Two crucial instruments underpinned our contract renegotiations and made the process slightly easier and more transparent while helping to improve consistency in the promotion and governance of FDI. These were the Public Procurement and Concessions Act of 2005 (amended in 2010) and the Investment Act of 2010 (which amended and replaced the Investment Incentives Act of 1973).

The public procurement act gave us a roadmap for renegotiating concessions. It set out the government agencies that had to be involved in any land leases or large concession processes and spelled out a transparent, sequenced process for their participation. This represented a major reform to how the government previously approached its contracting processes.

The investment law gave the national investment commission a broad mandate, including the authority to establish the framework for how FDI would be governed in Liberia. The law created a transparent screening process to be carried out by the authority in consultation with the Ministry of Finance and the newly established Liberia Revenue Authority. This was another break from the past, where agreements were negotiated primarily by the Ministry of Finance who had a narrow focus and mandate to generate fiscal revenues. The Ministry of Agriculture was also solely focused on increasing production, posing an overall challenge of minimal interagency coordination. As such, there was little input from other relevant ministries like Labour and Internal Affairs. Notably, the old agreements prioritized tax generation and surface rentals alone.



The new reforms, combined with changes to the land laws, also enabled the capping of long-term concessions at 50 years and the creation of a list of sensitive sectors from which foreign investment would be excluded. Finally, a model template agreement was created through which to give structure to our negotiation process by setting out clear parameters for potential investments and “red lines” that could not be deviated from.

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What about institutional and administrative reforms?

The new procurement law set up an inter-ministerial concessions committee to promote and streamline interagency coordination. This improved organization and transparency and gave the government of Liberia more legitimacy in the eyes of investors, which I think enhanced our negotiation outcomes. We also created an independent oversight agency—the National Bureau of Concessions—that was responsible for monitoring the implementation of and compliance with investment contracts once signed.

A landmark administrative reform was the creation of the [National Concessions Portal](#) of Liberia. This is an online platform that maps every concession and identifies the affected communities. This portal has truly rebuilt confidence and fostered trust between the government, private sector, and citizens. It has also boosted effective monitoring of land use and provided support for renegotiations based on land under-utilization.

How did you manage the economic, social, and environmental bargain between foreign investors, local communities, and the government?

When I started as Executive Director at the National Investment Commission, I was surprised to see what little benefits had filtered through to the communities under these agreements and the amount of land granted to investors that wasn't being used. The contract often provided for a different rental amount for developed and undeveloped land, creating disincentives for development and impacting government revenues. Monitoring of the concession agreements was also poor and, in some instances, the living conditions of the workers were deplorable and heart-breaking.

Unlike the past, where each contract was negotiated with varying terms, we created a baseline of minimum requirements for investors to meet our objectives of enhancing food security, creating jobs, and alleviating poverty.

It was then that we totally understood the need for immediate change and were motivated to ensure communities and workers not only had access to a decent livelihood but to decent living conditions and labour protections.



It was a major challenge to renegotiate contracts to incorporate minimum standards, social development commitments, and infrastructure development obligations. This kind of approach in 2005 was seen as highly innovative. But we knew it must be done.

Unlike the past, where each contract was negotiated with varying terms, we created a baseline of minimum requirements for investors to meet our objectives of enhancing food security, creating jobs, and alleviating poverty. This included provisions for the establishment of community development committees made up of community members and representatives of the government and concessionaires. This was to ensure communities had their voices heard and participated meaningfully in the development of the concession area throughout the concession period.

What key lessons did you learn in terms of ensuring meaningful community engagement in contract negotiations?

Meaningful community involvement should be a prerequisite before negotiations go any further. For that, we found two things to be critical.

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First, concession agreements need to be translated and or summarized in simple and clear language. We received external help to review our agreements and rewrite them in simple English.

Second, it was crucial to have the involvement of the district or the county authorities. These local authorities helped disseminate the correct information to the communities and helped ease friction. Importantly, because they spoke the regional dialect, they were in a better position to explain the nuances of an agreement.

Are there aspects of these reforms that you would approach differently in hindsight?

We made a lot of decisions based on what we thought was best at the time in the context of a post-conflict recovery. While we recognized the need for continued community dialogue, input into contracts, and community development provisions, implementation was weak. Our communications and information dissemination strategy was poor—we could have better explained the project and its timelines to communities to limit false expectations and disinformation.

What messages do you have for developing country government officials looking to improve the quality and quantity of investment in agriculture? What role can concession agreements play?

Liberia, like other developing countries in the region, needs more and better investment in agriculture. Concession agreements are just one tool in Liberia's arsenal. For countries trying to use these instruments in the same way, I would recommend you review your existing



contracts in light of the current legal framework and ensure that they all reflect what is good in your laws. Where there is a gap in the legal framework, let the agreements mitigate any gaps or weaknesses until that gap can be filled through legislation.

In reviewing existing contracts, policy-makers should ask themselves three questions:

Firstly, is the contract providing any value add to the country and the community? If you can't answer this clearly, how can you as a policy-maker ensure that there are monitoring mechanisms in place to verify this?

Secondly, are the provisions in the concession agreement in accordance with your national laws or are they undermining them?

Finally, are the contract's provisions in line with international standards? While international standards can serve as a basis for the inclusion of a provision, it is even more important to ensure that the international standard is contextualized to fit the cultural aspects and nuances of your local laws.

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