



OA Review: Buchanan Renewable Energy Projects in Liberia

September 2014

Forward

The Director of the Office of Accountability (OA) greatly appreciates the time and effort that many people devoted to discussing the review with the OA team as well as providing written information. These include OPIC colleagues, former BRF managers in Liberia and elsewhere, affected parties in Liberia, Government of Liberia (GoL) representatives, U.S. embassy representatives, other donors, civil society organizations, and rubber industry organizations. The OA also appreciates the firm support by OPIC management for the review. This report would not have been possible without the other members of the review team: Tom Walton, Helena Hallowanger, Katy Lafen, and Christina Economy. All factual errors, omissions, and misinterpretations in the report are the responsibility of the Director.

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List of Acronyms

AC:	Accountability Counsel, a US-based advocacy organization
BRE:	Buchanan Renewable Energy, parent company of BRF and BRP
BRF:	Buchanan Renewables Fuel
BRP:	Buchanan Renewables Power
CA:	Concession Agreement
CC:	Credit Committee
COS:	Chief of Staff
CRDD:	Character Risk Due Diligence
CSO:	Civil Society Organization (e.g. NGOs, trade unions, religious organizations, community development organizations)
CSR:	Corporate Social Responsibility
EA:	Environmental Assessment
EEO:	Equal Employment Opportunity
EMMP:	Environmental Mitigation and Management Plan
EPA:	Liberian Environmental Protection Agency
EPC:	Engineering, Procurement, and Construction
ESIA:	Environmental and Social Impact Assessment
ESPS:	Environmental and Social Policy Statement
EU:	European Union
FDA:	Liberian Forest Development Authority
GA:	Green Advocates, a Liberia-based advocacy organization
GHG:	Greenhouse Gas
GOL:	Government of Liberia
HMP:	Harvest Management Plan
HRIA:	Human Rights Impact Assessment
HSE:	Health, Safety, and Environment
IC:	Investment Committee
IE:	Independent Engineer
IFC:	International Finance Corporation, private finance arm of the World Bank Group
IPCC:	Intergovernmental Panel on Climate Change
IPP:	Independent Power Producer
IRIN:	Integrated Regional Information Networks
LCA:	Life Cycle Analysis
LEC:	Liberia Electricity Corporation, a wholly government-owned electric utility
MIGA:	Multilateral Investment Guarantee Agency, political risk insurance arm of the World Bank Group
MOA:	Liberian Ministry of Agriculture
NACUL:	National Charcoal Union of Liberia
NORAD:	Norwegian Agency for Development Cooperation
OA:	OPIC's Office of Accountability
OIP:	OPIC's Office of Investment Policy
OPIC:	U.S. Overseas Private Investment Corporation
PMD:	Portfolio Management Division
PPA:	Purchase Power Agreement
PPE:	Personal Protective Equipment
PS:	Performance Standard
RMC:	Risk Management Committee

RPAL: Rubber Planters Association of Liberia
SMQ: Self-Monitoring Questionnaire
SOW: Statement of Work
STCRSP: World Bank Liberia Smallholder Tree Crops Revitalization Support Project
TA: Technical Assistance
UN: United Nations
UNFCCC: United Nations Framework Convention on Climate Change
USAID: U.S. Agency for International Development

EXECUTIVE SUMMARY

I. Introduction

In 2008, the U.S. Overseas Private Investment Corporation (OPIC) approved a \$15 million direct loan for the Buchanan Renewables Fuel (BRF) biofuel enterprise and a \$112 million direct loan for a Buchanan Renewables Power (BRP) 35 MW power plant in Liberia. The parent company of both enterprises was Buchanan Renewable Energy (BRE). The biofuel enterprise was to harvest over-mature rubber trees, use the wood to produce biofuel for power generation, and provide assistance in rejuvenating small rubber farms. The biofuel was to be the primary power source for the proposed power plant. In 2011, OPIC approved a \$90 million loan for an expansion of the biofuel enterprise that incorporated the first loan. OPIC disbursed a total of \$62 million to BRF and did not disburse to BRP. In May 2012, BRF paid OPIC back in full and thereafter commenced winding down its operations.

When OPIC approved the initial loans for these innovative and ambitious projects, Liberia had recently emerged from 14 years of civil conflict. Both the rubber and electricity sectors had been devastated. Liberia was desperately in need of electricity, and its limited generating capacity was based on imported fossil fuels. Large and small rubber plantations had suffered from neglect, and many trees planted before the conflict had reached the age of declining latex production. Although large rubber plantations could rejuvenate their own operations, small landowners lacked the credit and technical capacity to do so. More generally, Liberia's fragile governance environment and weak rule of law inhibited private investment. Given that Liberia was and is a very difficult investment environment, it is important to acknowledge that BRE had positive intentions in seeking to address serious challenges to Liberia's development through its investments.

In late 2013, OPIC's senior management received a detailed written complaint from Liberian and U.S. NGOs alleging a wide range of human and labor rights abuses, as well as adverse environmental and economic impacts associated with BRF's operations. The complaint identifies three primary groups of aggrieved parties – smallholder farmers under contract with BRF, people who make charcoal for a living, and former BRF workers. Besides transmitting the complaint to OPIC, the NGOs later released it to the public as part of a broader advocacy campaign.

II. Approach to the review

In February 2014, OPIC's senior management requested the Office of Accountability (OA) to conduct an independent review of OPIC's experience with these projects, due to both the importance of future private investment in Liberia and the severity of the complaint's allegations. (See Annex 14.1.1) This unprecedented request for OA review is not required under OA procedures and was initiated, rather, to use the rich history of OPIC's experience as an opportunity for institutional learning. The review was to be more comprehensive than external stakeholder-generated compliance reviews, as it includes an analysis of the allegations and actions taken by OPIC's client, as well as the articulation of potential lessons learned that address but go beyond specific allegations in the complaint. Through the review, the OA sought to assess the credibility of the complaint's allegations, the actions of BRF, OPIC's implementation of its policies and procedures, and the adequacy of OPIC's current policy structure.

The OA's approach consisted of a desk study of project-related documents, a site visit in April 2014, and individual interviews with OPIC colleagues and various external stakeholders. Among the limitations of

the review, it was not intended to be a forensic investigation that would confirm or refute the full range of allegations, but rather, sought to reduce uncertainty around their credibility. (See Section 1.2 and Annex 14.1.1)

III. Chronology of key events

OPIC’s involvement with the BRE projects was complex, in part because there were three transactions for which OPIC’s engagement spanned five years and involved numerous key players. Some events took place six years ago. Several policies and procedures at OPIC have changed since that time. The OA conducted interviews after the enterprise folded in 2013 and after people lost income and jobs. Attitudes in Liberia toward the project are now very different than before BRF folded.

The chronological timeline of events below is meant to provide greater historical context for OPIC’s experience with the transactions. Many of the events listed are described in more detail throughout the body of the report.

August 2003	14 years of civil war in Liberia ends
January 16, 2006	Liberian President Ellen Johnson Sirleaf takes office, identifies energy sector as a priority for development.
October 2007	OPIC conducts due diligence trip for BRP, included meeting with donors.
February 2008	First contracts signed between BRF and smallholder farmers. Harvesting begins shortly after.
January 2009	PPA and concession agreement signed between BRP and GoL.
March 4, 2009	OPIC disburses a \$15 million loan for the initial BRF project.
March 24, 2009	OPIC provides commitment for a \$111.7 million loan to finance BRP project.
May 2009	Joint donor (Norway, USAID, World Bank, EU) letter to GoL expressing concern about BRP proposal.
October 5, 2009	OPIC receives Cable from Embassy Monrovia, which details pricing dispute between BRP and the GoL as they negotiate the PPA for the BR Power project.
2010	BRF starts harvesting operations at Firestone.
June 2010	Vattenfall, a Swedish state-owned energy company, and Swedfund, a Swedish development finance institution, together acquire 30% of BRF.
November 22, 2010	Environmental and Social Impact Assessment for the expansion of the Buchanan Renewables Fuel Project is publically posted by OPIC for a 60-day public comment period.
January 3, 2011	OPIC receives cable in which Monrovia Embassy declines to support OPIC financing of the BRF expansion project. OPIC responds to specific points in the cable, distinguishing between the BRF and BRP projects, and reaffirms President Johnson Sirleaf’s support for the project. State Department subsequently confirms its support for the project at the Board meeting.
March 7, 2011	OPIC discusses with AFL-CIO labor risks related to supply chain of BRF project.
March 24, 2011	OPIC provides a commitment for \$90 million expansion of BRF project.
September 29, 2011	OPIC makes site visit to BRF operations.
November 10, 2011	Dutch Centre for Research on Multinational Corporations (“Somo”) & Green Advocates (GA), a Liberian-based NGO, publish “Burning Rubber,” issues a report highly critical of BRF. BRF shares its response with OPIC.
November 11, 2011	The first disbursement for the BRF expansion is made (\$30 million).
January 30, 2012	MIGA publishes report “Overview of Harvesting Non-Productive Rubber Trees & Charcoal Production in Liberia”.
January 31, 2012	OPIC makes the second disbursement for the BRF expansion (\$32 million).
Early 2012	Farmbuilders, an offshoot of BRF, commences operations. OPIC meets with Farmbuilders management.

March 12, 2012	OPIC receives a Cable in which the Embassy raises questions about BRF's viability and business model and notes tense exchanges between President Sirleaf and BR/Vattenfall reps.
April 15-17, 2012	OPIC's policy compliance group conducts its first and only site monitoring trip and does not find any non-compliances with contract conditions related to worker rights or environment, health, and safety.
May 22, 2012	Vattenfall sells its 30% shareholding back to Buchanan Renewables. OPIC's outstanding loan balance is prepaid.
August 31, 2012	OPIC meets with BRF Liberia General Manager and the Head of Finance and Administration in Monrovia.
November 29, 2012	OA receives initial email from the former HR Director of BRF alleging various labor rights problems.
November 30, 2012	The Heritage, a local Liberian paper, published "Aggrieved BR Female Workers Want Ellen's Intervention," in which a dozen female employees working in the nursery demand higher wages.
December 3, 2012	The Heritage publishes "Aggrieved BR Workers Accuse Lawmakers of Neglect," in which a dozen women working at the BRF Agriculture Department accuse BRF management and local officials of mistreatment.
December 5-10, 2012	OPIC speaks with BRE and U.S. Embassy in Monrovia to discuss Heritage articles.
January 10, 2013	Former HR Director of BRF submits formal complaint to OA.
January 18, 2013	BRF cancels the remaining commitment of \$28 million that it could have borrowed from OPIC and eliminates all outstanding OPIC obligations. BRF announced the sale of both its fuel and power businesses to an unnamed investor group.
February 5, 2013	BRF notifies OPIC via phone that it is winding down operations in Liberia.
February 8, 2013	Accountability Counsel and Green Advocates send OPIC senior management a letter citing concerns that relate to Buchanan's pull out of Liberia.
February 12, 2013	OPIC speaks with BRF CEO regarding retrenchment and the NGO complaint. Buchanan begins dismissing over 600 employees over a 3-month period through a formal retrenchment process.
February 15, 2013	OA closes complaint case brought by former HR director after Buchanan declines to participate in problem solving.
February 19, 2013	OPIC sends BRF letter regarding allegations made by former HR Director of BRF. OPIC further urges BRF to execute its retrenchment to mitigate adverse impacts on workers.
March 11, 2013	OPIC sends letter to NGOs informing them that Buchanan is no longer an OPIC project and that specific concerns can be relayed to the Embassy in Monrovia.
March 2013	Somo and Swedwatch publish "Cut and Run" which claims that Liberian farmers have suffered as a result of BRF's withdrawal.
April 9, 2013	Accountability Council meets with U.S. Embassy Monrovia.
November 2013	NGOs reengage OPIC through the OA regarding their concerns, which stimulates a series of discussions between OPIC and AC around NGO allegations.
January 2014	OPIC receives complaint submitted by Accountability Council and Green Advocates, entitled "Fueling Human Rights Disasters: An Examination of the U.S. Overseas Private Investment Corporation's Investment in Buchanan Renewables".
February 20, 2014	OPIC senior management requests OA to conduct an independent review of BRE projects.
April 23-May 2, 2014	OA team conducts site visit to Liberia.

IV. General Findings

The full report reviews the major issues raised in the complaint, attempts to assess the credibility of specific allegations, evaluates OPIC's actions relative to the applicable policies at the time, and assesses how OPIC's current policy framework would have addressed the issues. In addition, the report discusses several other aspects of the BRE transactions that were not raised in the complaint – the BRP power plant (see Section 6), environmental categorization (see Section 9), neutrality of greenhouse gas (GHG) emissions (see Section 7), reputational risk (see Section 11) and NGO engagement (see Section 12) about which the OA determined that useful lessons might be drawn.

In assessing the allegations contained in the complaint, the OA finds them to have varying degrees of credibility. Importantly, several allegations have a significant degree of credibility, even after taking account of the following considerations:

- Many of the alleged events transpired several years ago.
- The allegations in the complaint are sometimes over-generalized and based on over-simplifications of complex social and economic situations.
- The authors sometimes over-attribute direct causality of harmful events to BRE management and sometimes over-attribute BRE's actions to how OPIC applied policies.
- The authors often accept verbal accounts from aggrieved parties, despite the understandable incentive for people in this post-conflict and donor-dependent country to frame events in ways that are potentially advantageous to them – i.e., that could result in financial remedy.
- Some of the allegations are a function of the project closing down, an unexpected scenario over which OPIC had no control.

Both the authors of the complaint and the OA have the benefit of hindsight. The OA recognizes that past events may appear to have been more predictable in retrospect than they actually were at the time.

As detailed in the body of this report, the OA finds that OPIC's various actions around the BRE transactions were mostly consistent with OPIC's formal policies and procedures that were applicable over the period of its engagement. In some cases, OPIC's actions to mitigate risks went beyond formal policy requirements; in other cases, they did not.

Under OPIC's current and more robust policy framework, some issues raised in the complaint might have been obviated. As the following recommendations indicate, however, *OPIC's current policy framework and procedures would still benefit from strengthening in several respects.*

V. Recommendations to OPIC

An overarching lesson that emerges from this review is the need for OPIC to have robust screening, due diligence, risk mitigation, and monitoring systems in place *which are proportionate to the risks that could adversely affect the achievement of desired development outcomes.* Despite the many challenges surrounding OPIC's experience with the BRE projects that are highlighted in this review, as a development finance institution, OPIC will and should continue to consider support for risky projects.

While OPIC's risk management systems are generally strong, the OA notes some possible gaps in them, largely related to the risk of achieving projected development benefits. These gaps are as follows:

- Credit risk processes are primarily geared to protecting OPIC and its client financially. Credit risk processes may also mitigate development risks, but indirectly in that a project that is not financially sustainable will generally not achieve its development objectives. This case exemplifies the loss of development benefits even when OPIC is repaid.
- In their formal representations to OPIC, prospective clients typically make statements about projected development benefits. OPIC may engage with clients if some claims seem questionable, and OPIC subsequently monitors and reports on achievement of these benefits. OPIC does not, however, conduct an explicit ex ante assessment of the likelihood that each stated development benefit will be achieved. In the case of BRF, several risk factors reduced the likelihood of achieving the development benefit of rubber sector rejuvenation.
- Even when projects are cleared with conditions, development risks can still be significant because a) the business plan is a moving target; b) OPIC's financial leverage may become attenuated as the project progresses; c) weak rule of law or widespread official corruption may dilute enforcement of host country laws; and d) clients may have limited capacity to achieve development objectives, despite their best intentions. In this case, BRF's overall business model remained more or less stable but its implementation was a constantly moving target that had implications for achieving rubber sector rejuvenation.
- In a given project, there may be internal tensions between allocating credit risk and development risk. For example, OPIC's legal due diligence regarding contracts does not typically extend beyond ensuring that provisions protect the client's financial interests. In this case, OPIC lawyers required BRF to incorporate provisions in the smallholder contract template with this goal in mind. No office within OPIC is responsible for considering template revisions to mitigate development risk, such as disclosing to farmers what would happen if BRF terminated their contracts before rubber seedlings reached maturity.
- Where some project-affected stakeholders are economically vulnerable, project shut down could mean not only foregone development benefits, but also the possibility that some (in this case smallholder farmers) could be left more vulnerable than they were before.

Possible gaps in OPIC's procedures for managing development risks matter because they could dampen the likelihood of a project achieving stated development benefits.

OPIC should consider options that are compatible with its scale and resources for strengthening how it manages development-related risks. (See Section 13.1.1)

The OA recommends that OPIC examine how its existing processes serve to manage the risk that development benefits are not achieved. To do so, OPIC's CEO could task an appropriate internal group with developing a proposal for supplementing existing risk management systems. In 2014, OPIC established a Risk Management Committee (RMC), which seems appropriate for this purpose, given that it is to review, evaluate, coordinate, and make recommendations on issues related to various risk categories. An RMC proposal could identify those existing risk management processes that bear strengthening, how changes might be integrated into them, and which units within OPIC would be

responsible for what tasks. As a first step, the RMC could conduct a benchmarking exercise to better understand how other institutions manage development risk.

Screening: Without prejudging the outcome of an RMC review, OPIC might consider a screening step to signal a project's overall development risk in order match OPIC's allocation of internal resources to that level. Based on a set of criteria, screening could result in an overall qualitative project rating (e.g. high, substantial, modest, or low risk), similar to the system established at the World Bank. Initial screening for development risk could be conducted as part of the existing Screening Committee process.

Assessment: For projects that receive a high risk rating from the initial screening, OPIC could then conduct a development risk assessment to identify and evaluate external events that could adversely affect achieving a project's development objectives. The results of OPIC's risk assessment could be presented as a discrete section of the relevant subset Investment Committee (IC) papers. The RMC might establish a simple template for how the results of development risk assessment could be presented similarly to the way in which a credit risk and mitigation table is currently presented in an IC paper.

For those projects that are screened as having high development risks, OPIC should supplement its normal project monitoring channels and procedures. (See Section 13.1.2)

Depending on project-specific conditions, OPIC might consider the following options:

- More frequent and longer site visits by OPIC staff.
- Establishment of mechanisms to obtain real time feedback from affected stakeholders (e.g., based on recent advances in cell phone platforms).
- Use of qualified local civil society organizations (CSOs) as information channels.
- Early notification to both clients and affected stakeholders about the availability of OA services.

In addition to these measures, OPIC can improve the project information it receives directly from its clients. For example, contract templates for OPIC loans and insurance transactions could be amended to incorporate clear provisions for timely notification of any material changes in a project.

When OPIC is considering whether to support a project that it determines to have high development risks, staff capacity and other resources need to be confirmed as sufficient for timely client engagement and monitoring.

Risk mitigation has resource implications for both OPIC and its clients. All else equal, due diligence, client engagement, and monitoring on certain projects -- in sensitive sectors such as agriculture, with start-up clients, or in fragile governance environments -- is relatively time and labor intensive for OPIC. Even when mitigation measures are to be undertaken by contractors or by the client, OPIC staff still need adequate bandwidth to establish and manage contractual relationships. If resources are insufficient to manage development and policy compliance risks for a particular project, OPIC should decline its support.

OPIC should explore opportunities on a project-specific basis to promote positive development outcomes through its and its clients' partnership with civil society organizations in host countries. (See Section 13.1.3)

In projects where the likelihood of achieving development outcomes might be enhanced by the involvement of third parties, the following options could be considered:

- Help clients vet candidate CSOs through embassy contacts and other local experts to ensure that CSOs have appropriate technical capacity and credibility for the role being considered.
- Encourage clients to make use of qualified CSOs to help them understand baseline local conditions and changes in such conditions.
- Encourage clients entering frontier or sensitive sectors to engage CSOs to serve as intermediaries with project-affected stakeholders, especially when there are vulnerable groups.
- For projects with high environmental or social risks, encourage clients to engage an appropriately qualified CSO to serve as an independent monitor and reporter of environmental and social impacts.

When faced with a fragile country and sector context, or with a client with limited experience, OPIC might seek strategic partners with grant, technical assistance (TA), or in-kind resources that complement its own financing. (See Section 13.1.3)

The types of challenges posed by the BRE biofuel and power plant transactions might benefit from closer coordination between OPIC and other donors active in the host country. The OA thus encourages OPIC to explore potential complementarities between OPIC's resources and resources that may be available from grant or concessional donors. Partners might include other USG agencies, multilateral or bilateral donors, foundations, or NGOs. The World Bank's Liberia Smallholder Tree Crops Revitalization Support Project (STCRSP) is a possible example. In addition to exploiting programmatic complementarities, resources from a strategic partner may be directed to generic issues such as institution-building to reduce corruption and to provide competent institutions, policies, and procedures within which responsible companies can operate.

OPIC should consider options for ensuring robust adherence to credit and policy risk processes as a counterweight for projects that have been given a high priority. (See Section 13.1.4)

Based on its development mandate, OPIC will appropriately continue to establish priorities for financial support to specific countries and sectors. Normal risk management processes, however, may be strained when a project is "hot" as a policy priority. The OA found indications that OPIC Management was unusually invested in the BRE projects going forward because of their high developmental potential.

OPIC's procedures look robust on paper and OPIC staff have some scope for discretion and flexibility to adjust the implementation of policy and credit reviews to elevated risks. Nonetheless, staff may be disinclined to express dissenting views or take discretionary steps that could delay OPIC's approval or project implementation when they face strong internal or external pressures.

Moreover, there can be a fine line between "finding" deals and "creating" deals. Under OPIC's current leadership, however, the OA has observed that rigor and discipline in both credit and policy processes have been reinforced by OPIC's senior management, which has avoided even the appearance of "creating" deals.

Having a senior management that continues to reinforce a culture of respecting concerns and conditions raised by the Credit Committee (CC) and by the Office of Investment Policy (OIP) (even when a transaction is strongly supported by OPIC senior management) is important. Because OPIC's leadership will change in the future, however, OPIC should also consider the following policies and procedures that serve as a counterweight to internal perceptions of pressure to move quickly on a deal:

- Determine whether or not the three day requirement for distributing the credit paper to the Credit Committee is sufficient for robust review.
- Limit the direct role that OPIC line management plays in a transaction.
- Limit the extent of OPIC's external advocacy for clients *prior to disbursement* to presenting its views in writing.
- Make more frequent use of Independent Engineers (IE) to provide independent and timely views on the range of credit risks.

OPIC should establish enhanced human rights due diligence procedures for appropriate projects. (See Section 13.1.5)

Besides explicit policy requirements, human rights sensitivities constitute a subset of broader risks to achieving a project's development objectives. Projects should be screened to identify that small subset of them that warrant enhanced human rights due diligence. The OA suggests that OPIC use the forthcoming review of the Environmental and Social Policy Statement (ESPS) to establish criteria for when a human rights impact assessment would be required of clients. Screening criteria might incorporate country, sector, and client characteristics.

In the case of BRF, human rights risks were elevated by the confluence of factors including the following:

- The business plan did not take adequate account of the constraints imposed by Liberia's post-conflict environment, continuing personal insecurity, and damage to the social fabric.
- BRF's senior management did not have prior experience in the rubber sector or in operating a commercial enterprise in Liberia.
- The component of the business plan involving smallholders was logistically and socially complex.
- A policy and informational vacuum was created by the GoL's technical and institutional weaknesses.
- A culture of official corruption and donor dependence made it difficult to understand agendas and incentives in GoL decisions. BRE managers complained about being frequently solicited for bribes.
- Besides being a large employer, BRF's activities directly and indirectly affected vulnerable social groups.

For that subset of projects in which screening results suggest the need for enhanced human rights due diligence, OPIC clients would be required to commission an independent human rights impact assessment (HRIA). Among other things, the results of the assessment could be used to identify vulnerable stakeholders, in BRF's case, smallholder farmers and charcoalers. If an HRIA's results had been available, for example, it is more likely that OPIC would have 1) ensured that baseline socioeconomic data on vulnerable groups were available prior to BRF's commencing operations and 2) determined whether third party technical assistance needed to be provided to smallholder farmers prior to their entering into commercial contracts with an OPIC client.

VI. Next Steps

The recommendations section of the full report contains greater detail on the above recommendations, plus two additional recommendations directed to OPIC (addressing reputational risk related to a client and approaches to assessing GHG emissions in biofuel projects). The OA looks forward to OPIC Management's response to these recommendations and to discussing implementation of accepted recommendations with appropriate OPIC offices.

In the recommendations section of this report, the OA also offers some suggestions directed at other stakeholders to OPIC transactions: how host governments can improve the climate for private investment (see Section 13.2.1), considerations for investors/developers in post-conflict environments (see Section 13.2.2), and measures to strengthen NGO effectiveness in being a voice for aggrieved parties (see Section 13.2.3). The OA hopes that these suggestions will lead to constructive dialogue as well.

1. Introduction

1.1 Background on the Buchanan Renewable Energy (BRE) projects

Liberia is an extremely poor country that faces critical development challenges. It has a per capita income of \$700, an unemployment rate of 85 percent, and very low electricity consumption of only 335 kWh for its 4 million people, due to supply constraints. The agricultural sector constitutes 70 percent of the labor force¹, indicating the dominant role that agriculture plays in the Liberian economy. Within that sector, rubber is the most important cash crop in terms of production, exports and employment generation.

The Liberian civil war devastated both the electricity and rubber sectors throughout the country. The nation's instability had discouraged local investment. Through its fuel and power development projects, BRE was attempting to address two widely recognized challenges to the Liberian economy – the rejuvenation of the rubber sector and the addition of electric generating capacity. The idea of using indigenous and surplus resources as fuel for power generation was especially attractive because it would displace imported petroleum, which drains foreign reserves.

The GoL was initially a very strong proponent of BRE due to the recognition about the benefits accruing from increasing electric generation capacity, job creation, and from rejuvenation of the rubber sector. This support, including by Liberia's President, generally continued for the duration of BRE's operations.

Relevant contextual characteristics at the time BRE came to Liberia include the following:

- The local economy was largely driven by the black market.
- To survive during the civil conflict, many Liberians adopted a short-term perspective.
- Official channels of communication were at best weak and the press operated without journalistic standards.
- Formal educational attainment was low, as were basic job skills.
- Donors had become used to playing a strong role in the face of weak governance, and an element of "donor dependence" affected local perspectives.

Buchanan Renewables began harvesting rubber trees and rejuvenating farms in May 2007. These operations sufficiently demonstrated the technical feasibility of the business concept prior to a major investment in the enterprise by Pamoja Capital in April 2008.

In 2008, OPIC's Board of Directors approved separate but related transactions: Buchanan Renewables Fuel (BRF) was to harvest old rubber trees in Liberia's Grand Bassa and Margibi Counties and turn the wood into biofuel for power production. The basic elements of the BRF business model involved:

- 1) contracting with small, medium and large landowners to harvest old rubber trees
- 2) collecting the wood and turning it into chips for biofuel
- 3) selling and transporting the chips for power generation in Liberia and/or Europe

¹ "Report on the Liberia Labour Force Survey," *Liberia Institute of Statistics and Geo-Information Services*, February 2011, pg. 49.

Buchanan Renewable Power (BRP) was to build and operate a 35 MW power plant in Liberia to be fueled by the output of BRF. BRP was also responsible for upgrading a transmission line needed to evacuate the power, which would be sold to Liberia Electricity Corporation (LEC). The power plant was never fully approved by the GoL.

In 2011, the OPIC Board approved financing for a substantial expansion of BRF's production level, which was to be facilitated by a major capital infusion from Vattenfall, a Swedish power company. During its period of operation, BRF is credited by OPIC with achieving the following positive development effects²:

- Helped rejuvenate rubber tree plantations and farms via harvesting old trees and replanting;
- Improved physical infrastructure including rehabilitating the port (cleared wrecked ships) and repairing 557 km roads;
- Created 750 jobs and provided training for employees;
- Implemented corporate social responsibility (CSR) program including educational scholarships, improvements to local library, donated generators to a hospital, improvements to an orphanage and headquarters for charcoal union.

In addition to these tangible effects, the experience with the project has generated information about prospects for biofuels production in Liberia that may be useful to future developers and donors.

From mid-2012 through early 2013, the project wound down. Following the closure of the project, some residual assets were sold to a former BRF manager. The OA does not have information on the disposition of other project assets, such as the BRF office, piles of unsold wood chips at the port, heavy equipment, or the truck repair facility.

1.2 Background on the OA review

In January 2014, OPIC's senior management received a 150 page complaint about the BRE projects submitted by two NGOs: Accountability Counsel and Green Advocates. The authors allege that 1) farmers under contract with Buchanan are now worse off, 2) charcoal producers' livelihoods were adversely affected by Buchanan operations and they also suffered human rights abuses, and 3) Buchanan workers experienced labor rights abuses. The NGOs also allege that OPIC did not adequately apply its policies and statutory requirements to protect these groups and that BRF's business plan was not financially viable.

The combination of very high potential development impact from a very innovative project and the serious allegations in the complaint offers a unique opportunity to conduct a "lessons learned" review. Such a review could also address concerns that the overall experience with BRE could deter future investment in Liberia which have been expressed by OPIC, donors, the US embassy, and the private sector. There is still interest in rehabilitating Liberia's rubber sector. Additionally, there is interest among donors in understanding whether and to what extent the BRE enterprise proved unsustainable due to flaws in its business model, flaws in implementation, or both. More generally, over 50% of OPIC's current commitments and pipeline are in the energy and agriculture sectors, and a third are in Africa.

The terms of reference for this independent review are outlined in a February, 2014, memo from OPIC's President to the OA Director (see Annex 13.1.1). In summary, the review is intended to assess: 1) the

² OPIC Trip Monitoring Report. March 17, 2013 (information collected during April, 2012).

credibility of allegations in the complaint³, 2) the application of OPIC's policies to the projects, and 3) the adequacy of OPIC's policy framework with respect to the projects.

This review is more comprehensive than an OA compliance review based on an external stakeholder request, as it includes an analysis of the allegations and actions taken by OPIC's client, as well as the development of potential lessons learned for OPIC, the GoL, investors, and NGOs. The OA's approach consisted of a desk study of project-related documents, a site visit in April 2014, and individual interviews with OPIC colleagues and various external stakeholders, including former BRF managers and shareholders, project-affected individuals, donors, CSOs, and U.S. government representatives. The review was not conducted as a forensic investigation and sought to reduce uncertainty around key allegations rather than confirm or refute their credibility. For some allegations, the OA was not able to substantially reduce uncertainty surrounding their credibility. The scope of findings covers selected allegations in the complaint, as well as other issues from which useful lessons might be generated. The first annex to this report contains a full description of the OA's approach to the review and the constraints it faced in conducting it.

The report is structured primarily around topics that offer the greatest potential for lessons that can be applied to future OPIC projects. It includes issues raised in the complaint but is not limited to them. Within each topical section, the text generally follows the structure: 1) identification of key issue or issues related to the topic, 2) summary of the framework for analysis used to analyze the topic, 3) description of the information that the OA used to develop its findings, and 4) findings related to the credibility of related allegations, application of OPIC policies in place at the time, and the adequacy of OPIC's current policy framework. These topical discussions are followed by a Recommendations section that addresses the issues for which the OA's analysis suggests areas for improvement in OPIC's implementation of relevant policies and/or inadequacies in the agency's existing policy framework. The OA's assessments of OPIC's application of policies and of the adequacy of OPIC's policy framework may be informed by, but are not dependent on the OA's assessment of the credibility of the allegations in the complaint.

OPIC's applicable environmental and social requirements are based on those policies in effect on the date of the client's application for OPIC's consent. According to OPIC's website, projects whose applications were signed prior to August 26, 2010, are subject to the OPIC Environmental Handbook, which was published in February 2004. In this case, OPIC's Environmental Handbook was in effect for both the original and expansion loans. The expansion loan application was dated August 10, 2010.

For the expansion loan, BRF voluntarily agreed to comply with relevant International Finance Corporation (IFC) Performance Standards (PS). Accordingly, OPIC incorporated contract conditions that made reference to the Performance Standards, at which point they became enforceable for the expansion loan. Because the Multilateral Investment Guarantee Agency (MIGA) provided political risk insurance to Vattenfall, MIGA also subjected the BRF expansion phase to the IFC Performance Standards as a Category B project.

³ The OA did not attempt to vet all of the allegations in the complaint, but rather selected those that appear to be most related to systemic issues.

2. Smallholder Farmers Under Contract with BRF

2.1 Issue

How did BRF's operations affect smallholders' economic and livelihood prospects relative to their prospects had they not become involved in BRF operations?

2.2 Framework for analysis

To analyze this issue, the OA sought information about economic conditions of smallholders that would be compared with the effects on smallholders who contracted with BRF for harvesting their trees, and the counterfactual conditions for smallholders that would have prevailed over the same period of time without BRF's operations. The OA's analysis of this issue was seriously constrained, however, due to the absence of baseline information on the economic conditions of farmers prior to their engagement with BRF.

In the absence of such information, OA nonetheless attempted to analyze how contracting with BRF affected farmers' economic conditions. To do so, the OA team undertook the following activities:

- Evaluated 24 plantation rejuvenation agreements, four redundant rubber agreements, four payment slips for felled trees, seven contract termination notices, and one pre-BRF latex payment receipt;
- Conducted interviews with 10 farmers, 5 off-site and 5 on their farms;
- Visually examined the status of 12 farms out of the 42 that were under contract; and
- Discussed BRF's smallholder engagement with former BRF managers, and others knowledgeable about the rubber sector in Liberia, including the president of the Rubber Planters Association of Liberia (RPAL) and representatives of the Ministry of Agriculture (MOA) and the Forestry Development Authority (FDA).

BRF's harvesting operations covered smallholder farms, medium-sized Liberian owned plantations, and large concessionaire plantations. According to BRF's 2010 application to OPIC for the expansion loan, the area planted in rubber trees by concessionaires is around 80,000 hectares (ha), medium plantations range from 400 to 4,000 ha, and smallholder farms considered are less than 400 ha. Although the relative area harvested from different sized farms shifted over time, the total area harvested by BRF over its operating life is somewhat weighted toward medium-size and large plantations. Owners of these establishments generally were interested only in having BRF take their old trees, whereas smallholders wanted additional services.

The World Bank's STCRSP, which includes the smallholder rubber sector in Liberia, establishes a maximum of 20 hectares (49 acres) total farm size for eligibility for participation. Of the 35 farmer contracts that the OA accessed, the mean size is 29 acres and the median size is 16 acres. Even by this more conservative criterion, all but six of the farmers under the BRF contracts would be considered smallholders.

2.3 Information used in developing findings

Pre-BRF Setting

Liberia's rubber sector is characterized by a range of participants from concession plantations (the largest of which is owned by Firestone), to medium-sized Liberian-owned plantations, to smallholder farms owned by families. Rubber trees mature to produce latex in about seven years and subsequently have a useful life of 25 years.

According to RPAL and former BRF managers, many rubber farms in Liberia were developed by people who had other jobs and planted the trees as an investment to generate income for retirement. The civil war devastated Liberia's rubber sector, and both farms and plantations were largely abandoned and overgrown. After the war ended, plantations and medium-sized farms began to be rejuvenated, which required that old trees be removed and new trees planted and maintained. Firestone and other large land owners had the resources needed to undertake this rejuvenation.

After the civil conflict ended, smallholder families began moving back to farms. However, most farms in Liberia were still occupied by ex-combatants even after the 2005 elections. As small farms passed to the next generation, ownership was divided among family members. Especially with the decline in rubber prices around 2007, the smallholders did not have the capital or in some cases the capacity to manage the rejuvenation on their own. Local financing was not available to assist in farm maintenance. Some of the current owners do not have prior experience or expertise in farming.

Although the OA does not have confirmed data on pre-BRF cash flow of different farmers, it did obtain anecdotal information from several farmers and copied a pre-BRF latex sale invoice for one farm. From these pieces of information, it is clear that prior to contracting with BRF, smallholders were deriving a periodic cash flow from their old trees by "slaughter tapping," which is a technique that extracts the maximum amount of latex from all parts of the tree but will eventually destroy it. In contrast, the normal tapping technique is typically restricted to the lower trunk and carefully controlled to keep the tree healthy. The pre-BRF income stream of smallholder farmers, therefore, was not sustainable.

At the point in time when smallholders were approached by BRF, they had been deriving a modest income for a few years from the slaughter tapping technique. The amount they were receiving was based on both the weight of latex collected and its prevailing price per ton at the time of sale. Eight farmers gave verbal estimates of annual pre-BRF income from latex sales that ranged from US\$1,500 to \$24,000. Half of the estimates were between \$3,000 and \$6,000. The OA team was not able to obtain written documentation of farmers' verbal estimates; however, it did obtain one pre-BRF latex sales receipt for US\$214, dated 1/16/2005, with a price per ton of US\$390.

BRF contracting process

According to BRF managers interviewed, with the exception of the first three farm contracts that were prepared prior to the establishment of the agricultural group in BRF, the contracting process began with a long list of smallholders that were interested in the services BRF would provide, which initially included removal of trees, stumps and roots, preparation of the land for replanting, and provision of new trees at no cost from BRF's nursery. Many smallholders clearly saw these services as a good opportunity to rejuvenate their farms, even in cases where the farmers handled replanting themselves. The contracts offered farmers US\$ 1.50 per metric ton of woodchips. BRF would set up meetings with

farmers and explain the contract and the chipping and weighing processes in local language. BRF encouraged farmers to bring a person to the contract signing who could read English, to assist the farmer and witness his or her signature. Each farmer received an advance payment at contract signing calculated as a percentage of the anticipated price for the estimated total amount of woodchips the farm would yield. Since the chips were weighed at BRF's facilities at the Port of Buchanan, farmers were offered the option of witnessing the weighing process.

BRF initially based the advance payments on the expected number of harvestable trees, derived from the area of the farm and the normal planting density. A former BRF manager told the OA that these estimates resulted in over-payments on some early contracts, because actual tree densities at the point of harvest were lower due to loss of trees since they were planted and because BRF did not know the weight of woodchips a typical tree would produce. BRF became more conservative in calculating the advances in later contracts. A number of farmers disputed the numbers of trees removed from their farms as reported in BRF's termination notice. This may be a result of the same estimating process, which resulted in higher tree count estimates being stated in contracts than were actually found on the farms (due to neglect during the war years, disease, etc.).

BRF soon realized that many of the farm owners were not actually farmers, but family members and inheritors of parents or grandparents who had previously operated the farms. Consequently, the anticipated replanting by farmers was not likely to materialize. BRF was concerned that the results would be embarrassing to the company and began writing contracts for harvesting and replanting. The company also stated that it retrofitted the existing contracts to include replanting or simply replanted with no change in the contract. These later contracts also committed BRF to maintain the new trees – that is, carry out periodic weeding and fertilizing—until they began producing latex, after which the farmers would repay some of the maintenance costs from rubber revenues.

A further variation in contracts is evidenced by the Redundant Rubber Tree Purchase Agreements signed in 2009, which contain a clause stating that BRF will “prepare, cultivate, and plant the cleared land with new rubber trees. BRF shall own the replanted rubber trees and will remove them when they are no longer productive. This can occur any time after 22 years from planting at BRF's discretion or before if mutually agreed.” This clause likely contributed to the allegation that some farmers thought they had signed their land over to BRF.

Six of the farmers OA interviewed described a different contracting process to the OA team than that described by former BRF managers and confirmed by four of the farmers. They said that BRF told them the price per tree would be US\$5.00 if the contract included replanting and \$10.00 if it did not. The farmers said they accepted BRF's advance payment, and were surprised to see \$1.50/MT (metric ton) of chips rather than one of those amounts per tree in the contract. A few farmers told the OA that BRF cleared their farms before the contract was prepared and signed. Those who were dissatisfied felt that they had no recourse but to agree with BRF; even for farms that had not been harvested, the advance payments had been distributed among family members and could not be recovered to give back to the company.

OA was not able to find any documentary evidence that BRF ever offered the farmers higher prices or prices calculated on a per-tree basis. BRF managers attributed the \$5 and \$10 per-tree prices to rumors that spread around the country when the project began. Indeed, one farmer who mentioned these reports to OA stated that he heard about them from another farmer. Others, however, named specific

BRF employees as the source of the information. None of the farmers interviewed expressed satisfaction with the amounts they received for their trees. However, several of them stated that the package BRF was offering – clearing, replanting, and maintenance – was attractive because those tasks were beyond the capability of the farmer and his family. One farmer said the amount paid for the trees was, while disappointing, not as important as the replanting and maintenance. Had BRF continued maintaining the trees, he said he would have been satisfied.

The OA obtained farmer payment slips for three farms that indicate payment for trees harvested was made about three months after the contract was signed. This sequence supports BRF's version of the contracting process.

Replanting and maintenance

BRF managers stated that BRF had replanted all the participating farms. Three farmers told OA that not all of the area harvested was replanted. BRF's annual environmental report for 2009 mentions that some parts of some farms were not replanted immediately because of steep slopes or unsuitable soil conditions, which may explain this discrepancy.

According to BRF's annual environmental report for 2011, BRF was maintaining all of the farms that it had replanted, but the farmers tell a different story. Five farmers said BRF never returned to their farms after replanting. One said his farm had been "cleaned" once, two farmers said three times, and one farmer said five times. One farmer remembered 2011 as the year of the last maintenance visit, and BRF's annual environmental report for 2012 summarizes replanting activities during the year but makes no mention of maintenance. It appears that maintenance ended for all farms in 2011. The contracts reviewed by OA were all signed in 2008 and 2009, so those farmers received at most four years of maintenance, probably three, out of the seven-year maturation period.

One aspect of maintenance consisted of mulching, for which BRF either left some woodchips on farms when chipping was being done on-site, or it transported some back to the farms after the chipping operation was moved to the Port of Buchanan. Farmers and neighbors complained that the piles of woodchips caused water pollution and harbored stinging insects. BRF managers told OA that the company removed the chips in response to complaints, but piles of woodchips were evident at some of the farms OA visited in April 2014.

There were recommendations in the 2009 Environmental Mitigation and Management Plan (EMMP) and in Vattenfall's 2009 reports that farmers be encouraged and assisted with intercropping, both for soil conservation and enrichment as well as to provide a source of revenue during the time the new trees needed to mature. In BRF's Harvest Management Plan (HMP) prepared by Earthcons in 2009, it is stated that BRF planted beans and peanuts on every farm it had harvested. Indeed, during OPIC's review of the proposed expansion project, BRF provided OPIC a list of the cash crops it planned to introduce. However, only one of the farmers OA interviewed said that BRF had planted a cash crop (beans) on his farm, and, since BRF retained ownership of the crop, he did not obtain any revenue from it. OA did not see any indication of intercropping during its farm visits. A former BRF manager explained to OA that the cash crops initially planted by BRF were stolen, and so BRF suspended the plantings.

Farmbuilders initiative

In 2010, BRF formed and provided the start-up financing for a separate company it called Farmbuilders. It was BRF's intention to transfer all of the agricultural activities and transactions with farmers to the new company. Farmbuilders would take over responsibility for replanting and long-term maintenance of the smallholder farms, and at the same time deal with the revenue gap during the maturation period. Farmbuilders would offer various levels of engagement with a farmer, from simple harvesting, chipping, and cleaning up, to long-term commitment for farm operation and eventual re-harvesting and replanting. For the revenue gap, Farmbuilders would assist farmers in intercropping with cash crops and was considering an arrangement whereby it would acquire and pay up front for a long-term interest in the trees. Farmbuilders had spoken with at least two of the farmers OA met, and one had agreed to contract with them. However, both farmers stated that there was no further interaction with Farmbuilders. Farmbuilders was unable to obtain sufficient financing for farm maintenance and did not remain in operation long enough to have any effect on the farms OA visited or discussed.

The Farmbuilders concept emerged in response to difficulties BRF encountered in working with the smallholders. Once BRF included replanting and maintenance in the services it was providing, the basic operating cost increased substantially. Cost increased due to the need to construct or improve roads and bridges so that BRF could move its equipment onto the farm and haul away the woodchips. These costs were unexpectedly high at some farms, because BRF had not done a sufficiently thorough investigation before agreeing to harvest the trees. One former manager OA interviewed estimated that the cost to produce one ton of woodchips from a rubber farm averaged US\$4.00. Another former manager told OA that BRF was unprepared at the outset to manage the agricultural aspects of the project – like replanting and maintenance. Had it become a viable enterprise, Farmbuilders would have undertaken due diligence at farms that were being considered for participation in the project, would have provided all of the agricultural services, and would have trained farmers in intercropping.

Termination and current status of farms

After farm maintenance ceased in 2011, the next contact that farmers reported having with BRF was in 2012, when a BRF manager visited with termination agreements. These agreements recited the number of trees removed, the acreage and number of trees planted, the date of planting, and the clone of the replanted trees. The agreements stated that BRF had met or exceeded its commitments under the contract, and that it was returning the farm to the control of the farmer, and that the farmer released BRF from further obligations. One farmer who initially refused to sign the agreement told OA that BRF's response was, "It doesn't matter; we aren't coming back." At least one agreement said that there would be follow-up by Farmbuilders, but that did not occur.

None of the farms OA visited were being tapped at the time of the visit, including the one at which the farmer had only agreed to have BRF clear 25 percent of his land on a trial basis. That farmer explained that the owning families had decided to cease operating the farm because of lack of funds for maintenance. Rubber trees replanted by BRF were visible at all but one of the farms, but at about half of them, the young trees were being overgrown by high grass, vines, and brush.⁴ Farmers that do not have sufficient family labor, which seems to have been the case at all farms OA visited, typically hire laborers for the tasks of weeding and de-brushing, but all those interviewed said that they did not have

⁴ See Annex for photos of several farms.

sufficient income to do so. One farmer estimated the cost for maintenance workers at US\$800 per tile (approximately two acres). Three of the farmers reported that they had tried or were trying to maintain the new trees themselves, but the job was too onerous without hired labor. One was hoping to borrow money from a relative to pay workers. The rest appeared to have given up when BRF stopped performing maintenance for them.

Three of the farmers interviewed produce and sell charcoal in an effort to offset the lost income from rubber sales. One grows fruit and vegetables for sale, one sells fish, one operates a small shop in the village market, and one works as a welder. One farmer's wife bakes and sells bread. Two did not report any income-producing activity. Two of the five farmers who were asked about impacts on school attendance said they could not afford school fees for some of their children and had to withdraw them from school. Three farmers were able to keep all of their children in school, but with difficulty.

OPIC actions

OPIC took several steps related to smallholders:

- Required annual Harvest Management Plans including site specific environmental baseline data.
- Reviewed literature to determine productivity of rubber trees of certain age.
- Confirmed with BRF that it replaced rubber trees and planned to introduce intercropping.
- Talked to one farmer during OIP's single monitoring site visit, and determined that the farmer was satisfied with arrangements at that time.
- Although OPIC's Legal Affairs suggested edits to the contract template that were geared to protect OPIC's client, there was apparently no office within OPIC that evaluated the contracts from the perspective of protecting the interests of the smallholder farmers.

At the time of loan commitment on December 23, 2008, OPIC was told by BRF that individual smallholder farmers to be under contract were yet to be identified. Accordingly, OPIC required BRF to report baseline environmental conditions for those properties anticipated to be harvested over the next six months. However, the OA learned from former BRF managers that BRF had established a provisional list of farmers some months before entering into contracts with them, and several contracts were signed in 2008, prior to loan commitment.

OPIC was particularly concerned about water pollution and erosion control. Accordingly, it required that a Harvest Operations Plan be prepared for each site, in accordance with the semi-annual Harvest Management Plan, to include drainage arrangements, buffer zones and cultural features.

OPIC staff told the OA that OPIC worked closely with BRF on the replanting component of its operation. OPIC staff also told OA that BRF did have agronomists, experts in the use of plants for food, fuel, and land reclamation, on staff.

OPIC relied on BRF's and MIGA's assessment of the presence of indigenous people. Based on OPIC's 2011 environmental clearance, there had not been any land ownership disputes involving indigenous people.

2.4 Credibility of allegations

Allegation: BRF harvested trees before there was a signed agreement with farmers.

The OA was unable to reduce uncertainty regarding this allegation due to the lack of documented evidence for it.

Allegation: BRF made the farmers worse off by removing a steady source of income, not replacing it by means of cash crops or other assistance, and failing to provide positive developmental impact for the farmers.

The OA finds that the allegation asserting that BRF worsened smallholders' economic situation overstates causality and oversimplifies a socially and economically complex situation. Moreover, the allegation is weakened by the absence of written documentation that confirms verbal accounts. Nonetheless, the OA finds that some of the smallholders have lost at least a short-term income stream from contracting with BRF, without being given a means of income replacement. If BRF had continued its operations, these issues might have been addressed.

In the counterfactual scenario (without BRF), the farmers would have continued to receive an income stream from latex sales, though the yield of latex would have gradually declined under the slaughter-tapping regime. At some point, the farmers could have sold their trees to charcoalers, though they would have had difficulty removing stumps and root systems on their own, as well as replanting and maintaining new seedlings. Visual evidence of the non-rubber tree portions of the smallholder farms during the May 2014 OA site visit suggests a generally modest level of maintenance overall.

The OA's evaluation of available contracts and farmer interviews suggests the following:

- Key provisions in the contracts were vaguely worded and contained concepts that are uncommon in Liberia (the arbitration provisions).
- Informal verbal agreements between the signatories subsequent to contract signing diverged from contract language. In some cases BRF verbally agreed to actions exceeding requirements in contract language, in particular, performing some maintenance activities for replanted seedlings. Although these verbal agreements may have been well-meaning, they led some farmers to consider the verbally-promised actions to be formal BRF responsibilities which were then unfulfilled when BRF wound down.
- Signatories exhibited an asymmetric understanding of contract provisions and implications due to varying levels of education, language, etc. For example, a metric ton of woodchips, the contracts' unit of measure for calculating payment, was described by farmers as a foreign concept to them.
- The unclear terms of payment made it difficult for farmers to confirm that payments received accurately reflected contractual provisions for payment.
- The estimated payments shown in the contracts were invariably higher than the total amount that farmers ultimately received for their trees, leading to unmet expectations.
- Several different versions of the contracts were in circulation. The evolution from the original, harvest-only contracts to the later harvest, replant and maintain contracts, and finally, to the short-lived Farmbuilders concept, is an indication that BRF was itself going through a "learning by doing" process.

The project was an experiment to a considerable extent, as very few projects had been previously carried out with similar business models in post-conflict contexts. While the smallholder farmers

benefited from ideas that worked well—tree removal and replanting in most cases—they also suffered from other components. The project’s chief failures were the absence of assistance with intercropping or other means to assist with the revenue gap between replanting and first tapping (a period of approximately seven years), as well as inadequate tree maintenance—mainly periodic weeding and fertilizing. Both these maintenance tasks are labor-intensive and these activities first faltered and then ceased altogether some years before the new trees matured.

From its analysis, the OA finds it likely that the *current* economic status of some smallholders is less desirable than the probable counterfactual situation. Smallholders are a heterogeneous group with regards to economic status; some farm owners were more dependent on residual latex flows for household income than others in the pre-BRF period. Similarly, some farmers are now more likely to eventually receive income from the young trees that were planted than are others, due to differences in seedling maintenance since the close of BRF operations.

Allegation: OPIC and BRE failed to identify that smallholder farmers in Grand Bassa County constituted an indigenous group that warranted special treatment under IFC PS 7 (Indigenous People).

The OA did not find evidence that the smallholders (or any of the affected groups) had particular vulnerabilities based on their cultural characteristics. Rather, smallholders had vulnerabilities based on poverty, lack of education and lack of opportunity. Some smallholders do speak Bassa as their first language. Aside from basic literacy, their understanding of contracts presented to them depended on the BRF employee explaining it in Bassa and/or in the presence of a family member or friend who understood both Bassa and English. The OA recognizes the potential for misunderstandings to arise in such circumstances.

The OA did not find that the smallholder farmers constituted a distinct cultural group or hold a collective attachment to a geographically distinct ancestral territory. The smallholders constitute a heterogeneous group rather than a coherent community. Farms under contract are spread throughout Grand Bassa County, and are not contiguous. Some farm owners (including several of those interviewed by the OA team) are living off site in Monrovia or Buchanan. Some are diaspora who returned to Liberia after the civil war. Their farms are not collectively held beyond extended family members. In many cases, the owners’ historic connections with the farms are through inheritance of an investment asset rather than as a cultural property. The fact that farmers negotiated individual contracts with BRF suggests that they made individual rather than collective decisions as a group about resource use.

2.5 Application of OPIC’s Policies and Procedures

OPIC’s 2004 Environmental Handbook, the prevailing policy at the time for the initial BRF transaction, does not require socioeconomic baseline data to be collected on project beneficiaries and directly affected stakeholders. Nor does the Handbook require OPIC to treat the smallholders as project beneficiaries. Although the OPIC Environmental Handbook states that “Environmental Assessment (EA) considers natural and social aspects in an integrated way,” the detailed guidance in the Handbook caused environmental assessments to focus on environmental, health and safety impacts of proposed

projects.⁵ Therefore, the OA finds that OPIC complied with its formal policy regarding this issue because the Handbook only requires that OPIC evaluate EAs for completeness regarding environmental issues.

From a good practice perspective, the OA finds that OPIC did not exercise flexibility beyond formal policy requirements. Rather, OPIC's consideration of smallholders as supply chain contractors or service contractors resulted in a more hands off treatment than if OPIC had considered them as project beneficiaries. OPIC could have asked BRF to assemble at least locally representative baseline socioeconomic data even if it had accepted BRF's assertion that specific smallholders were yet to be identified. Lack of baseline information and written documentation supporting allegations of harm make it difficult for the OA to assess the situation. Baseline information would have enabled OPIC Management (and subsequently OA) to evaluate the allegations quantitatively through follow-up surveys of the participating farmers, rather than anecdotally through conversations with them. Baseline social and economic data on smallholder rubber farmers would have served the following purposes:

- Measuring changes in farmers' incomes over the duration of the project as part of the monitoring and evaluation of development impact, since smallholders were intended to be beneficiaries of the project. Proving positive project impacts on farmers would have only been possible if data on the income they were deriving from the old rubber tree latex had been collected.
- Accurately assessing the full range of economic impacts instead of relying upon the Environmental and Social Impact Assessment's (ESIA's) unsubstantiated assertion that the project would have no adverse economic impact. If the total household incomes and the amounts obtained from selling latex from the old trees had been established for a sample of farms, then the significance of the income foregone over the seven year period while the new trees matured could have been determined, and the farmers' options for replacing the lost income could have been identified. If baseline data on household expenditures had been collected, the potential social impacts of the non-replaced income could have been assessed—on school attendance or family nutrition, for example. At the least, measures to monitor and mitigate these impacts could have been included in the ESIA. Ideally, the project design could have been modified to avoid them altogether.

Similarly, the OA finds that OPIC's treatment of the contracting arrangements between BRF and smallholders did not take adequate account of the information and power asymmetries between the signatory parties described above. Consequently, OPIC did not conduct sufficient due diligence on the contracting process to ensure that it was fair to both parties.

The OA finds that OPIC's review of the contract templates was focused on protecting OPIC's clients' interests. BRF was not obligated to inform OPIC of changes in contract form and conditions. OPIC's treatment of smallholders as supply chain contractors ignored the potential for misunderstandings due to contract language that may have differed from initial discussions, translations, verbal promises, lack of information about weight of chips from a tree, etc. Moreover, the OA finds it understandable that

⁵ OPIC Environmental Handbook (2004), Pg. 9.

some farmers were confused about BRF's responsibilities given the evolution and inconsistency of the contracts, as well as deviation between contract language and BRF's subsequent actions.

The OA also finds that OPIC's consideration of smallholders as supply chain contractors likely resulted in less robust monitoring of the execution of the contracts than if smallholders were treated as project beneficiaries. Based on the OA's review of the ESIA, interviews with farmers, and discussions with former BRF managers, government officials and industry experts, there was no party that accorded adequate attention in project design or implementation to the seven-year revenue gap farmers would experience between the harvesting of old trees and the maturation of replanted seedlings.

OPIC did take steps intended to ensure that BRF had adequate technical and managerial capacity to conduct long-term operations on smallholder farms like maintaining rubber seedlings and growing crops to maintain farmers' incomes while the seedlings matured. To the extent that some issues surrounding smallholders are a function of BRF going out of business, OPIC clearly cannot control such events. If OPIC had more explicitly recognized the vulnerability of smallholders stemming from their income gap, however, it might have incorporated close-out contingencies in smallholder contract provisions.

2.6 Adequacy of OPIC's current policy framework

At the time of the first and second loans, OPIC's policy framework was not adequate to require site-specific, socio-economic baseline information about a potentially vulnerable group prior to their entering into a long-term contract. OPIC's Environmental Handbook lagged behind international good practice in this regard.

The expansion project was subject to the IFC Performance Standards. Given that MIGA did not request site-specific socioeconomic baseline data for the expansion loan, however, the Performance Standards apparently do not require smallholders to be treated as project beneficiaries and therefore do not require collection of baseline socioeconomic data on them. OA is not aware of an OPIC policy that would ensure that relatively weak parties to a contract with an OPIC client receive legal or other support in the contracting process. Therefore, OPIC's current policy framework still seems lacking in its treatment of stakeholders in a project's value chain.

Although not directly related to OPIC's policy framework, the OA notes that the challenges facing BRF with respect to smallholders may have resulted from BRF's owners trying to achieve two objectives – rejuvenate Liberia's smallholder rubber sector and produce biofuel for commercial sale. It may have been difficult for the BRF business plan to achieve both objectives. Recognizing that there were logistical considerations, if the sole objective had been to maximize revenues from biofuels production, BRF could have focused on larger landowners who were not dependent on BRF for replanting and maintenance, and therefore incurred lower harvesting costs. On the other hand, if the only objective had been rubber sector rejuvenation, BRF could have spent more time understanding the incentives and constraints of smallholders in order to design a feasible program, such as through cooperation with nearby large landowners. Moreover, the two objectives have different time horizons; the biofuels objective was under more time pressure to generate a revenue stream.

The World Bank's ongoing STCRSP provides a useful comparison to BRF's business model. The STCRSP is focused only on helping smallholder farmers. Though both involve commercial enterprises, STCRSP characteristics that differentiate its rubber sector component include:

- Project is implemented by two experienced rubber plantation operators, not a fuel company.
- Smallholder beneficiaries must organize as cooperatives, which will in turn facilitate distribution of inputs and training.
- Beneficiaries handle the clearing, replanting, and maintenance.
- Between 2 and 6 hectares are cleared and replanted on any farm.
- Beneficiaries must have labor available for the project activities.
- Beneficiaries must be residents—no absentee farmers.
- Beneficiaries must have sufficient sources of income to bridge the maturation period.
- Loss of income and lack of food security were identified at the outset as potential social impacts. Intercropping was emphasized as a mitigation measure.

Because of these design elements, it could have been beneficial for BRF or OPIC to have engaged with the World Bank team, ideally early in BRF's operations but at least once BRF began facing challenges with smallholders.

3. Charcoal Producers

3.1 Issue

How did BRF's operations affect the economic status of charcoal producers compared to their status if BRF had not harvested trees on the Firestone Plantation?

3.2 Framework for analysis

To address this issue, the OA team conducted a meeting with a group of charcoalers at the Freeman Reserve, spoke with former BRF managers, MIGA, Vattenfall, and several knowledgeable individuals in Liberia (GoL officials, donors, and the U.S. Agency for International Development (USAID)), and reviewed relevant reports on the topic. The OA team also met with the National Charcoalers Union of Liberia (NACUL), Firestone Rubber officials, the Liberia Forestry Development Authority, and the Liberia Environmental Protection Agency.

To understand the effects on charcoalers from Buchanan's operations on the Firestone Plantation, the OA sought to compare the economic conditions of charcoalers prior to and during BRF's operations with the counterfactual conditions that would have prevailed over the same period of time without BRF. However, this approach was seriously constrained due to the absence of baseline information.

3.3 Information used in developing findings

Pre-BRF situation and BRF's activities on the Firestone Plantation

Prior to BRF's involvement, Firestone was undertaking its own clearing and replanting process by trying to replant 3,000 to 4,000 acres per year to make up for years of neglect during the civil war. Its normal procedure was to invite charcoal producers to burn charcoal on site when there is excess rubber wood, with the condition that they immediately vacate any location at which replanting was about to begin. However, there was no formal agreement between Firestone and charcoalers.

In 2010, BRF began harvesting old rubber trees on the Firestone Plantation. At around this time, a new Firestone general manager changed the company policy to prohibit charcoal burning on site. He may have done this in order to give BRF unimpeded access to land about to be cleared, or to ensure that replanting could be accomplished during the short rainy season. According to Firestone managers, however, Firestone's policy change was made due to irresponsible charcoaling operations – cutting trees, refusing to relocate kilns when Firestone was ready to replant, and causing forest fires. In any case, the policy change required charcoalers to transport wood off site or to designated locations to be burned.

Another change in Firestone management led to relaxed restrictions on charcoalers' plantation activity. However, the change coincided with a period in which individuals working for BRF and contractors working for Firestone engaged in rent-seeking behavior that affected charcoalers' livelihoods, according to the charcoalers OA met. For example, BRF operators required charcoalers to pay for the roots and branches that BRF had previously agreed to give them at no cost, and a Firestone contractor posted "no burning" signs and demanded LRD\$350 as "registration" for permission to burn. Female charcoalers who could not afford the payment for wood were offered the opportunity to pay with sexual favors. According to managers OA interviewed, none of these activities were sanctioned by BRF or Firestone.

The charcoalers said that they complained to BRF and Firestone, but nothing changed on the ground. They also told OA that the roots and branches were on balance less desirable than the trunks for charcoal production. In particular, chain saws get damaged because of soil and stones that adhere to the roots.

According to a BRE written presentation to OPIC, the BRP power plant in Liberia would have used ground up roots and branches (hogged fuel), rather than chips. If the power plant had gone into operation, it is uncertain that the same level of wood residues would have been left for charcoalers' use.

When BRF unexpectedly stopped working in 2013, Firestone started doing its own clearing. Firestone currently uses some of the wood in its boilers and has been operating a mill that produces rubber wood for furniture for the past five years. The excess wood is available to charcoal burners, and they are currently allowed to burn on the plantation. According to the charcoalers, there is even more wood than before BRF. However, charcoalers have noticed that smallholders are asking higher prices for trees they sell – up from LRD\$35 to LRD\$150-180 per tree. The charcoalers attribute this to BRF's project, which they believe raised farmers' perceptions of the value of their old trees. As a result, only wealthy charcoal producers can afford to buy these trees. In addition, some charcoalers told OA that they have to travel farther to get wood because so much area has been cleared in the portions of Firestone's plantation near Freeman Reserve.

Freeman Reserve residents told the OA that they had a number of unresolved complaints after BRF departed: a) BRF hired only one resident, so the community did not benefit from employment; b) BRF equipment left depressions that collected water, which bred mosquitoes; c) disturbed drainage patterns and erosion have affected some houses; c) insects breeding in woodchip piles were a serious nuisance; d) crops were damaged by road and camp construction and BRF did not pay compensation; e) culverts damaged by trucks were not repaired and flooding occurs during the rainy season; and e) BRF workers formed relationships with local women, resulting in damage to some marriages and a number of pregnancies.

OPIC's actions related to charcoalers

There was a series of "red flags" available to OPIC regarding the economic status of charcoalers and the potential for the project to negatively affect them:

- 2007: In the *Environmental Scoping Report*, Earthcons identified local charcoal producers and other local inhabitants as groups that may be impacted by the clearance of entire farms or plantations. Earthcons recommended further study.
- August 2009: Vattenfall's *Corporate Social Responsibility Due Diligence Assessment: Liberia Wood Fuel Project* described potential impacts on charcoalers. Impacts included reduced supply of wood, higher costs of production, displacement of charcoalers (possibly into the natural forest), and impaired community livelihoods.
- November 2009: The ESIA for the BRF expansion project acknowledged that there was insufficient information on charcoal producers but stated that competition for wood could drive

up the price of charcoal. In the ESIA section on stakeholder consultations, the FDA is quoted as expressing “fear” that this competition could cause charcoalers to turn to natural forest and wetlands for wood supply⁶.

- Late 2010: An OPIC internal document stated, “There is some probability that the project will be competing with the charcoal business for available wood. This may result in charcoal price increase which would disproportionately affect the poor. Charcoal producers may also venture further afield into the natural rainforest to obtain wood, which may adversely affect biodiversity. This risk was mitigated in the original project because the Company indicated that rubber tree roots would be available for charcoal production. However, based on information in the Company’s application for additional financing the Company now plans to divert the roots for use as fuel for the Buchanan power plant.”
- January 3, 2011: In a cable to OPIC, the U.S. Embassy in Monrovia declined to support the expansion project because of concerns that included negative impacts on the charcoal industry.
- September 2011: In the *Buchanan Renewables Charcoal Impact Assessment Report* commissioned by MIGA, the consultant stated that, *inter alia*, wood may have become less readily available, BRF’s operations have created “barriers to access,” and negotiations with farmers and plantation owners have become “more challenging”.

OPIC examined various reports on the issue over a period of four years, and found that none drew a conclusive causal link between BRF’s operations and charcoal producer livelihoods. Under the expansion loan, BRF was shifting focus to harvesting the large plantations. OPIC and MIGA were concerned enough about this issue to study it more carefully. MIGA and Vattenfall had money to fund the studies – OPIC did not have its own funds for this purpose, but did actively engage with MIGA on the analysis of the issue in the period leading up to the expansion loan. MIGA consulted with OPIC on the scope of work for its consultant on the charcoal issue.

In its due diligence for the biofuels expansion project, OPIC relied on MIGA and Vattenfall for analysis of potential impacts on charcoalers. OIP also met with charcoalers during its one monitoring site visit. At that time, charcoalers did not raise problems with BRF operations. OPIC confirmed that BRF was engaging charcoalers as a stakeholder group. OPIC addressed the charcoaler issue in its environmental clearance for the expansion project but focused only on its potential impacts on the price of charcoal and on natural forests. OPIC accepted the conclusions in the ESIA that the roots and branches left over from harvesting would be adequate to meet demand for charcoal. However, by 2010 when large-scale harvesting began on Firestone’s site, no baseline data had been collected on charcoal producers, including at Freeman Reserve where it was most needed.

3.4 Credibility of Allegations

Allegation: BRF’s operations created competition for wood at the local level; the reduced access was exploited by individuals at charcoalers’ expense; and despite efforts to the contrary, BRF’s operations

⁶ “Environmental and Social Impact Assessment: Woodchip Biomass Production.” Buchanan Renewables Fuel. 2010. Pg. 240 https://www3.opic.gov/environment/eia/buchanan/BRF_ESIA_Final_21Nov2010.pdf

resulted in a net loss of access to wood by charcoalers operating on the Firestone Plantation. As a result, charcoalers sought wood from neighboring natural forests.

As with the smallholders' allegations, the OA finds that these allegations are based in part on a simplification of a more complex situation. BRF was operating on the Firestone Plantation from 2010 to late 2012. There were restrictions on charcoalers' access to Firestone rubber trees prior to BRF's harvesting operations on the plantation. Firestone's stance toward the charcoalers continued to evolve over the years. Because Firestone was also shifting its policy toward charcoalers over the same period as BRF's activities, it is not possible to fully distinguish correlation from causality.

Acknowledging the constraints imposed by lack of baseline information, the OA nonetheless finds it credible that the Freeman Reserve community of charcoalers experienced more restricted access to wood resources during the BRF period relative to the pre-BRF period. The OA does not have information on where charcoalers from the Freeman Reserve are currently obtaining wood. Based on a limited sampling of HMPs, BRF cleared at least 1,885 ha of Firestone's 48,153 ha. However, the additional distance that charcoalers would have to travel is a function of both the amount of trees harvested and where Firestone chose to replace trees.

The OA also finds it credible that individual Firestone and/or BRF employees in the field sought to take advantage of charcoalers' need to access piles of wood residues. To the extent this occurred, there is no evidence that such actions were sanctioned by either company. BRF stated that it requested investigations when such allegations were brought forward, but it was not able to confirm them.

3.5 Application of OPIC policies and procedures

Similar to the situation with smallholders, the applicable OPIC policy (Environmental Handbook and the Performance Standards for the expansion loan) did not require collection of baseline socioeconomic data for affected stakeholders. For the expansion loan, however, OPIC could have exercised its discretion to request BRF to incorporate such data in the ESIA, given that charcoalers had been identified early on as an affected group and were clearly vulnerable. The absence of data on a group identified as potentially affected is not a sufficient argument to proceed with a project without remedying the data gap. The ESIA consultant should have been required to get some baseline data, without which OPIC should not have considered the ESIA complete. Failing that, OPIC could have required more robust monitoring to avoid holding up the project.

Collection of social and economic baseline data is an essential part of environmental and social impact assessment for any groups potentially affected by a proposed project, either negatively or positively. Such data would have allowed BRF and OPIC to assess the vulnerability of charcoalers to the changes in the availability of wood that the project would cause and determine whether mitigation measures were needed. If a baseline had been established, follow-up sampling could have determined whether or not these qualitative changes had any substantive economic impact on charcoalers.

With baseline information on charcoal producers at Freeman Reserve, OPIC also could have evaluated with greater certainty the allegations that the project did not result in a positive development impact and that charcoalers were driven to seek wood in a natural forest. With baseline information, OPIC

could have assessed the correctness of BRF's and its own view, as communicated to the US Embassy when the proposed expansion project was under review, that the project provides "a far greater opportunity for charcoal production...than under the current arrangement....".

In this case, baseline data would have included an estimate of the total number of individuals, households, and businesses deriving subsistence or income from production of charcoal and then, for at least a sample of them, the following types of information as applicable to households or businesses:

- Main sources of wood
- Average annual volume of charcoal produced
- Average annual income from sale of charcoal or employment by a charcoal producer
- Expenses of charcoal production, including tools, fuel for chain saws, transportation, food and wages for hired labor, payments for wood, etc.
- Average annual household income from all sources with main sources identified
- Size of household, broken down by number of adults, school age children, and other dependents (such as aging parents or persons with disabilities)
- Number of children attending school
- Approximate annual expenditures for food, clothing, medical treatment, school expenses, transportation, hired labor, etc.

In the absence of these data, monitoring actual impacts and evaluating allegations of harm to charcoal producers in a quantitative manner is not possible.

Besides the lack of baseline data, the OA finds that OPIC's responses to "red flags" regarding charcoalers, before both the 2008 transaction and the 2011 expansion, was mixed. OPIC did seek information to better understand these risks, but did not undertake a site visit as an explicit part of the environmental due diligence process for either the 2008 or 2011 transactions. In OPIC's 2011 environmental clearance, reference is made to a cumulative impact assessment in which the topic of indirect effects on charcoalers is addressed. The assessment concludes that, at the macro level, resources for charcoal remain adequate to meet the needs of Monrovia.

3.6 Adequacy of OPIC's current policy framework

The OA finds that OPIC's current policy framework may not provide sufficiently detailed guidance for requiring the collection of baseline information about potentially vulnerable affected stakeholders prior to the start of operations, in which the specific locations of activities are not known in advance of OPIC approval. Performance Standard 1 requires in such cases the establishment of an environmental and social due diligence process that will identify risks and impacts at a point in the future when the physical elements are reasonably understood (paragraph 7). At other institutions such as the World Bank, this is often accomplished by having the client prepare an Environmental and Social Management Framework that describes the general environmental and social characteristics of the relevant region, the types of activities likely to be financed, the typical impacts to be expected in the context of the region, the sorts of mitigation and monitoring measures that may be appropriate, the organizational or institutional requirements for putting those measures into practice, and the needs for capacity-building. The Framework then specifies the procedures to be followed in ensuring that the activities that are chosen

for financing are subjected to the proper level of assessment, which could range from simple application of the mitigation and monitoring measures spelled out in the Framework to preparation of a full ESIA. Performance Standard 1 explains that the risk and impacts identification process will be based on recent environmental and social baseline data at an appropriate level of detail. For a Framework, “appropriate” social baseline data could mean identification of stakeholders and potentially affected groups at a general scale, identification of potentially vulnerable groups, socio-economic characterization of vulnerable groups and other important affected groups scale (as was done by Save the Children for Liberian charcoal producers), description of data gaps, and specification of the studies and other actions to fill those gaps and to be carried out prior to implementation of individual investments or other activities.

4. Former BRF Workers

4.1 Issue

To what extent were the internal labor management systems that BRF established sufficient to ensure basic worker rights, including worker health and safety, and nondiscrimination in the workplace on the basis of race and gender?

4.2 Framework for analysis

The OA team sought to characterize the overall context of labor rights in Liberia. It reviewed BRF's worker policy, procedures, training, and worker grievance mechanisms. The team collected allegations by workers and the union and met with former BRF managers. The team also met with the Labor Ministry and requested records about worker complaints. To date, the OA has not obtained written documentation from the Ministry relating to the resolution of specific allegations.

4.3 Information used to develop findings

At the time of BRF operations in Liberia, jobs with BRF were highly sought after due to extremely high levels of unemployment in Liberia. At its peak, BRF was one of the largest employers in the country. The workers with whom the OA team met expressed regret at BRF's departure, despite the alleged labor rights problems.

A former BRF manager acknowledged that, as a start-up company growing rapidly in size and scope, BRF faced challenges in its labor force, including equal pay for equal work and worker health and safety. Another manager, who was with the project at the outset, explained that the company was inundated with job applications as soon as the news spread that it was hiring. BRF hired unskilled workers with the intention of training them, though they likely hired more than were actually needed. This manager acknowledged that BRF did not have the human resources management capacity to deal with the rapid influx of employees. BRF management began to take steps to address these issues; however, the enterprise wound down before labor management systems could be fully established.

Former BRF managers acknowledged issues around equal pay for equal work and told the OA team that they were addressing them. A clear salary schedule was one of the HR management tools not in place when the company began hiring. Some workers told OA that they did not know their salaries when they were hired, and many of them appear to have been working under three-month contracts that were repeatedly extended. When the company was unionized, the union requested management to convert these contracts into regular employment agreements. Former employees who developed skills through training, such as equipment operators, said that the salary increases they received were not commensurate with the new work they were now completing. Employees also told OA that they did not receive proper compensation for overtime work.

With respect to worker health and safety, the OA team reviewed the Occupational Health and Safety Plan that BRF issued in 2011 and found it to be of good quality. However, former employees stated that the company did not have a safety policy and never properly implemented the plan after the start of project operations. Both former BRF management and a former staff member of Vattenfall confirmed that personal protective equipment (PPE) was issued to all employees; temporary workers in the agriculture division initially did not receive PPE but were given it when the oversight was brought to

management's attention. Workers interviewed by OA stated that PPE was not routinely replaced when it wore out and that there was favoritism in its issuance. Lack of workplace safety is a common problem throughout Africa (with the exceptions of the oil, gas, and electric utility industries)⁷, so it is not surprising that some former BRF managers acknowledged that not all workers wore PPE. Workers may not want to wear PPE in hot weather or may see its use as demeaning. Often, workers in African countries sell their PPE to make extra money. Individual incidents were not explored, but the worker safety record indicates that there were issues. At the Ministry of Labor, OA was told that no unresolved health and safety claims had come to its attention, which MoL staff took to mean that all were resolved at the company and county level. The OA was not able to confirm this.

Field workers told OA that safe drinking water was not provided for them (but was provided for expatriate employees), whereas former BRF managers stated that it was always provided equitably.

The OA received various accusations of racial or gender-related discriminatory behavior. Two former BRF managers asserted that expatriate employees exhibited racial discrimination and sometimes abusive behavior toward Liberian workers. One local worker interviewed by OA said that some of the Liberian managers did not look out for the welfare of the workers.

In response to allegations that the project lacked an established grievance procedure, a former BRF manager stated that there was a procedure recognized by employees. Workers told OA that grievances were presented through the union. The union's Grievance Chairman explained to the OA that when he was not satisfied with management responses to a grievance, he would take the issue to the Ministry of Labor. He felt that the Ministry usually supported BRF management. One former employee told OA that the union did not represent the workers well. Another former employee said that the senior shop steward was fired in retaliation for pressing management on worker issues.

Workers complained to OA that retrenchment seemed sudden and that medical compensation was left outstanding. A former BRF manager contradicted these complaints. He explained that he worked with every worker who presented claims and that the country attorney, BRF's attorney, and a representative of the Labor Department were present in each case. Claims were made for items such as unpaid medical expenses or unpaid vacation time. The former manager said that about 20 percent of the claims were legitimate and that among the illegitimate ones were claims from persons who had never been employed by BRF. All claims deemed legitimate were paid, and severance pay was given at the rate of 1.5 months' salary for each year of employment. The Ministry of Labor informed the OA that there were no unresolved claims.

OPIC actions

OPIC took several steps to promote implementation of labor rights requirements at the BRF project level. OPIC required that worker rights provisions be included in BRF documents. Additionally, OPIC reviewed BRF's retrenchment plan, its collective bargaining agreement (CBA), which includes non-discrimination provisions (but not retrenchment provisions), and the BRF employment handbook, which contains equal employment opportunity (EEO) and non-discrimination provisions.

⁷ "Country profiles on occupational safety and health," International Labour Organization. <http://www.ilo.org/safework/countries/lang--en/index.htm>

OPIC reviewed BRF's sexual harassment policy and worker safety training program, and OPIC also confirmed implementation of the OHS plan. These measures were verified by OPIC during its 2012 site visit. During this visit, OPIC confirmed the existence of multiple grievance mechanisms and conducted interviews with multiple workers, male and female, who did not identify any labor rights issues.

OPIC's 2011 clearance of the BRF expansion reported BRF worker training on HSE issues, and it recognized BRF's need to reduce accidents and strengthen PPE use.

In response to contemporaneous articles in Liberian media about labor rights issues and a former Human Resources (HR) Director at BRF's allegations of human and labor rights abuses, OPIC made inquiries of BRF management and was satisfied by its responses. OPIC did not interview any employees directly until its 2012 site visit, at which time it did not receive complaints from workers.

4.4 Credibility of allegations

The allegations cover a range of labor issues giving specific examples, some of which relate to BRF management and some to individual workers. Allegations include unequal pay for equal work, lack of payment of wages due, discrimination, poor treatment, sexual coercion, health and safety violations, culture of intimidation, and inadequate grievance mechanisms.

The OA is not able to draw firm conclusions regarding the credibility of alleged labor issues due to the lack of available corroborating formal documentation. However, the convergence of views from independent sources, including former BRF managers and owners, supports the credibility of some concerns, especially regarding PPE, discrimination, and BRF's overall work culture. Based on observations from these sources, the OA finds the following factors to be relevant:

- The systematic and consistent implementation of HSE and related policies in the field may have been compromised by chain of command weaknesses.
- Harvesting, nursery, and replanting work sites were far removed from BRF central offices.
- Worker rights allegations likely stemmed from a variety of factors, including: rapid growth due partly to pressure from the majority BRE shareholder, remote work sites, a culture of corruption, weak rule of law, high illiteracy, and low education levels
- Inconsistent treatment of worker issues may have been exacerbated by turnover in HR managers.
- BRF tended to hire expatriates as heavy-machinery operators, which created conflict when they were treated better than Liberian workers.
- Liberia does not have a strong culture of occupational safety.

Allegation: OPIC failed to verify BRF's compliance with key worker rights.

The OA finds that OPIC sought to verify compliance with worker rights. Verification was based on client self-reports, OPIC inquiries about specific issues, and the 2012 monitoring visit.

4.5 Application of OPIC policies and procedures

The OA finds that OPIC's due diligence and monitoring around worker rights issues followed its policy requirements at the time. OPIC included required actions on worker health and safety issues in its clearance. When OPIC became aware of information about labor health, safety, and other worker rights allegations, it followed up with BRF to determine if corrective action was needed. OPIC also tracked BRF's retrenchment process.

The extent of OPIC's due diligence and monitoring activities was generally appropriate to the project's labor characteristics. However, considering the additional risks posed by a rapidly growing young company operating in a weak governance environment characterized by extremely high unemployment and a history of corruption and gender-related discrimination, more vigorous due diligence and monitoring could have been easily justified.

4.6 Adequacy of OPIC's current policy framework

OPIC's current policy framework incorporates both Performance Standard 2, relating to labor issues, and the ability to classify a project as Special Consideration for labor issues. These features allow OPIC to tailor its monitoring and client engagement with a project's level of labor risks. Though OPIC's current policy framework does not explicitly require all clients to establish a retrenchment plan, OPIC has the discretion to and often does ask clients about retrenchment plans, employment alternatives, etc., in cases where retrenchment is likely. Performance Standard 2 requires clients to first identify alternatives to retrenchment and, if there are none that are viable, to develop and implement a retrenchment plan prior to implementing any collective dismissals.

Since the BRF project, OPIC established the "Special Consideration" classification under its 2010 ESPS. Special Consideration projects are considered higher risk to workers because of the heightened potential to violate labor rights. Key risk factors include: (1) labor-intensive industries or sectors that are more likely to infringe upon labor rights; (2) industries or sectors in countries with a clear history of labor rights issues (e.g., use of child or forced labor, or discrimination against migrant workers and workers who exercise trade union rights); (3) utilization or reliance to a large degree on large pools of sub-contracted, unskilled, temporary, and/or migrant workers; (4) adverse impacts on significant numbers of workers, such as when retrenchment is anticipated; or (5) supply chain sector considerations in which the supply of raw materials and primary goods constitutes a particularly high risk for the use of both forced labor and harmful child labor, such as in certain types of agriculture.

If OPIC's current ESPS had been in place, the project may have been classified as a Special Consideration project, which would elevated the project to increased due diligence (including a possible site due diligence trip) and additional oversight through the life of the project's contract with OPIC. Under the current ESPS, the nature of OPIC's engagement with clients on labor issues can be geared to specific circumstances relevant to BRF:

- If individuals on the management team do not have requisite labor relations experience, OPIC should require the client to bring in requisite expertise from outside.
- If labor-related action plans are needed, the client should detail company actions prior to disbursement.

- OPIC might need to initiate a monitoring protocol early on that incorporates third party labor audits.
- It may be necessary to add detail to provisions in OPIC's contract with the client regarding non-discrimination and equal employment in company policy, new employee induction, regular training, planned or unplanned retrenchment, and grievance mechanisms.

5. Financial Sustainability of BRF's Biofuel Enterprise

5.1 Issue

To what extent was BRF's eventual lack of sustainability due to inherent weaknesses and risks in the business model versus the manner in which the project was implemented?

5.2 Framework for analysis

The OA interviewed former BRF managers, Vattenfall officials, and other experts. The OA also reviewed project documents and external studies for convergent information. The OA did not conduct its own financial evaluation of the BRF business model.

5.3 Information used to develop findings

The financial sustainability of BRF depended on its ability to generate an acceptable revenue stream, given its capital and operating cost structure. The enterprise had upstream and downstream risks in its value chain. Upstream, there was little information available ex-ante on the biomass yield per acre of harvested trees on the different farms under contract. Once operations began, the biomass yield was found to be significantly less on most of the smallholder farms than predicted from a standard tree density calculation, though this may not have been an issue for trees harvested from large plantations. In addition, BRF managers did not conduct a formal pilot test of their engagement approach regarding smallholders. Once operations began, they had to successively modify their approach in response to various logistical and behavioral challenges.

Downstream, the revenue stream for the biofuels enterprise depended on the commissioning of a 35 MW power plant in Liberia and on the European market for biofuels, which was largely driven by European climate policy at the time. The European biofuels market was subject to shifts in policy as biofuels are not particularly attractive for power production relative to fossil fuels, other than for their supposed carbon neutrality.

For the second BRF (expansion) loan, Vattenfall became both a minority investor in BRF (30% with Swedfund) and an off-taker of chips. Vattenfall had significant corporate goals related to long-term reduction in GHG emissions, which were promoted via a strategy that included its investment in BRF. In 2009, Vattenfall adopted a strategy to reduce carbon emissions by co-firing its coal plants in Europe with biomass fuels. One of the major recipients of BRF's chips was to be Germany, which was expected to introduce subsidies for co-firing.

Vattenfall projected an increase in scale from 0.4 million metric tons in 2011 to 2.2 million metric tons in 2017. According to a 2011 Vattenfall presentation to OPIC, BRF's then production cost of \$79/ton would drop to \$36/ton if production rose to 80 Kton/month. This projected cost decrease is primarily a function of fixed costs/ton, which would drop significantly. The initial off-take agreement with Vattenfall was only for two years, and BRF needed a longer period to break even and repay OPIC.

BRF's projected revenue stream was highly dependent on Vattenfall's continued participation. When German subsidies for co-firing Vattenfall's plants did not come through, Vattenfall had to find other markets in Europe for the chips. Around this time, the European emissions trading scheme collapsed, causing a major drop in the value of carbon credits.

BRF incurred unplanned expenditures for farm maintenance activities because it did not initially prepare for long-term agricultural work. The unexpected costs associated with maintaining the replanted seedlings on smallholder farms, however, were a minor component of the overall cost structure of the enterprise.

Vattenfall decided to withdraw from BRF for several reasons. BRF's operations did not achieve the scale that would justify the resources that Vattenfall determined were needed to establish a black pellet plant. Vattenfall executives became alarmed after a meeting with senior Liberian officials, including the President, who was under intense political pressure for the power plant to be built. They were also concerned about demands from Liberia's legislature.

Based on interviews with OPIC staff, several former BRF managers, former and current Vattenfall staff, donors, and others, BRF's eventual shut down was likely a function of several factors:

- *Inability to achieve production targets.* BRF management was under pressure to expand production in order to drive down the cost per ton of chips. It may be that their relative inexperience contributed to overly ambitious targets. The senior management team of BRE appears to have had stronger capacity in power development than in agricultural operations. . Based on information provided by BRF about the qualifications of its senior management, it appears they did not have prior experience operating a commercial enterprise in Liberia, nor prior commercial experience in the agricultural, biofuels, or tree crops sectors. Although lack of prior country experience is not uncommon among OPIC clients, Liberia is a particularly challenging commercial environment.
- *Unwillingness to tie up capital.* According to a knowledgeable source interviewed by OA, BRE principal owner paid more for the pre-existing biofuels enterprise than its assets were worth, putting pressure on BRF to achieve revenue targets. BRF's original owners intended to catalyze and develop the project and gradually transfer ownership to other parties. Even though Vattenfall essentially bailed out Pamoja Capital by repaying OPIC, the remaining owners decided against continuing to operate under a scaled back business plan. Thus, Vattenfall's exit threw BRE's owner's divestment strategy into doubt.
- *Cost control issues.* Large capital acquisitions were not subject to competitive bidding or to internal management controls. Operating expenditures were not well controlled. For example, BRF reportedly employed an unusually high share of expatriate labor and offered generous benefit packages for expatriate employees. A Liberian manager stated during OA's site visit that he tried to get BRF to employ more Liberians to operate heavy machinery and in management positions.
- *Off-taker concentration.* BRF did not diversify its off-taker arrangements in the face of dwindling prospects for completing the Liberia power plant.

Soon after Vattenfall pulled out, BRF began seeking a buyer but was ultimately unsuccessful. Due diligence by prospective buyers indicated that Liberia was considered too risky for a major investment.

OPIC actions

In the run up to the expansion loan, OPIC's Credit Committee expressed serious concerns about BRF's financial sustainability, based on several upstream and downstream factors. A key factor was off-taker risk, reflecting concerns about the two-year contract with Vattenfall relative to OPIC's loan tenor. OPIC knew that BRF had to be viable without BRP as an off-taker and concluded that the two-year contract provided sufficient assurance even though BRF would not break even for several years after the initial contract expired. A member of the Committee met with Vattenfall to discuss this concern. The CC also met with Portfolio Management Division (PMD) to discuss the concern that the pre-expansion BRF enterprise was not meeting revenue targets. The CC also requested that OPIC commission an IE to provide evidence about the prospects for selling BRF's biofuel into spot markets in the event that Vattenfall pulled out, and the Committee ensured that the Statement of Work (SOW) for the IE was appropriate for this task. For the expansion phase, the CC and IC ultimately decided that financial sustainability risks facing BRF were manageable.

5.4 Credibility of allegations

Allegation: The failure of BRF enterprise was predictable due to inherent flaws in the overall business model.

According to the complaint, this allegation was apparently based on a comment by a former BRF manager to AC that BRF could not continue to absorb the cost of maintaining smallholder farms. The OA did not find evidence the overall business model was flawed and that BRF's failure was therefore predictable. Rather, BRF wound down due to aspects of implementation that were not necessarily predictable from the business model itself. During the OA's site visit, donors and others knowledgeable about Liberia's rubber sector stated that the general model of providing maintenance services in exchange for a future share of rubber production was feasible in principle. A similar model is being applied to smallholder rubber farmers in a World Bank project in Liberia, albeit with some notable differences from the BRF model.

5.5 Application of OPIC policies and procedures

The CC and IC deliberations added value to OPIC's overall decision process, though their determinations of financial sustainability were eventually proved optimistic. When BRF wound down, OPIC could have been exposed on its outstanding loan, but Vattenfall had both the means and the willingness to absorb the loss from repaying OPIC.

5.6 Adequacy of OPIC's current policy framework

OPIC's system for managing credit risks is generally robust; however, it can be strained in situations when a project is a high priority for OPIC management.

6. Sustainability of Proposed Power Plant

6.1 Issue

Why did BRP's proposed power plant fail to become operational?

6.2 Framework for analysis

The OA reviewed OPIC documents, BRE's scoping study, and various analyses of the power project by the World Bank, USAID, Norwegian Agency for Development Cooperation (NORAD), and U.S. embassy cables. The OA also conducted interviews with representatives of the donor community, OPIC colleagues, and others knowledgeable about Liberia's power sector. The OA did not analyze the project's Purchase Power Agreement (PPA) or Concession Agreement (CA).

6.3 Information used to develop findings

When BRP approached the GoL with the power plant proposal, the Liberian power sector was in a state of devastation from recent civil war. The state-owned Liberian Electricity Corporation (LEC) was operating roughly 9 MW of emergency generators funded by international donors. Some Liberian electricity users, especially commercial enterprises, used their own captive generators. The international donors were seeking to rebuild the Mt. Coffee hydroelectric power project and stabilize the LEC's financial situation by contracting with an international firm to manage its operations.

Donor concerns with BRP project

In November 2008, OPIC's Board approved a \$111.7 million loan to BRP for investment in a 35 MW power plant. The power plant was to consist of two 17.5 MW wood-fired units whose fuel was to be provided by BRP. OPIC's commitment was made on March 24, 2009, but the loan was never disbursed.

A framework concession agreement and PPA were signed between BRP and the GoL, but these agreements never became enforceable due to unresolved disagreements over their various details. According to donors interviewed by OA following its site visit, these disagreements related to:

- The lack of a feasibility study for the BRP project that included financial effects on LEC.
- Donor concerns that LEC would become insolvent once the power plant was commissioned.
- Terms of the "lock-box" escrow account, by which BRP would be repaid by LEC before any other use of LEC revenues.
- BRP's unwillingness to accept the 100 percent capacity provision in exchange for receiving fixed capacity payments from GoL.
- The GoL's unwillingness to take the risk that Liberia's power market would grow enough to fully use the 35 MW capacity when it became operational (even with the units phased in).
- Penalties written into the PPA which implied that if power demand fell short and the plant had to be stopped and started, the actual average kilowatt cost would be higher than the negotiated variable charge.

Donor concerns began to surface before OPIC's Board approval and intensified thereafter. While BRP was seeking GoL approval, the World Bank Group and bilateral donors who were supporting the GoL's efforts to restart its power sector began to commission technical reviews of the agreement between BRP and GoL. This was due to concerns that the potential BRP agreement might undermine their own

investments in the sector. The donors began various dialogues with OPIC, BRP, and the GoL prior to OPIC's approval of the BRP transaction.

BRP was proposing a project that would have resulted in a fourfold increase in grid-connected capacity for Liberia. Although potential demand for power could have reached 35 MW, donors were concerned that it was unlikely to be realized due to a fragmentary transmission system that could not transmit the power to areas of demand; the lack of a distribution system to carry the power from substations to customers; the absence of functional metering, billing, collections and accounting systems whereby LEC could collect the revenue to pay for the power; and the insufficient human resource capacity in LEC at the time of the project.

At the time, LEC, the off-taker, was completely supported by donor-provided emergency generation and donor support for the grid. LEC's human capacity was extremely weak until an international firm took control through a donor-supported management contract.

Even with the phasing of BRP's two 17.5 MW generating units over two years, and even if the absorption issues could be overcome, donors were concerned about the risk that potential demand would not be sufficient to absorb all of BRP's power if LEC did not make sufficient and timely transmission and distribution investments. Lacking trust in LEC, large electricity consumers such as rubber and mining companies, hotels, and a brewery, might not have given up their captive generators to tap into the future grid until they were assured that LEC could deliver. They did tell OPIC that they would be willing to buy power from BRP's plant using LEC's wires and BRP would pay LEC to wheel the power, but this arrangement was never operationalized. The OA is not aware that any smaller incremental capacity options were considered by BRP, such as allowing sufficient time to determine if demand would exceed the first unit before committing to build the second unit.

Over time, donor organizations and the LEC management contractor raised other concerns about the agreements between BRE and LEC. Through written communications transmitted to OA, they asserted the following:

- BRE proposed to charge LEC \$2 million per year for the transmission line, but the cost of transmission was already included in the capacity charge. This would have resulted in double counting.
- Studies commissioned by the donors indicated that both fuel costs and engineering, procurement, and construction (EPC) costs per megawatt were well above international benchmarks, even after including the cost of doing business in Liberia. A consultant to NORAD found that the projected capital cost was three to five times more than international norms, resulting in final electricity costs that were twice as high as costs for comparable projects. The consultant received a quotation for a plant with the same scale and specifications as the BRE plant; the company estimated the cost of \$50 million, compared to the BRE proposal of over \$100 million.
- Under international norms, two related companies (here BRP and BRF) would be required to transparently pass through costs to a regulated company (LEC). Donors were concerned that

the lack of transparency in how BRP established the fuel cost precluded the ability to determine how much the fuel is marked up from BRP's actual cost.

- The 20-year contract for such a large increment in MW, coupled with the high price paid to BRP, would likely have precluded other IPP entrants into Liberia's power sector.

Based on IFC's financial model for IPPs, existing donors to Liberia's power sector became alarmed that LEC would become insolvent as soon as the BRP plant began to produce electricity. Although the GoL had access to pro bono services of a law firm, the power sector donors' interactions with the GoL led them to believe that the GoL did not fully understand the terms of the agreements with BRP and what would be considered a normal allocation of risks. Tensions between donors and BRP spiked when Manitoba Hydro, which had been awarded the management contract for LEC, determined that LEC's Director did not have the authority to approve the agreement with BRP and voided it.

Timeline

The timeline of various events associated with the power plant is as follows:

October 2007: OPIC due diligence trip, which included meeting with donors

June 2008: BRP Scoping Study by BRP consultant Schaffer Global Group. (BRE's EVP was a Partner in Schaffer Global Group, the engineering firm that performed the scoping study for the power plant and biofuel projects.)

June 2008: USAID review of Scoping Study

July 2008: Donors prepare written comments on Scoping Study and Term Sheet (Concession agreement and PPA)

January 2009: PPA and concession agreement signed between BRP and GoL

March 2009: OPIC issues commitment for power plant

May 2009: Joint donor (Norway, USAID, World Bank, European Union (EU)) letter to GoL expressing concern about BRP proposal

August 2009: OPIC's independent engineer prepares due diligence report

September 2009: NORAD consultant report on power project

July 2010: Manitoba Hydro takes over management of LEC and voids agreement between LEC and BRP

November 2011: In an exchange between OPIC and U.S. embassy in Monrovia, embassy expresses donor concerns about power plant. OPIC responds that IFC has no objections to the project (which contradicts what IFC told the OA)

March 2013: OPIC's commitment expires without disbursement

As shown by the timeline, the disagreements about the financial implications of the PPA and Concession Agreement persisted for two years. On one side was OPIC and BRE, and on the other was the consortium of donors and eventually Manitoba Hydro. In the middle was the GoL, for which expanding

access to electricity was a high political priority, but which had limited capacity to resolve the disagreement or even to convene the relevant parties. All parties involved expended much time and resources over the disagreement.

While discussions were taking place around technical issues, the disagreement was elevated to the political level. According to donors to Liberia's power sector interviewed by the OA after its site visit, OPIC largely advocated for BRE while BRE was pursuing political support internationally and within Liberia. Reportedly, OPIC senior management at the time tried to pressure senior IFC and World Bank management to back off their technical criticism of the power plant. A senior BRE executive reportedly met with high level Norwegian government officials to get NORAD to retreat from its criticisms, and BRE threatened to sue the IFC.

6.4 Actions by OPIC

OPIC actively participated in several meetings and exchanges with other donors, seeking to address their concerns. OPIC contacted large energy users and determined that they would be willing to buy power from the BRP plant via "mini-PPAs." OPIC's position was that latent demand for 35 MW of baseload power would manifest itself by the time the second unit was built if the necessary investments in connections were made.

OPIC apparently based its support for the power plant on the scoping study done by BRE's engineering firm (Schaffer), the due diligence report by OPIC's independent engineer (K&M), and supplemental information provided to OPIC by BRP. OPIC did not require an independent feasibility study to be conducted, nor a study to evaluate the financial effects of the BRP proposal on LEC.

According to discussions with OPIC staff, OPIC was well aware of the timing gap between the new generating capacity and LEC's ability to absorb it, but perhaps not the full breadth of donors' concerns. In any case, OPIC staff assured the OA that OPIC would not have disbursed the loan until and unless all such concerns were fully addressed. That is, OPIC would not lend to a project if it were likely that OPIC would not get repaid because the project was not financially viable. At the time when the fuel enterprise folded, OPIC had not been involved in the power plant project for at least one year.

The OA takes no position on the technical aspects of the disagreement but believes that OPIC's role in it may have reflected some internal tension between advocating for the project, adhering to its development mandate, and honoring administration policy priorities to help Liberia. Concerns about the BRP project emerged in unison from a group of prominent donors that were investing to strengthen Liberia's power sector. These donors had their own agenda in terms of what they thought best for Liberia. Regardless of the merits of their vision, as the financial viability of BRP depended on investments and support by the same group of donors, their concerns need to have been addressed.

Under these circumstances, the OA finds that OPIC might have paid greater upfront attention to donor concerns about demand risk before its approval of the BRP transaction, given the terms of the PPA and CA. For example, OPIC might have requested that its independent engineer explicitly address the financial, technical, and institutional implications of adding 35 MW of baseload power to the existing system. OPIC's IE did raise questions about the adequacy of demand but was not asked to conduct a detailed analysis of this issue.

In addition, OA finds that the vehicles available at the time for coordination and communication among key parties – the donors to Liberia’s power sector, OPIC, BRP, and GoL – were inadequate for resolving the disagreements. There was no third party with sufficient independence and authority to convene those in conflict. The inability to find a compromise imposed opportunity costs by distracting from other international efforts to strengthen Liberia’s power sector. A 2013 USAID report on Liberia’s power sector cited inadequate donor coordination as an obstacle to progress in expanding power supply.⁸

⁸ MID-TERM EVALUATION OF THE LIBERIAN ENERGY SECTOR SUPPORT PROGRAM, January 15, 2013, USAID.

7. Carbon Neutrality

7.1 Issue

To what extent did BRF's and OPIC's approach to estimating net carbon emissions from the fuel and power plant projects reflect good practice regarding analyzing and reporting likely emission scenarios?

7.2 Framework for analysis

In conducting its analysis of carbon accounting in the Buchanan Fuel and Power projects, the OA examined the respective approaches of Buchanan and OPIC. Using the following sources from Buchanan, Vattenfall, and OPIC, the OA summarized the various carbon scenarios predicted beforehand and the carbon scenario which most likely occurred in practice. The OA used the following sources of information:

- Buchanan's environmental documents: ESIA, EMMP, HMPs
- Vattenfall due diligence: Climate Considerations of the Monroe Project
- Third-party assessments of Buchanan's due diligence: Independent Review of BRP IPP's Biomass Energy Project in the Republic of Liberia for Norway and NORAD, K&M Report
- Farmer contracts
- Conversations with OPIC's Office of Investment Policy

In addition, the OA conducted desk research to assess the current international carbon accounting good practice and to determine how OPIC's actions compare to those standards.

7.3 Information used to develop findings

BRF's Approach

BRF's justification of its carbon neutrality claim for the Fuel Project relied heavily upon the assumption that all harvested trees would be replanted. The BRF EMMP stated that one to two rubber trees would be replanted for every tree harvested. The EMMP also described specific replanting density and fertilization techniques to prevent soil quality deterioration and to facilitate regrowth of trees.⁹ According to the ESIA and EMMP, these farming practices would result in no net change of sequestered carbon in project-affected rubber farms over the long-term. Additionally, contracts identified farmers as lacking capacity to replant harvested trees and provided them replanting and maintenance services. Other farmers signed contracts which left the responsibility of replanting trees to the farm owner.¹⁰ BRF's initial business model left a portion of the replanting responsibilities outside the direct control of BRF.

BRP's ESIA does not claim carbon neutrality but is instead portrayed as "carbon friendly." This change in carbon profile seems to be at least partially due to an August 2009 assessment by engineering firm K&M of a Power ESIA draft, stating: "The ESIA does not present a carbon balance to substantiate its claim...The project is probably not carbon neutral. The trees must be chipped and the chips must be hauled to the plant. Presumably these operations will consume fossil fuels."¹¹ The K&M report also raises the concern of the delay between the initial release of carbon when the harvested wood is used for fuel and the gradual increase in carbon sequestration capacity of the new trees.

⁹ EMMP 34.

¹⁰ Plantation Rejuvenation Agreements

¹¹ K&M Engineering and Consulting. Due Diligence Report 70-1.

Possible carbon scenarios

Because OPIC made no public claim of net carbon neutrality for BRP's or BRF's projects due to the associated fossil fuel use, OPIC did not have the responsibility to examine the possible scenarios threatening carbon neutrality. BRE and Vattenfall both had stakes in the carbon neutrality claim, however, and therefore conducted carbon accounting in their respective due diligence.

The issue of additionality is central to carbon accounting: did the project result in a reduction in the quantity of carbon emissions that would have otherwise been emitted in the business-as-usual scenario? As established by the BRF ESIA, existing rubber stands had either been slaughtered tapped or neglected during the Liberian civil war. At the time of Buchanan's due diligence, charcoal producers were utilizing a small number of old rubber trees relative to the total rubber stands; the rest of the trees were left to eventually die and rot.¹² The aging rubber stands left behind by charcoalers would have become emitters of methane and CO₂ as they decayed, and farmers lacked the capabilities to replant the rubber stands. Vattenfall discussed a conservation scenario in which the trees are left intact but still would not necessarily increase the carbon pool. Instead, as the report argues, the decaying trees would likely result in greater carbon emissions."¹³

BRF's efforts to ensure the sustainability of its harvesting practices proved to be insufficient in ensuring the overall carbon neutrality it claimed for the project. The plan that every harvested tree would be replanted and reach maturity was not fully carried out. While smallholder farmer termination contracts reveal that trees were replanted in a 1:1 to 1:2 ratio, farmer testimony to the OA team suggests that many replanted saplings did not survive to maturity. Also, it is possible that trees were handled in inefficient ways, such that additional greenhouse gases were emitted. Buchanan's harvesting practices did not always follow its HMPs, as woodchips were reportedly left on land and decayed, emitting methane and CO₂.

Finally, the causal link between Buchanan's activities and charcoalers' increased use of natural forest cannot be confirmed from the OA site visit with the local charcoalers. While some charcoaling activity may have moved into forested areas near BRF's operations, charcoalers' behavior was likely influenced by multiple factors besides BRF's activities.

Evolving good practice in carbon accounting

When conducting its project GHG accounting, OPIC follows the Intergovernmental Panel on Climate Change (IPCC) guidelines, which reflect current consensus around accounting equations, methods, and parameters for greenhouse gases. IPCC guidelines with respect to biofuels are in line with those under the UNFCCC and the Kyoto Protocol, to which the EU Emissions Trading Scheme accounting methods also adhere. IPCC treatment of bioenergy projects was key to OPIC's carbon emission assessment of BRP, as IPCC methodology does not count CO₂ emissions created by biomass combustion for power production.

Greenhouse gas accounting is a highly technical and complex process, whose methodologies are evolving in part for greater transparency to the general public. For example, the African Development Bank conducted a greenhouse gas life-cycle analysis (LCA) to estimate the CO₂ savings of the Addax bioenergy project in Sierra Leone. Based on the EU Renewable Energy Directive, the LCA calculated the

¹² Earthtime ESIA Fuel 98.

¹³ Climate Considerations of the Monroe Project, Liberia. P 6.

total emissions from harvesting, processing, and transportation of biomass, and compared it to the fossil fuel business-as-usual scenario to find the overall greenhouse gas emission savings.¹⁴

The IFC's carbon accounting guidelines note the importance of considering land use, harvest, and other GHG emission sources, as well as leakage risks for biomass generation projects.¹⁵ An IFC-supported biofuels project in Tanzania conducted a full assessment of the greenhouse gas impacts of its operations by using the IFC's Forest Industry Carbon Assessment Tool (FICAT). FICAT is a publicly available carbon accounting resource, based on IPCC methods, which helps assess cradle-to-grave impacts, "manufacturing emissions, carbon storage impacts, upstream emissions, and end of life impacts."¹⁶ While the IFC itself did not conduct the LCA, it provided its own LCA framework to its clients and the public.

7.4 OPIC's actions

In the environmental due diligence for the initial fuel project, OPIC did not discuss the potential carbon output of the project because it was not specifically required by the environmental policies in place at the time. In the 2011 environmental clearance of the biofuel project expansion, OPIC stated that the fuel project was not carbon neutral and accepted a Life Cycle GHG Analysis conducted by Vattenfall to support its findings of estimated project emissions. To mitigate the possible negative climate change effects of BRF operations, OPIC required Buchanan to establish harvesting and replanting guidelines in the ESIA, EMMP, and subsequent HMPs. According to OPIC policy, however, OPIC was not responsible for verifying claims of carbon neutrality made by the BRF ESIA or in other BRE environmental reports.

Regarding the Power project, OPIC asserted a limited carbon footprint due to the biomass-sourced fuel but again, did not claim net carbon neutrality. The emissions of rubber woodchip combustion were excluded from the estimations. OPIC estimated the power plant's CO₂ emissions assuming the plant would be running on diesel for 168 hours (one week), and it projected 8,000 tons of CO₂ emissions per year under this scenario. Since this amount was less than the OPIC cap of 100,000 short tons of CO₂ equivalent, the BRP project was not deemed a major GHG emissions source.¹⁷ Starting in 2007, OPIC implemented a GHG accounting approach that assigned a value of zero to renewable energy projects (including biomass).

7.5 Credibility of allegations

Allegations: The ESIA falsely claims that the project has no net contribution to climate change.

The ESIA, as prepared by the client's consultant Earthtime, includes an assessment of carbon neutrality. In general, claims about the carbon neutrality of biofuels for power production are based on the assumption that biomass re-growth will sequester as much carbon as was burned. In the case of BRF, the responsibility for maintaining replanted trees, and in some cases the task of replanting, was largely outside of BRF's direct control. Some farmers viewed their rubber stands as a secondary income, which

¹⁴ EU Renewable Energy Directive, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Environmental-and-Social-Assessments/Addax%20Bioenergy%20-%20ESHIA%20summary%20-%20Final%20EN.pdf>

¹⁵ IFC GHG Reduction and Accounting Guidance, <http://www.ifc.org/wps/wcm/connect/21d21b80423bdf19f39bf0dc33b630b/IFC+GHG+Reduction+Accounting+Guidance.pdf?MOD=AJPERES>

¹⁶ IFC Forest Industry Carbon Assessment Tool, <http://www.ficatmodel.org/landing/index.html>

¹⁷ BR Power Environmental Clearance.

may have threatened the chances of the original carbon pool regenerating.¹⁸ The risk is that equivalent carbon amounts might not become sequestered.

Allegation: OPIC conducted inadequate due diligence surrounding the project's carbon neutrality claims.

This allegation may be based on a mistaken understanding by the authors of the complaint about the role that OPIC's due diligence plays in a client's claims of carbon neutrality. OPIC discloses a client's ESIA to the public without passing judgment on or verifying its accuracy, including carbon emissions claims. Depending on the issue involved, OPIC's subsequent environmental due diligence may include requiring a client to supplement information contained in an ESIA to make it complete. The results of OPIC's environmental due diligence are reflected in OPIC's environmental clearances, which do not claim carbon neutrality for these projects.

7.6 Application of OPIC policies and procedures

OPIC does not conduct life cycle analyses of a project's carbon flows, but rather assumes no emissions from biofuels for purposes of portfolio carbon accounting. The OA finds that OPIC followed its environmental policies using simple GHG accounting procedures that were in place at the time of each project's approval.¹⁹

For these projects, OPIC made a distinction between the biomass fuel used in power plant and a project that involves the production or use of biomass fuel. OPIC's 2008 economic clearance for the power plant states that the "biomass fuel utilized for the plant will be carbon neutral, as it will be composed of felled unproductive rubber trees." And the public summary of OPIC's site visit states "The project helped international power companies reduce their CO₂ emissions using biomass instead of fossil fuels in their generators." On the other hand, OPIC's environmental clearance for the power plant states that carbon emissions associated with rubber wood as a biomass fuel are not included in GHG calculations, and the 2011 environmental clearance document for the second BRP loan states that "Biomass harvesting and woodchip production are not carbon neutral." The OA interprets these various statements to mean that OPIC assumes that biomass fuel itself is assumed to be carbon neutral when used for power production, while recognizing that biomass fuel production is not carbon neutral.

7.7 Adequacy of OPIC's current policy framework

OPIC's policy framework and accounting procedures have been designed in response to its practice of accounting for GHG emissions in its project portfolio. The simplifying assumption that biofuel energy projects result in no net GHG emissions (aside from fossil fuel used in producing biofuels) is for portfolio accounting purposes, and it is used because of the high level of effort and large margin of error in accounting for carbon leakage.

OPIC Management has established a visible policy priority for financing renewable energy projects, which include biofuels, in part because of their low or zero GHG emissions. The OA finds it reasonable that the complainants could be confused by the various BRE and OPIC statements about GHG emissions in conjunction with the potential for net positive emissions from the fuel cycle of the BRP and BRP enterprises. More generally, it could be confusing to the public that OPIC reports zero GHG emissions for portfolio accounting purposes from a biofuel project that could have positive GHG emissions.

¹⁸ The lack of legal liability to carry out sustainable harvesting practices is mentioned in the September 2009 Independent Review of BRP IPP's Biomass Energy Project in the Republic of Liberia for Norway and NORAD, 16.

¹⁹ Fuel I and Power: http://www.opic.gov/sites/default/files/docs/opic_env_handbook.pdf;
Fuel II: http://www.opic.gov/sites/default/files/consolidated_esps.pdf

8. Human Rights

8.1 Issue

To what extent was the application of OPIC's policies and procedures appropriately matched with the level of human rights risks posed by the project, given the country, sector, and client context?

8.2 Framework for analysis

The OA examined:

- Country risk information available prior to the first BRF loan approval
- Country risk information available prior to the second BRF loan approval
- Warning signs that were received after second loan approval, including from the U.S. Embassy, Liberian press, NGO reports, and a former HR manager from BRF
- Evolving international good practice in addressing human rights risks in comparison with OPIC's policies and procedures

8.3 Information used to develop findings

Access to information about human rights risks

OPIC had access to ample information regarding the human rights risks associated with Liberia as a post-conflict environment. Such information available includes a 2005 publication by Human Rights Watch, "Liberia at a Crossroads," which provides a broad overview of the numerous human rights challenges facing the new government in Liberia following the second civil war. Issues discussed include establishing a Truth and Reconciliation Commission, prosecuting key individuals for war crimes, building a rule of law, and reintegrating ex-combatants into their communities.

The history of human rights risks associated with the rubber industry in Liberia was well documented at the time of OPIC loan approvals. In February 2006, Integrated Regional Information Networks (IRIN) reported that approximately 6,000 workers from the Firestone plantation went on strike, demanding improved living conditions and wages. According to the article, a group of Liberian human rights groups partnered with the U.S.-based International Labour Rights Fund (ILRF) to file a lawsuit in the United States against Bridgestone/Firestone, claiming that "thousands of workers, including minors, toil in virtual slavery at Bridgestone/Firestone rubber plantation in Liberia."²⁰ The 2007 Liberia Annual Report by Amnesty International and the 2007 Department of State Human Rights Report both highlight several human rights impacts regarding rubber plantations, including child labor, sexual harassment, and poor working conditions.

BRF's relationship with Firestone, as a supply source for old trees, might have raised questions for the expansion loan regarding human rights risks in BRF's upstream value chain. Additional information regarding human rights risk surfaced before and after the second loan approval as well. A list of these information resources is provided in Annex 13.4.

²⁰ "Liberia: Rubber plantation workers strike over conditions, pay, child labour," IRIN, February 10, 2006. <http://www.irinnews.org/report/58109/liberia-rubber-plantation-workers-strike-over-conditions-pay-child-labour>

Evolving good practice

In 2005, John Ruggie was appointed by the Secretary-General of the UN as a Special Representative on the issue of human rights and transnational corporations. He was charged with identifying and clarifying international standards of corporate responsibility and accountability. As a Special Representative, he was asked to develop methodologies for conducting human rights impact assessments.²¹

On June 16, 2011, the Human Rights Council endorsed the “Guiding Principles on Business and Human Rights”, the first global standard for preventing and addressing the human rights impacts of business activity. The principles outlined the implementation of a “protect, respect, and remedy” framework, which emphasized the duty of the state to protect human rights, the corporate responsibility to respect human rights, and the need for greater access to remedy for victims of business-related abuse. Following UN endorsement, the European Commission, Equator Principles, OECD, and FAO incorporated the Guiding Principles into their requirements. During and since the development of the Guiding Principles, efforts to establish Human Rights Impact Assessments (HRIA) methodologies have been carried out by various organizations (e.g., IFC²², the Danish Institute for Human Rights²³ and NomoGaia²⁴).

In 2014, the UK government issued an action plan for implementing the UN Guiding Principles²⁵. The UK document helps explain how to incorporate the Guiding Principles within an existing legal and policy framework at a state-wide level, and it provides a series of specific actions that need to be taken to give effect to the Guiding Principles.

Human rights due diligence is becoming increasingly common among financial institutions. In early 2014, the Equator Banks acknowledged the value of specific human rights due diligence in high risk circumstances. In April 2014, the U.S. Government issued an opinion about the role of human rights in the policies of the World Bank. Based on an inter-agency process led by Treasury, the U.S. asked the World Bank to “explicitly commit to respect human rights,” by including human rights issues in environmental and social assessments throughout the project cycle.²⁶

8.4 OPIC’s actions

OPIC reviewed and commented on BRF’s June 2009 EMMP draft with detailed requests for improvement. None of OIP’s 2009 comments addressed non-labor human rights risks. Human rights risks are briefly addressed in BRF’s ESIA on pages 130-131. OPIC followed up with the sponsor and with the U.S. embassy on labor-related human rights concerns that came to light.

The OA is not aware of any written guidance that OPIC transmitted to BRF on how to incorporate non-labor human rights into the ESIA for the expansion project. In the BRF project’s ESIA, the Human Rights section covers two pages of a 300+ page report. Such a minor mention could give the impression to

²¹ [OHCHR](#)

²² [Human Rights Impact Assessment Tool](#)

²³ [Human Rights and Business](#)

²⁴ [Human Rights Impact Assessment Toolkit](#)

²⁵ “Good Business: Implementing the UN Guiding Principles on Business and Human Rights,” UK Foreign and Commonwealth Office, September 2003. <https://www.gov.uk/government/publications/bhr-action-plan>

²⁶ United States Comments on the World Bank Safeguards Review, April 29, 2014, p. 8.

decision-makers that human rights concerns have been addressed and that a more thorough assessment is unnecessary.

8.4 Credibility of allegations

The complaint alleges a set of events that constitute human rights abuses (in addition to allegations of worker rights violations). These events include violations of physical safety, sexual and economic coercion, and impaired access to safe drinking water.

The OA does not take a position as to whether the alleged events are appropriately considered *human rights abuses*. A human rights abuse can be defined as any action that impinges on human rights, including actions by private individuals and corporations. There is a body of international law and guidance regarding the definition and classification of human rights, and in the United States the U.S. State Department is the main repository of such interpretations. Therefore, the OA defers to the State Department on the question of whether the alleged events (if true) constitute human rights abuses.

The primary responsibility for protecting human rights in Liberia falls to the GoL. According to the United Nations (UN)²⁷, human rights obligations pertain only to states; in this case, the GoL is the only party with a legal obligation to protect human rights. As such, it is the GoL's responsibility to ensure the physical security of its citizens. Corporations operating in Liberia are responsible for respecting human rights and for complying with national laws and policies related to human rights, and OPIC is responsible for monitoring its clients' compliance with relevant laws and policies.

8.5 Application of OPIC policies and procedures

The OA finds that OPIC's actions regarding human rights were consistent with its policy at the time. According to the 1961 Foreign Assistance Act, "OPIC must take into account in consultation with the U.S. Department of State, all available information about observance of respect for human rights and fundamental freedoms in such country and the effect the operation of its programs will have on human rights and fundamental freedoms in such country." The OA finds that OPIC screened the transactions using the matrix jointly established with the State Department and considered the country ranking on the human rights sensitivity list as well as the sector ranking. OPIC issued a human rights clearance for both the 2008 and 2011 BRF transactions.

8.6 Adequacy of OPIC's current policy framework

With respect to human rights, OPIC's current policy framework is stronger in several respects than before adoption of the ESPS and before the IFC performance standards referenced human rights. OPIC's Office of Investment Policy currently reviews proposed projects based on the guidelines outlined in the 2010 Environmental and Social Policy Statement (ESPS) and the supporting 2012 Procedures Manual. The ESPS adopts the IFC's Performance Standards on Social and Environmental Sustainability and Industry Sector Guidelines and any subsequent revisions to those standards. All eight of IFC's Performance Standards are linked to human rights; the concerns about human rights, business, and the need for due diligence are mentioned a number of times therein. Accordingly, for a given project, OIP

²⁷ "The Universal Declaration of Human Rights," United Nations. <http://www.un.org/en/documents/udhr/>

may examine human rights issues related to worker rights, land, indigenous groups, and community impacts.

OIP conducts a human rights review of every proposed project via State Department's broad country review, as described in section 3.5 of the ESPS. Here, the ESPS states that "OPIC confirms with the U.S. Department of State...that a project may receive OPIC support based on a consultative human rights review. For consistency across U.S. Government agencies, OPIC relies on the guidance provided by the U.S. Department of State the lead U.S. agency on human rights matters and determinations."²⁸ In addition, because OPIC considers human rights a social issue, human rights are also discussed in the Environmental and Social Impact Assessments that are mandatory for projects classified as Category A. OPIC's role in the Human Rights review process stems from the primary role of the U.S. Department of State and the need to maintain consistency across U.S. Government agencies. Aside from its formal policies, OPIC now has a trained social specialist, strengthening its capacity to identify risks to vulnerable populations other than project workers. OPIC also now requires all projects to establish a grievance redress mechanism. Research conducted by OPIC indicates that these mechanisms are used and generally viewed positively by OPIC's clients.

It is important to distinguish between OPIC's adoption of the IFC Performance Standards (which focus on the client's responsibilities) and OPIC's adoption of the ESPS (which focus on OPIC's responsibilities). The OA finds that the language in the ESPS and the Procedures Manual language around OPIC's responsibilities, which is less specific for non-labor human rights issues than for labor rights issues, has some gaps as follows.

First, the ESPS and the accompanying procedures manual, do not clearly articulate when enhanced human rights due diligence (referenced in the IFC Performance Standards) would be triggered. The current version of the OPIC ESPS was released in October 2010—prior to the broader push for the Guiding Principles and release of several Human Rights Impact Assessment methodologies after 2011. The OPIC Procedures Manual, released in 2012, does not amend any significant portion of the ESPS with added language about human rights.

Second, OPIC's human rights review process is based on the leading role of the U.S. Department of State, which issues binary up or down determination on a country basis. The Human Rights clearance only provides the clearance date, a brief description of how the project was cleared in accordance with the OPIC-State consultation process, and a public project summary.²⁹

Third, there is no human rights equivalent to the Special Consideration designation for labor rights. Thus, OPIC's current policy framework does not give clear guidance for how OPIC should match its due diligence with the level of human rights risk. The ESPS Procedures Manual supports the notion that the human rights review process is disconnected from OIP's screening and categorization process.³⁰

Fourth, if there was some determination of elevated risk of a non-labor human rights issue, such as violations of personal safety of a vulnerable project-affected stakeholder, the resulting enhanced due

²⁸ Ibid, pg. 7.

²⁹ Ibid, pg. 22.

³⁰ 2010 Procedures Manual, Figure 2.1, pg. 12.

diligence process is not as clear as it is for a labor rights issue. The OA's discussions with OIP suggest some ambiguity as to what part of OIP would be responsible for follow up.

Until a formal update to the ESPS is undertaken, informal procedures have become more common to provide enhanced due diligence for certain 'red flags,' such as projects in the agriculture sector. Certainly, OPIC and the rest of the international community are in a better position to identify such issues today than they were seven years ago when the first BRF project was approved. However, most improvements in non-labor human rights due diligence are more the result of informal lessons learned from past experience than changes in formal procedures.

In comparing OPIC's current policy framework to the Guiding Principles, the OA notes that OPIC has participated in inter-agency deliberations in response to a UN Working Group on how the U.S. Government implements the Guiding Principles. The report of the Working Group notes that OPIC has taken several positive steps: adopted the IFC Performance Standards, requires its clients to create project grievance mechanisms, and established an Office of Accountability to receive complaints from affected communities.

At the same time, The Working Group recommended that the procedures of OPIC's Office of Accountability be amended to align with the Guiding Principles. The OA interprets this recommendation to relate to the "Access to Remedy" pillar of the Guiding Principles. The various grievances and allegations of harm around BRF activities exposes a serious limitation to the effectiveness of OPIC's Office Accountability. In its site visit for this review, the OA found that former BRF workers, smallholder farmers, and charcoal workers only became aware of the OA's services through the advocacy NGOs, that is, after it was too late for them to request services directly to the OA. A prerequisite to "Access to Remedy" is awareness. The OA finds that it is extremely challenging for affected communities to become aware of the services offered by the OA in a timely fashion. Based on past OPIC monitoring trips, this lack of awareness is common among communities affected by OPIC projects.

9. Environmental Categorization

9.1 Issue

Was OPIC's environmental categorization of the BRP and BRF transactions appropriate? How did this categorization affect its due diligence?

9.2 Framework for analysis

The OA reviewed BRE's and OPIC's environmental documents and interviewed OPIC staff.

9.3 OPIC actions

The environmental clearances were granted in late 2008 for the first biofuel operation and in late 2009 for the power plant project. The clearances were based on a review of the ESIA prepared for the GoL by BRE and on subsequent BRE responses to questions posed by OPIC. Both transactions were assigned environmental Category B. An OPIC staffer described the 2008 biofuel operation as "a reluctant B," suggesting that there may have been internal time pressure to avoid an A classification. The environmental clearance for the BRF expansion was granted in March 2011.

The 2008 environmental clearance for BRF mentions a maximum harvesting rate of 6500 acres per year on existing plantations and farms. The clearance does not explicitly address cumulative impacts from harvesting over the life of the project, but it notes that the amount of unproductive rubber trees throughout Liberia has been estimated at 600,000 acres. The clearance notes occupational health and safety issues from associated truck traffic but does not mention environmental or social impacts of collecting and transporting wood from dispersed farms to a central location for export or to a Liberian power plant. (This section of the report only examines environmental categorization. Other environmental assessment issues, such as consideration of potential adverse social and economic impacts on smallholders, are not addressed in OPIC's environmental clearance for the biofuels operation.)

The power plant environmental clearance focuses on the project's direct impacts and does not address cumulative and indirect effects associated with the fuel cycle. According to one estimate, BRP would need 3,000 acres per year to supply the plant with sufficient fuel for operation. Assuming the plant operated for 20 years, 60,000 acres would be affected by harvesting and (in some cases) replanting operations. Another regional impact is the volume and frequency of truck traffic that would be generated by the collection and transportation of fuel to the plant over significant distances on Liberia's deteriorated road system. As a crude estimate, if each truck carries 30 tons of fuel, an average of more than one truck per hour would be arriving to deliver fuel to the plant.

OPIC's general approach to defining "associated facilities" requires that there be two-way dependence, so that each component would need to depend on the other for its viability. In this case, the power plant would have been dependent on the biofuel operation, but the biofuel operation had other ostensible off-takers. On that basis, OPIC would not consider them to be associated facilities. Once the power plant became unlikely to materialize and after Vattenfall withdrew from the biofuel operation, the biofuels operation closed down due to the absence of other sales agreements.

In the power plant clearance, OPIC asserts that the GoL intended to rehabilitate a 56 km 66 KV transmission line to evacuate BRP's power, but since this facility is not part of the BRP it is not addressed

in the clearance. According to the concession agreement between BRP and the GoL (signed before the clearance was written), however, BRP was to be responsible for rebuilding the transmission line and had incorporated the cost of the rehabilitation in its capacity charge to the GoL.

The OA understands OPIC treated the biofuel enterprise and power plant separately because the former was not supposed to be dependent on the latter. Also, BRF and BRP were established as separate legal entities, albeit with a common parent company. This separate treatment is relevant for environmental assessment purposes, as the combined project would likely have been assigned Category A. Moreover, if an OPIC project has two components, one of which would be assigned Category A and one Category B, the combined project would normally be assigned Category A. That is, the more environmentally sensitive component of a project determines its overall categorization.

9.4 Application of OPIC policies and procedures

The OA finds that OPIC's assignment of environmental Category B to both the initial biofuel operation and the 35 MW power plant was based on a strict interpretation of its policy in 2008.³¹ OPIC would have been equally justified in assigning Category A to one or both transactions on the basis of the following:

- 1) The potential impacts over a cumulatively large land area due to harvesting and transport activities.
- 2) Consideration of the power plant and fuel operation as "associated facilities".
- 3) Inclusion of the rehabilitation of the transmission line in the scope of impacts to be assessed (Even if the GoL was to be responsible for the transmission line, it should have been considered as an associated facility given the two-way dependence of the line and the power plant.)

Moreover, whether or not intended, OPIC's decision to treat the power plant and fuel operations as separate Category B projects had the effect of limiting the assessment of impacts associated with the overall biomass fuel system. BRE's port rehabilitation activities were also treated separately.

The 2011 expansion project was screened as Category A because of the expanded scale and risks of that operation.

9.5 Adequacy of OPIC's policy framework

As noted, OPIC's policy framework was updated after the 2008 transactions, but the current framework might not have changed the initial projects being screened as Category B if they were treated as separate transactions.

³¹ OPIC's Environmental Handbook

10. Compliance with IFC Performance Standards

10.1 Issue

To what extent did the sponsors comply with the requirements of relevant IFC Performance Standards and what actions did OPIC take to promote compliance?

10.2 Framework for analysis

Based on the preceding sections of this report, the OA compared client actions for the expansion project with relevant IFC Performance Standards and examined related OPIC actions.

10.3 Credibility of allegations and OPIC actions

The Complaint includes allegations of non-compliance by BRF and OPIC with all eight of the IFC Performance Standards.

The 2011 BRF expansion project was also supported by MIGA, which made it subject to IFC's Performance Standards under MIGA. The OA finds at least some indication of BRF's non-compliance with Performance Standards 1, 2, 3, 4, and 8.

As noted in the Introduction to this review, OPIC was authorized to monitor compliance with the IFC Performance Standards after BRF voluntarily agreed to have references to them incorporated into the expansion loan contract with OPIC. At that point in time, the ESIA had already been prepared. The OA's assessment of information about BRF's compliance and related OPIC actions are summarized below.

Performance Standard	Allegations in complaint	Relative strength of information available to OA about alleged non-compliance by BRE (low, medium, high)	Reference to sections of report where issue is discussed	Related actions by OPIC
1. Environmental and social assessment and management	Insufficient ESIA scope to identify all affected groups	Medium	6 and 7	
	Lack of baseline information about affected groups	High	6 and 7	Required collection of environmental baseline data in Harvest Management Plan and on annual basis
	Inadequate consultation with affected groups	Medium	6 and 7	
	Inadequate risk mitigation for affected groups,	High	6 and 7	

	including project closure scenario			
	Inadequate grievance mechanisms (this also relates to PS 2)	Low	6 and 7	Observations and interviews during site visit confirmed that multiple grievance mechanisms were in place
2. Labor and working conditions	Inadequate working conditions and terms of employment, including unequal pay for equal work	Medium	8	Reviewed BRF employment handbook, interviewed workers and management, discussed new pay scheme to ensure equal pay for same or comparable work
	Inadequate protection against racial and gender discrimination and abuse	High	8	Required non-discrimination in employment; confirmed that BRF has had a sexual harassment policy
	Inadequate protection of worker health and safety	Medium	8	Confirmed implementation of OHS plan and required training
	Inadequate consultation on retrenchment procedures	Insufficient information	8	Interviewed workers; reviewed retrenchment plan and discussed its implementation with management
3. Pollution prevention and abatement	Water pollution from run-off of wood chip piles	Medium	6	Required BRF to implement approved Harvest Management Plan designed to reduce water-related impacts; required submission of documentation confirming implementation of plan
4. Community health, safety, and security	Inadequate protection of drinking water quality	Medium	6	Required BRF to coordinate with local communities

	Inadequate protection of charcoalers' security on Firestone plantation		7 and 12	
5. Land acquisition and resettlement	Economic displacement of farmers	Not applicable		Not considered applicable, although OPIC staff noted that some physical displacement may have resulted from construction of a truck maintenance facility
6. Biodiversity conservation	Project activities caused incursions by charcoalers into natural forest	Insufficient information	7	Biodiversity protection incorporated into HMPs
7. Indigenous peoples	Lack of recognition of indigenous people as affected group	Low	6	OPIC accepted MIGA's determination that PS 7 is not applicable
8. Cultural heritage	Disturbance of family grave	Medium	6	EMMP and ESIA accepted by OPIC included provisions to protect cultural heritage, including "chance finds" procedure

11. Reputational Risk

11.1 Issue

How did OPIC use available information about the BRE executive team in its due diligence?

11.2 Framework of analysis

The OA reviewed OPIC's Character Risk Due Diligence (CRDD) results and other information potentially available to OPIC prior to approval of first loan. The OA also received comments about BRE executives from various interviewees.

11.3 Information used to develop findings

Through discussions with various individuals, including donor representatives and investors, and a review of certain documents, including two Senate reports and newspaper articles, the OA determined that there was a certain senior executive of BRE that had been involved in various transactions and professional activities prior to his involvement in BRE that raised potential reputational risks to OPIC. These included prior professional relationships with OPIC and an OPIC senior executive. The OA also determined that there were individuals within OPIC at the time of the decisions on BRE that knew of these activities.

11.4 Application of OPIC policies and procedures

OPIC conducted its normal CRDD on the BRE senior executives for the 2008 and 2011 transactions. The office within OPIC that collects the information for CRDD review was provided with the relevant personally identifiable information for those senior executives. However, it was not provided with any information regarding the activities of one of the senior executives referred to above. The CRDD information search also did not discover information regarding those activities, even though the CRDD processes and procedures were followed. Therefore, the information regarding these activities was not part of the materials that were presented in connection with requests to approve the projects. Although there is no implication that these activities in any way led to any of the allegations that have been made in this case, it does show a gap in the CRDD process.

The gap in OPIC's due diligence could have been consequential with respect to the BRP transaction. Comments by donors to OA suggest that a BRE senior executive's past involvement with a particular transaction and his political connections may have adversely influenced their views toward the proposed BRP agreements with the GoL. BRP needed the donors' support to move forward with their power project.

The OA is not suggesting any improprieties in BRE's actions or that OPIC's initial support for BRE was due to political connections, but only notes that these connections are a matter of public record and that donors and other interviewees expressed concerns to OA about them with respect to both substantive issues and perceptions.

11.5 Adequacy of OPIC's policy framework

The OA finds that the ability of OPIC's CRDD process to identify potential reputational risks, particularly when multiple factors elevate such risks around prospective clients, depends on internal sharing of relevant information. The CRDD process is a collaborative effort, and this particular case demonstrates

the value of information sharing to facilitate timely and robust discussions of reputational risk in internal processes.

12. Engagement with NGOs

12.1 Issue

To what extent could the engagement among OPIC, BRE, and NGOs have been conducted differently to strengthen the prospects for positive development outcomes from the biofuels enterprise?

12.2 Framework for OA analysis

To analyze this issue, the OA reviewed various written documents:

- Correspondence between BRE and each of the three NGOs: Green Advocates, Liberia (GA); Accountability Counsel, USA (AC); and the Centre for Research on Multinational Corporations, Netherlands (SOMO);
- Reports by the NGOs, including Exhibit 12 of the NGO complaint, which describes interactions among the various parties; and
- Written documentation of a series of communications between AC and BRE owners/managers from March-November 2013.

Via phone or in-person interviews, the OA also received verbal comments by BRE and by representatives of the three NGOs about their interactions. Finally, the OA received comments by donors and embassy officials about GA.

12.3 OA analysis

GA and SOMO released “Burning Rubber” in November 2011, which referenced both OPIC’s and MIGA’s financing of BRE. BRE questioned the accuracy of much of the information in “Burning Rubber” and met with the authors to encourage changes to the report before it was released. In March 2013, GA, SOMO and Swedwatch co-authored “Cut and Run”, which criticized BRE’s departure from Liberia.

BRE managers and owners continued to correspond with the NGOs until November 2013. As time progressed, the tone of communications between AC and BRE became increasingly adversarial.

OPIC received and reviewed the 2011 and 2013 reports by SOMO and GA shortly after they were released and corresponded with BRE and the US embassy regarding their content. OPIC and SOMO/GA did not contact each other directly about the reports.

Although the NGOs were aware by 2011 that OPIC and MIGA had financed BRE, they did not contact OPIC about BRE until February 2013 via an email from AC to OPIC’s senior management. At that time, OPIC informed AC that because BRE was no longer an OPIC client, OPIC had no leverage over BRE. OPIC suggested that AC contact the US embassy regarding grievances from affected stakeholders.

In the fall of 2013, AC contacted the OA regarding BRE. Based on the willingness of both parties, the OA intermediated a dialogue between AC and OPIC Management starting in November 2013 and continuing through January 2014. During this period, AC and GA requested a commitment from OPIC to engage in a remediation process for aggrieved parties. However, OPIC was concerned about raising stakeholder expectations for possible remediation, given that it no longer had leverage over the client, did not have programmatic resources that were applicable to the situation, and was not aware of other organizations that did.

On December 20, 2013, AC presented OPIC with a confidential draft of the report “Fueling Human Rights Disasters.” OPIC expressed a need to vet the allegations in the report before discussing any follow up actions with AC. The dialogue ended abruptly when AC publicly released its report on January 22, 2014, and initiated an advocacy campaign whose tactics sought to pressure OPIC into taking remedial actions.

For its part, GA developed a close working relationship with NACUL through which BRE paid greater attention to charcoalers’ issues. GA, however, declined to attend the multi-stakeholder workshop that MIGA convened to address concerns about the charcoalers’ situation. According to the workshop organizer, GA had determined prior to the workshop that BRF’s activities had unequivocally negative impacts on charcoalers.

The OA finds that the engagement between BRF and the NGOs resulted in some benefit for affected local stakeholders up until the point when BRF wound down. The NGO complaint states that BRF strengthened maintenance of smallholder farms after the release of “Burning Rubber.” The more recent dialogue between AC and OPIC began in an open manner, but lack of trust between the parties contributed to their engagement devolving into more defensive and adversarial stances. As a result, this engagement is less likely to affect stakeholders’ conditions, despite the significant resources invested by AC in its advocacy campaign and by OPIC in commissioning this OA review. More generally, the NGOs’ actions with OPIC and BRE suggested that they were more comfortable with arm’s length advocacy than with collaborative approaches to problem-solving.

12.4 Credibility of allegations

Allegation: Private dialogue with OPIC did not result in a commitment from OPIC to engage in a process for discussing a remedy.

The OA finds that this allegation was prematurely made. OPIC had informed AC that it would not be in a position to discuss the possibility of remedy until it had determined whether any remedy was warranted, yet AC did not wait for OPIC to make such a determination before initiating its public advocacy campaign. The OA finds it reasonable that OPIC would first determine if any remedy was warranted because:

- OPIC had legitimate questions about the accuracy of allegations in the complaint.
- The complaint recognizes that Liberia is a difficult investment environment but does not acknowledge that the project sponsors had positive intentions in addressing serious challenges to Liberia’s development.
- The authors accepted verbal accounts from aggrieved parties, despite the recognized incentive for people in this post-conflict society to frame events in ways that might generate compensation.

The OA appreciates that AC sees its role as raising concerns for aggrieved parties, not necessarily to present a balanced perspective. However, the OA finds that the adversarial tone of the complaint created defensiveness within OPIC and thereby decreased the likelihood of collaborative engagement between OPIC and the report’s authors. Moreover, the OA heard from various parties that the “human rights disaster” framing of the allegations in the complaint could discourage responsible financial institutions, private investors, and developers from undertaking future projects in Liberia.

The OA finds that AC prematurely discarded an opportunity to establish a collaborative approach with OPIC for addressing the issues that they raised. First, due to prior interactions between OPIC and AC, the OA observed there to be a lack of trust on both sides. Overcoming that historical distrust would have required time and confidence-building measures.

Second, by the time AC agreed to participate in a dialogue, OPIC no longer had a financial relationship with the project and OPIC's former client (BRE) no longer existed as a legal entity. OPIC is not legally liable for actions taken by its clients. These circumstances could have signaled to the NGOs that the most likely prospect for achieving any measure of redress was to have persisted with a less confrontational approach. While the NGOs contacted OPIC almost two years after becoming aware of local concerns, they were willing to engage in dialogue with OPIC for only two months before initiating their campaign. Although the NGOs asserted there was substantial urgency in addressing the issues facing aggrieved parties, the OA finds that many of the issues raised (e.g., adequacy of wood supply for charcoalers, maintenance of rubber seedlings) were not amenable to a quick fix and potentially would have required coordination among multiple parties.

According to the complaint, BRF's grievance redress mechanisms had not been effective and BRF was insufficiently responsive to concerns raised by NGOs in "Burning Rubber." Since SOMO and GA were aware of the OA, the NGOs could have informed the aggrieved parties of the independent problem-solving services at OPIC and MIGA. The NGOs did not take the opportunity to do so, even though several months elapsed between the release of "Cut and Run" and the end of the financial relationship between OPIC and BRE.

12.5 Application of OPIC policies and procedures

Much of OPIC's guidance to its clients regarding CSO engagement focuses on project-affected people and communities. The OA is not aware of any OPIC policy or procedure that explicitly governs how or whether OPIC, rather than its client, is to engage with civil society regarding an OPIC-supported project. Partly in response to various issues raised by the advocacy NGOs, OPIC did engage with BRF on these issues (up until the point when OPIC had no leverage over BRF) and expanded the scope of a site visit.

Looking beyond those policy requirements associated with specific issues raised by NGOs, OPIC could have considered the following actions:

- Engaged directly Green Advocates and/or SOMO on issues raised in "Burning Rubber";
- Encouraged its client to request independent problem-solving services once tensions between BRF and affected stakeholders began to surface;
- Sought to engage AC in dialogue following the AC's February 2013, communication to OPIC's senior management; and
- Explored other organizations' programmatic resources that might be relevant to some of the alleged grievances (such as the World Bank's smallholder tree crops program).

The OA finds that prior interactions between OPIC and AC (e.g., the Cerro de Oro project and OA procedures update) may have affected how OPIC Management responded to the allegations. Based on this history, Management's views about the credibility and accountability of AC may have led it to distrust the allegations themselves and that attempts at collaboration or dialogue with AC would be

fruitful. Since GA was directly partnering with AC, OPIC Management may not have differentiated between them.

13. Recommendations

The OA has sought to develop recommendations that flow from findings in the review, are likely to be applicable to situations that arise in the future, and are consistent with organizational mandates and resources. At the same time, based on the broad scope of the review combined with the time and information constraints on conducting it, the OA has not necessarily identified the most preferable options for achieving the underlying objectives of the recommendations made below.

Most of the following recommendations are addressed to OPIC. They are followed by additional suggestions directed to the Government of Liberia, international developers/investors, and NGOs.

13.1 Recommendations to OPIC

Many of the findings from this review involve different types of risks (e.g., achieving positive development and environmental outcomes, achieving project sustainability, maintaining human rights, and protecting institutional reputation). Based on these findings, the OA frames several of its recommendations to OPIC in a risk management framework. The recommendations generally do not reflect a radical departure from current OPIC practice, which has been strengthened since the BRE transactions.

Despite the many challenges surrounding OPIC's experience with the BRE projects that are highlighted in this review, as a development finance institution OPIC will and should continue to consider support for risky projects. When OPIC does so, it needs to have robust internal systems in place to manage different risk categories. The OA's understanding of these risks and systems is as follows:

- One type of risk is that OPIC will not get repaid by its client. There is substantial attention paid to mitigating this risk via OPIC's credit processes. For the expansion loan to BRF, OPIC was financially exposed by BRF having only a two-year contract with Vattenfall for its chips, although OPIC convinced itself that there were other markets for BRF's output. BRF relied on continuation of a two-year contract with Vattenfall for its chips and on other markets, in order to service OPIC's loan. When Vattenfall withdrew, OPIC was fully repaid in part because Vattenfall had sufficiently deep pockets to absorb its loss.
- A related risk is that a project will prove not to be financially sustainable and will be shut down. This risk is managed by careful review of the project's financial structure during the due diligence phase. This risk of unsustainability, which is managed by OPIC's credit processes, turned out to be high in the case of BRF. A project could fail financially and OPIC could still get repaid, however, as did happen in this case.
- Another risk is that projected development benefits (e.g., employment, electricity generation, sector rejuvenation) will not be achieved. Clearly, if a project proves to be unsustainable, most projected development benefits will not be realized. This was the case with BRF and BRP. However, a project might be financially sustainable but still not achieve some projected development objective due to, for example, a client shifting its business plan in mid-stream.
- Yet another type of risk is that there will be violations of an OPIC policy or policies. OPIC's policy clearance processes are geared to managing this risk. As discussed elsewhere in this report, OPIC's policy framework has been strengthened since its experience with the BRE projects.

OPIC's policy clearance process results in a binary result, with various conditions attached to clearances, the implication being that risks after mitigation are acceptable.

The BRE experience points to some possible gaps in OPIC's risk management systems, largely related to the risk of achieving projected development benefits.³²

- Credit processes mitigate development risks; however, they do so indirectly because they are primarily geared to protecting OPIC financially. This is clearly important, but this case exemplifies the loss of development benefits even when OPIC is repaid. Moreover, the office within OPIC that reports on projected development benefits bases its findings on the assumption that the project will be financially sustainable.
- In their formal representations to OPIC, prospective clients typically make statements about projected development benefits. In reviewing these statements, OPIC may engage with clients if some claims seem questionable, and OPIC subsequently monitors and reports on achievement of these benefits. OPIC does not, however, conduct an explicit ex-ante assessment of the likelihood that each stated development benefit will be achieved. In the case of BRF, risk factors related to rubber sector rejuvenation might be the client's management capability (given that it had little prior rubber sector experience), the predictably higher cost per ton of chips from smallholders than from large plantations (which didn't need help), and the smallholders' ability to maintain both their rubber seedlings and income streams over the seven year period before the trees matured.
- Even when projects are cleared with conditions, development risks can still be significant because a) the business plan is a moving target; b) OPIC's financial leverage may become attenuated as the project progresses; c) weak rule of law or widespread official corruption may dilute enforcement of host country laws; and d) clients may have limited capacity to achieve development objectives, despite their best intentions. Also, the quality of the clearance process depends on OPIC staff having sufficient access to relevant and accurate information about project, country context, and client characteristics. In this case, BRF overall business model remained more or less stable but its implementation was a constantly moving target that had implications for development objectives. For example, the relative share of wood that BRF harvested from smallholders vs. large plantations shifted over time.
- In a given project, there may be internal tensions between allocating credit risk and development risk. For example, OPIC's legal due diligence regarding contracts does not typically extend beyond ensuring that provisions protect the client's financial interests. In this case, OPIC lawyers required BRF to incorporate provisions in the smallholder contract template with this goal in mind. No office within OPIC is responsible for considering template revisions to mitigate development risk, such as disclosing to farmers what would happen if BRF terminated their contracts before rubber seedlings reached maturity.

³² OPIC's 4R framework does pull together qualitative ratings of development returns, financial returns, financial (credit) risks, and resource requirements. The 4R Framework does not explicitly incorporate development risks, however, although development and credit risks are related.

- Where some project-affected stakeholders are economically vulnerable, project shut down could mean not only foregone development benefits, but also the possibility that some smallholder farmers could be left more vulnerable than they were before.

Possible gaps in how OPIC manages development risks matter because they could dampen the likelihood of a project achieving development benefits. Moreover, if affected local stakeholders are uncertain about how such risks are being managed, they could perceive that the distribution of project risks and benefits is unfair or imbalanced. Such perceptions can in turn give rise to conflicts between affected stakeholders and OPIC clients.

13.1.1 Risk Management Review

The OA suggests that the RMC be tasked with proposing an internal system for managing development-related risks at the project level that is compatible with OPIC's scale and resources.

To address the above gaps, the OA recommends that OPIC examine how its existing processes serve to manage the risk that development benefits are not achieved. In particular, OA recommends that OPIC's CEO task an appropriate internal group to develop an approach for supplementing existing risk management systems to be activated for projects in which development risks are particularly elevated. In June 2014, OPIC established a Risk Management Committee (RMC), whose purpose is to review, evaluate, coordinate, and make recommendations on issues related to various risk categories. The RMC's mandate includes integrating risk management into OPIC's goals and promoting open discussion of risk.

The RMC proposal could include identifying: a) the components of the system, b) how the components would be integrated into existing systems (i.e., Screening and Investment Committees), c) which units within OPIC would be responsible for what tasks, and d) consistency with institutional incentives. As part of its proposal to OPIC senior management, the RMC could establish a time-bound implementation plan, perhaps with a pilot phase, and monitor and report on its progress. As a first step, the RMC could conduct a benchmarking exercise to better understand how other institutions manage development risk.

Although this recommendation focuses on risks to achieving development objectives, given the inter-relationship between credit risk and development risk, the RMC might also examine opportunities to strengthen OPIC's processes and procedures for managing credit risk.

Without prejudging the outcome of an RMC review, the OA suggests that more explicit development risk screening and assessment be considered as one approach, as described below.

Screening

OPIC could consider a screening step to signal the project's overall development risk and match OPIC's allocation of internal resources to the level of development risk.

For a given project, development risk screening might incorporate a set of project, host country, and client criteria at a high level. The screening could result in an overall rating of high, substantial, modest, or low risk. The OA recognizes that the particular confluence of characteristics surrounding the BRE transactions were unusual relative to OPIC's overall portfolio. The following are possible characteristics

that might suggest that a project be screened as having substantial or high risk to achieving its development objectives:

- Recent post-conflict countries within a defined period of time.
- Countries that are below a certain threshold in relevant international indices, such as the Fragile State Index or the Corruption Perception Index, or that have shown a significant drop in ranking, supplemented by specific country reports.
- Potential clients that have limited or no commercial experience in the host country or sector.
- Potential clients that have not established community, labor, or other relevant business management systems when commencing operations.
- Projects in sectors with a history of being high risk from a human rights perspective, such as agriculture and extractive industries.
- Projects with identified beneficiaries or affected stakeholders that are considered particularly vulnerable from an economic or social perspective.

Initial screening for development risk could be conducted as part of the existing Screening Committee process. There would need to be sufficient advance notice for relevant offices (e.g., OIP) to contribute meaningfully to the Screening Committee.

Assessment

OPIC could conduct a development risk assessment for projects that receive a high risk rating from the initial screening.

Risk assessment is a systematic process for identifying and evaluating external events that could adversely affect achieving an organization's objectives, in this case, a project's development objectives. Individual risks can be assessed qualitatively based on nominal or ordinal scales. Qualitative rating scales are necessarily subjective but can be developed to achieve consistency across individual projects.

As one comparative example, Project Appraisal Documents prepared by the World Bank include a section on "Critical Risks and Possible Controversial Aspects." The section potentially covers safeguards, reputational risks, operational risks, governance risks, etc. The risks are summarized in a table along with risk ratings with mitigation for each (high, substantial, moderate, negligible), and mitigation strategies are identified— for example, more intensive supervision or third-party monitoring. This information is available to World Bank managers when they have to decide whether to approve a proposed project for appraisal and sometimes, appraisal followed immediately by negotiations with the client. Clearly, any approaches in use at other institutions would have to be adapted to OPIC's particular circumstances.

The results of OPIC's risk assessment could be presented as a discrete section of the Investment Committee papers. The RMC might establish a simple template for how the results of development risk assessment could be presented in an IC paper similarly to the way in which a credit risk and mitigation table is currently presented. The table below is offered as a partial example of a risk matrix template.

Positive development outcome	Risk to achieving outcome	Mitigation options	Risk rating with mitigation
Smallholder farmers experience economic benefits from entering into relationship with BRF	<p>Absence of baseline socioeconomic information on smallholders as vulnerable project beneficiaries or other vulnerable affected stakeholders could make it hard to know how the project is affecting them</p> <p>Farmers do not have adequate understanding of long-term implications of contracts they signed</p> <p>Farmers lack capital and technical skills to maintain seedlings to maturity</p>	<p>Encourage client to work with qualified local CSO to assist farmers in negotiating and understanding contracts</p> <p>Require third party legal review of contracts</p> <p>Require independent assistance to smallholders in evaluating contracts</p> <p>Business plan provides for adequate assistance with intercropping during tree maturation period</p>	Moderate

13.1.2 Mitigation and monitoring

When OPIC is considering whether to support a project that it determines to have high development risks, staff capacity and other resources need to be confirmed as sufficient for timely client engagement and monitoring.

Risk mitigation has resource implications for both OPIC and its clients. The screening and assessment steps suggested above are intended in part to provide greater predictability in how OPIC will need to allocate its limited staff resources. All else equal, due diligence on projects in sensitive sectors such as agriculture, with start-up clients, or in fragile governance environments, is relatively time and labor intensive for OPIC. Even when a due diligence or monitoring activity is to be done by an OPIC contractor, OPIC staff still need to have adequate bandwidth to establish and manage their contractors. Data collection requirements can also be burdensome for small clients. As noted previously, however, the absence of baseline socioeconomic information about affected stakeholders inhibited OPIC’s understanding about the impact of BRF’s operations. If resources are insufficient to manage development risks for a particular project, OPIC should decline its support.

For those projects that are screened as having high development risks, OPIC should supplement its normal project monitoring channels and procedures.

The OA found a substantial disconnect between the information received by OPIC through its formal monitoring channels and the allegations subsequently presented in the NGO complaint. For example, OPIC received no comments on its ESIA disclosure website, no complaints from aggrieved parties during its site visit, no complaints through OPIC’s labor and environment public email addresses, and little evidence of problems through self-monitoring questionnaires (SMQs) submitted by BRF. (The absence of

communications from affected stakeholders via these formal channels about concerns may be common for OPIC projects overall.)

Beyond these formal channels, OPIC had access to a stream of “red flags” that it received from the US embassy, Liberian press, Liberian and international NGOs, former BRF managers, and donor organizations. OPIC may have discounted some negative reports about BRE from the Liberian press and NGOs due to questionable credibility of some of those information channels, as noted by the U.S. Embassy in Monrovia. Also, OPIC confirmed that BRF maintained worker and stakeholder grievance mechanisms and conducted consultations with affected parties. At the same time, BRF’s operations were far flung and its work culture could have discouraged filing complaints. Local authorities and GoL ministries did receive some complaints but may not have been well positioned to adjudicate them.

Depending on local conditions, OPIC might consider the following options:

- More frequent site visits by OPIC staff.
- Establishment of mechanisms to obtain real time feedback from affected stakeholders that are based on recent advances in cell phone platforms.
- Use of qualified local CSOs as information channels.
- Early notification to both clients and affected stakeholders about the availability of OA services.

Such enhanced feedback mechanisms are no guarantee against conflicts and complaints, but they could enable OPIC to obtain more detail about local conditions and perspectives of vulnerable stakeholder groups and at least have the opportunity to take remedial measures before tensions escalate.

In addition to these measures, there are opportunities for OPIC to improve the project information it receives directly from its clients. For example, the contract templates for OPIC loans and insurance transactions could be amended to incorporate clear provisions for timely notification of any material changes in a project. While it is common for a project to evolve somewhat over the period of OPIC’s involvement, BRF’s business model was a moving target from its beginning to its end, which greatly complicated OPIC’s monitoring and client engagement.

13.1.3 CSO engagement and strategic partnerships

OPIC should explore opportunities on a project-specific basis to promote positive development outcomes through its and its clients’ engagement with civil society in host countries.

All else equal, mitigating development risk may place a heavier upfront burden on smaller OPIC clients because of capacity constraints. For some projects, OPIC and client resources may need to be complemented for effective mitigation. OPIC generally cannot offer technical assistance to strengthen client capacity. Greater use of host country CSOs and other international organizations with which strategic partnerships can be established are two options.

In some cases, achievement of development outcomes can be enhanced by the involvement of third parties. OPIC might consider the following options to promote the potential benefits of CSO-client engagement:

- Help clients vet candidate CSOs through embassy contacts and other local experts to ensure that CSOs have appropriate technical capacity and credibility for the role being considered, as well as requisite transparency and accountability.

- Encourage clients to make use of qualified CSOs to help them understand baseline local conditions and changes in such conditions via joint monitoring exercises.
- CSOs with community engagement capacity can serve as intermediaries with project affected stakeholders, especially when there are vulnerable stakeholders or when the client is entering a frontier market in a sensitive sector.
- For projects with high environmental or social risks, encourage the client to engage an appropriately qualified CSO to serve as an independent monitor and reporter of environmental and social impacts. (Such engagement is already required under environmental legislation in some countries, such as South Africa.)

In any of these roles, the CSO's actual and perceived independence will need to be protected even when they are paid by OPIC's client. Concerns about lack of independence may be ameliorated by establishing appropriate reporting relationships and by having the client's funds managed by OPIC or a local agency.

OPIC may not have internal resources needed to support or complement deficiencies in a start-up client's capacity to succeed in a frontier market. Given that BRF's sponsors lacked some aspects of relevant experience, OPIC staff invested substantial time working with BRF to strengthen its capacity. However, OPIC was limited in the types of support it could provide to address challenging project, country, and client characteristics. Under such circumstances, identifying an organizational partner at the project development stage might have improved BRF's chances of success.

When faced with a fragile country and sector context, or with a client with limited experience, OPIC might seek partners with grant, TA, or in-kind resources that complement its own financing.

The types of challenges posed by the BRE biofuel and power plant transactions would benefit from close coordination between OPIC and other donors active in the host country. The OA thus encourages OPIC to explore potential complementarities between OPIC's resources and resources that may be available from grant or concessional donors. Partners might include other USG agencies, multilateral or bilateral donors, foundations, or NGOs. Resources may be directed to issues such as institution-building to reduce corruption and to provide competent institutions, policies, and procedures within which responsible companies can operate. In countries emerging from long-term civil strife, assistance might target vocational training, including work skills, while also promoting a culture of accountability, safety, and conflict resolution. Other donors may have expertise and experience that are relevant to the business model of OPIC's client.

Looking ahead to future biofuels projects, such support could be directed toward pilot testing alternative models for engaging with growers and consolidating successful models before scaling up operations. Rather than having individual relationships with large plantations, medium-size farms, and smallholders, BRF might have built upon the existing capacities of these groups. The World Bank's ongoing smallholder program in Liberia (STCRSP) is based on cooperation between local small scale farmers and neighboring commercial agribusinesses.

13.1.4 High priority projects

OPIC should consider options for ensuring robust adherence to credit and policy risk processes for projects that are given a high policy priority.

Based on its development mandate, OPIC will appropriately continue to establish priorities for financial support to specific countries and sectors. Normal risk management processes, however, may fall under strain when a project is deemed “hot” as a policy priority. The BRE transactions were “hot” for several reasons:

- Both the BRF and BRP projects were politically important to the President of Liberia for delivering employment and for power generation.
- Achieving private investment in an energy project in Liberia was a policy priority for OPIC and the Bush Administration in the immediate post-conflict period.
- The 2008 transactions were a high personal priority for OPIC’s President at the time.
- The 2011 BRF transaction was important to OPIC’s current senior management from the perspectives of promoting renewable resources and expanding private investment in a post-conflict African country.

The OA did **not** find indications of shortcuts being taken because the BRE projects were high priority. Still, the OA found the following indications that OPIC Management was unusually invested in the BRE projects moving forward because of their high developmental potential.

- OPIC’s then senior management reportedly advocating for BRP with other development institutions.
- The leading role that OPIC line management played in shepherding the projects through internal processes.
- The vigorous and persistent external advocacy of OPIC line management for the power project prior to loan disbursement.
- OPIC’s rebuttals to concerns raised by the U.S. embassy and other donors about the fuel and power plant projects. (The OA notes that U.S. embassies are more typically boosters of projects by U.S. firms.)
- Two OPIC staff interviewed by OA reported experiencing an unusual degree of internal pressure for the 2008 BRE transactions to be approved quickly.

OPIC’s checks and balances may look robust on paper, and OPIC staff have some scope for staff discretion and flexibility to adjust the implementation of policy and credit reviews to elevated risks. Nonetheless, staff may be disinclined to express dissenting views or take discretionary steps that could delay OPIC’s approval or project implementation when they face strong internal or external pressures. One staff person commented to OA that it is difficult for OPIC staff to ignore the status of a politically connected client even when strict instructions are given from Management that the client not be accorded special treatment.

There can be a fine line between “finding” deals and “creating” deals. The direct transition from consultant to OPIC’s senior management to CEO of BRE suggests that this line might have been approached in the initial 2008 BRE transactions. Under OPIC’s current leadership, however, the OA has observed that rigor and discipline in both credit and policy processes have been reinforced, and that OPIC’s senior management has avoided “creating” deals.

Having a senior management that continues to reinforce a culture of respecting concerns and conditions raised by the Credit Committee and by OIP (even when a transaction is strongly supported by OPIC senior management) is important. Because OPIC’s leadership will change in the future, however, OPIC

should also consider the following policies and procedures that serve as a counterweight to perceptions of pressure to move quickly on a deal:

- Determine whether or not the three day requirement for distributing the credit paper to the Credit Committee is sufficient for robust review.
- Limit the direct role that OPIC line management plays in a transaction.
- Limit the extent of OPIC's external advocacy for clients *prior to disbursement* to presenting its views in writing.
- Make more frequent use of Independent Engineers to provide independent views on the range of credit risks, The results of these reviews should be made available in time to potentially affect project decisions

13.1.5 Human Rights

OPIC should establish procedures for enhanced screening, due diligence and access to redress for projects that pose elevated human rights risks.

Risks to adherence to human rights constitute a subset of broader risks to compliance with host country laws and OPIC policy and to achieving a project's development objectives. In the case of BRF, human rights-related risks were elevated by a confluence of factors including the following:

- The business plan did not take adequate account of the constraints imposed by Liberia's post-conflict environment, including the GoL's technical and institutional weakness, and damage to physical infrastructure.
- BRF's senior management did not have prior experience in the rubber sector or in operating a commercial enterprise in Liberia.³³
- The component of the business plan involving smallholders was logistically and socially complex.
- A policy and informational vacuum was created by the GoL's technical and institutional weaknesses.
- A culture of official corruption and dependence made it difficult to understand agendas and incentives in GoL decisions. BRE managers complained about being frequently solicited for bribes.
- Besides being a large employer, BRF's activities directly and indirectly affected vulnerable social groups.

The OA encourages OPIC to use the forthcoming review of the ESPS to establish screening and due diligence procedures, including the identification of criteria for the conditions in which a Human Rights Impact Assessment would be required and guidance on matching the level of human rights risk with requirements for a project grievance redress mechanism.

Screening criteria might incorporate country, sector, and client characteristics. With respect to screening procedures, OPIC could supplement current project screening for environmental sensitivity (A, B, C, etc. categorization) and labor rights sensitivity (Special Consideration) with a (non-labor) human rights screening process. As one possible approach, OPIC could develop explicit criteria that trigger

³³ The OA considers stakeholders to be vulnerable, for example, when their economic or social circumstances afford them little flexibility to rebound when disruptions to their livelihoods occur.

enhanced human rights due diligence on the basis of a set of country, project, and client characteristics. With respect to host country context, criteria might target countries whose fragile governance characteristics (e.g., weak rule of law, corruption) pose human rights risks (e.g., personal security, gender or ethnic discrimination/violence), or where national human rights laws are below international standards. The purpose of a project screening process is to identify projects in which elevated human rights due diligence is warranted, which would supplement the existing State Department-led Human Rights Review.

For that subset of projects in which screening results suggest enhanced human rights due diligence, OPIC clients would be required to undertake an independent human rights impact assessment, similar to the requirement for conducting an ESIA under a Category A determination. Candidate independent HRIA frameworks are available. Since OPIC already adheres to IFC Performance Standards and any subsequent revisions, OPIC might consider IFC's Guide to Human Rights Impact Assessment and Management (HRIAM) tool. The subset of OPIC projects that would be required to undertake HRIAs is expected to be relatively small. Still, the continuing OPIC priority for supporting projects in Africa and post-conflict countries underscores the relevance of this recommendation.

Besides provisions related to screening and HRIA, human rights due diligence may need to be elaborated in the ESPS in other respects. For BRF, OPIC did not have a mechanism for differentiating commercial contractors from vulnerable stakeholders who are in a project's value chain. Although OPIC now has a social specialist, the ESPS needs to expand the scope of groups that might be considered vulnerable to include value chain contractors or service providers. When vulnerable groups are identified, OPIC's due diligence should require that baseline socioeconomic data be obtained for an ESIA. When warranted, OPIC's client engagement could then provide for third-party assistance being provided to people like smallholders that are entering into commercial contracts with an OPIC client.

Finally, OPIC should pursue options for strengthening access to redress by affected local stakeholders. Besides ensuring that a client's project grievance mechanism is commensurate with the level of human rights risk, OPIC should take steps to promote awareness by affected communities of the problem-solving services offered by the OA. At present, OPIC does not provide a means for affected stakeholders like smallholder farmers, workers, and charcoalers to learn about these services. One recently tested option is for OPIC clients to use their existing communication channels with local communities to transmit OA-provided information about its services.

13.1.6 GHG Emissions

OPIC should consider options for ensuring that its approach to GHG due diligence on biofuel projects and its priority for financing renewable resources are consistent with each other.

The status quo policy regarding OPIC's treatment GHG emissions from biofuel projects is that:

- For its portfolio GHG accounting purposes, OPIC adopts a simplifying assumption that biofuel projects are carbon neutral. OPIC does not conduct lifecycle analysis of carbon emissions.
- OPIC does not evaluate or opine on public claims of carbon neutrality in biofuel projects that are made by its clients.
- OPIC assigns a high priority to supporting renewable energy, including biofuel projects, in part because of carbon emissions benefits.

In the case of BRE, the OA finds the above policy components to be at least confusing and potentially misleading to the public. Various factors (e.g., the fate of the wood that was harvested, the fossil fuels used in harvesting and transporting the harvested wood, and extent to which rubber seedlings will reach maturity) exemplify the complexities of carbon analysis. The OA recognizes that there is not an international consensus on what constitutes a valid approach to carbon accounting. At the same time, OPIC's current approach results in a wide range of uncertainty about the extent to which biofuels projects that it supports have real carbon emission benefits.

The OA notes that some other financial institutions (e.g., IFC) take a more nuanced approach to assessing a project's climate friendliness that is not just for portfolio purposes. However, recognizing that OPIC's current resource constraints may preclude it from undertaking a more scientifically defensible approach to carbon accounting for individual projects (such as life cycle accounting), OPIC might consider the following options:

- Clarify to the public that OPIC takes no position on a client's or its ESIA's claims regarding carbon neutrality, nor does OPIC conduct its own analysis of carbon emissions for individual projects.
- Explicitly recognize in clearances when carbon leakage constitutes a risk to achieving a renewable energy project's development objectives.
- For biofuels projects, conduct due diligence and monitoring on the sustainability of harvesting/replanting/maintenance to promote consistency between client claims relating to carbon sequestration and on-the-ground experience.

13.1.7 Reputational risk

OPIC should consider whether any changes are needed to current policies and procedures to mitigate reputational risks related to clients.

OPIC is occasionally asked to provide support to clients or projects that posed elevated reputational risks, for example, an enterprise whose CEO has prior professional involvement with OPIC or a member of OPIC's senior management. Based on the BRE transactions, the reputational risk can be related to how such situations are perceived by external stakeholders. In this case, relevant information about a BRE executive's background was known to OPIC's management, but was not included in the Investment Committee paper for the expansion project in the section on reputational risk.

Options include the following:

- To the extent that OPIC management and members of OPIC's deal team are aware of potential reputational risks, transmit that information to the CRDD process in order to increase the likelihood that relevant information will be captured and discussed internally.
- Ensure adequate information and lead time to review reputational risks in project screening and Investment Committee meetings.
- Engage OEA in discussions around known reputational risks related to project sponsors.
- Establish a cooling off period between an OPIC contractor's employment end date and their senior level involvement in a proposed OPIC transaction.³⁴

³⁴ OPIC's mandatory cooling off period covers employees but not contractors.

13.2 Recommendations for other parties

13.2.1 Recommendations to the Government of Liberia

As of September, 2014, Liberia is facing a serious public health crisis. Although the recommendations below for strengthening the investment environment may be considered in the longer term, the OA appreciates that getting the Ebola epidemic under control is clearly the immediate national priority.

The Government of Liberia should undertake governance reforms geared to improving the environment for responsible private investment.

- Host governments for foreign investment have a key role to play in determining whether responsible investors are attracted into their country. Former BRE executives and others offered a number of recommendations to the GoL that would encourage future private investment by responsible companies.
- Responsible investors prefer robust, consistent, and predictable regulation to weak regulation because their reputation and social license are based in part on being able to demonstrate to the public that they are following the rules. When policy decisions and their implementation are opaque, the information void can give rise to public rumors that rules are not being followed due to corruption, particularly where trust in public institutions is low.
- The investment environment would also benefit from improved coordination and communication among different ministries and more clear separation of powers between legislative and administrative branches of government. Of the four ministries that the OA visited, three expressed positive views about BRF. (The OA did not meet with those ministries relevant to the power plant.) Still, signals to BRE were sometimes mixed. Former BRF managers cited the need for coordination across ministries and between the President's office and ministries. At least one observer suggested that Parliament set overall policy but then leave the day-to-day execution of policy to administrative agencies. In particular, Parliament should not be involved in approving concession agreements or PPAs. In the OA's discussions with ministries of environment, agriculture, and forests, there did not seem to be a consistent policy or view regarding what use of the stock of old rubber trees would be in Liberia's best interest.

The Government of Liberia needs to take further steps to combat corruption and protect the human rights of its citizens.

- Anti-corruption measures serve to both improve the investment environment and reduce the potential for human rights abuses. Companies that are asked to pay bribes but refuse to do so can expect delays in receiving government approvals. Anti-corruption programs might be strengthened via establishing channels for anonymous reporting and further professionalizing the police force.
- Several of the human rights-related allegations in the NGO complaint concern illegal activities that, if true, occurred with impunity. The primary responsibility to protect human rights lies with the GoL. The GoL should establish effective channels for redress of grievances at the local level. Besides continuing to professionalize local police, these measures could include, for example, a mediation court and ombudsman offices within administrative agencies. The GoL

might build upon recent donor-supported programs to establish local mediation services around land issues.

The Government needs to develop the capacity and authority to effectively convene donors and investors.

- The Government of Liberia needs to take control of donor/investor disputes that arise around public or private development projects. When a country has been as dependent on donor support as has Liberia, it may be difficult to avoid deferring to those with the money. But in the case of BRE, the inability of the GoL to compel parties with divergent views about BRP's power plant to resolve their differences was a factor that contributed to a promising opportunity being foregone, possibly discouraging future investors in the power sector.

13.2.2 Recommendations to investors and developers

When entering a frontier market in a post-conflict environment with fragile governance, investors/developers need to adopt a "patient capital" approach.³⁵

- The OA believe that a more deliberate and open stance would have increased BRF's prospects for achieving sustainability. The majority BRE owner invested a substantial amount in BRF through Pamoja Capital and wanted it to generate a significant cash flow within a limited period of time, especially given his intention to play a more catalytic than long-term role in the enterprise. Former senior BRE managers and owners told OA that the owners were too optimistic about the feasible pace of establishing and expanding the enterprise.
- Given host country conditions, it may be prudent for developers to double the time in their business plan that they would normally allocate as necessary to reach production/cost/revenue targets. BRE faced delays due to logistical challenges, government approvals, corruption, worker training needs, infrastructure weaknesses, etc. The business plan should ensure that the pace of growth does not outstrip the establishment of management capacity around key functions, including community and government relations. At one point, the same BRF manager was responsible for most non-operational aspects of BRE including HR, CSR, logistics, and government relations. For a company of BRE's size and complexity, this portfolio was too much for one person to manage effectively.
- Developers should cultivate relationships with technical level staff in line ministries rather than go above their heads to the political level. For some issues, BRE management reportedly sought to sidestep government approvals at the technical level in ministries by seeking to engage support at the political level. According to a former Liberian manager, a BRE owner had direct access to President Johnson-Sirleaf as a result of philanthropic activities and used this access to enlist her political support for BRP, despite technical concerns raised by the energy ministry and Parliament. The same former manager observed a backlash in the form of lack of cooperation from senior ministry personnel who were disgruntled by being bypassed and by pressure from above.

³⁵ Further information about successful investing in post-conflict environments can be found on the OA website: <http://www.opic.gov/sites/default/files/files/Fragile%20Governance%20Advisory%20Note.pdf>

- Finally, investors should not assume that their projects are immune from criticism just because they believe they are promoting sustainable development through philanthropy or investment. The OA was also told by multiple sources that some BRE owners and executives adopted a defensive or dismissive attitude toward external criticism. For example, a former BRE owner’s reported reaction to the NGO complaint is “no good deed goes unpunished.”

13.2.3 Recommendations to advocacy NGOs

To effectively advocate for the interests of aggrieved parties, NGO strategies might take account of the interests and constraints facing project developers, investors, and lenders.

Advocacy NGOs often play critical roles in international development projects as watchdogs and/or representatives of affected stakeholders whose voices might not otherwise be heard. Such roles are especially important where the host country government has limited capacity to enforce laws and regulations at the local level, or when communication channels available to affected stakeholders are otherwise weak. In the case of BRF, NGOs brought the concerns of workers, farmers, and charcoalers to the attention of GoL ministries, BRF management and owners, and eventually OPIC.

Because public advocacy campaigns are intentionally highly visible, they have the potential for affecting future investment in the host country, especially when the project targeted by the campaign looms large in terms of overall inward investment flows. Responsible investors are more likely to be deterred from investing in a given country because of controversies around projects than investors who don’t care as much about their reputations. Besides the importance of basing campaigns on accurate and vetted information, rhetoric and tone matter if ripple effects on future investment are a consideration.

In this case, the written complaint submitted by GA and AC to OPIC before it was made public essentially accused OPIC and BRE of complicity with human rights abuses. Faced with such an accusation, most organizations would respond defensively and lose interest in further engagement. Although counterfactual results from a less confrontational approach cannot be known at this point, the manner in which the NGOs chose to elicit OPIC’s attention on their concerns reduced the likelihood for any sort of collaboration around addressing the actual grievances of Liberian stakeholders.

14. Annexes

14.1 OA review team and methods

14.1.1 Review Request Memo

OVERSEAS PRIVATE INVESTMENT CORPORATION
WASHINGTON, D.C. 20527, USA



OFFICE OF THE
PRESIDENT

Internal Memorandum
February 20, 2014

From: Elizabeth Littlefield 

To: Keith Kozloff

Subject: Request for Office of Accountability to conduct a "lessons learned" review of the Buchanan Renewable Energy projects in Liberia

Over the period, 2007-2011, OPIC supported a series of transactions in support of Buchanan Renewable Energy (BRE), an enterprise designed to bring jobs, economic development and power to Liberia by constructing a biomass power plant and by harvesting and processing unproductive rubber trees and using the chips to: (a) export to European markets; and (b) power the proposed biomass plant in the country. Unfortunately, for reasons outside of OPIC's control, these projects did not progress as planned and our clients folded their operations in Liberia in early 2013.

Because of a host of factors including the complexity of project structure, the very low income of the country, the engagement of large amounts of low-wage labor, and the general difficulties of operating in post-conflict environments, I and the rest of OPIC management want to extract lessons that could be applied to future OPIC projects in similarly difficult markets.

In January, 2014, a US-based NGO released a report and a short video alleging a series of misdeeds committed by BRE during the time of OPIC's support for the company. OPIC's contractual relationship with Buchanan ended in January, 2013, and we no longer have any legal arrangement with the company and thus no obligation to investigate. That said, we feel that issues raised in the report are of sufficiently serious a nature to merit a rigorous review. The project provides a unique opportunity for OPIC to review its engagement, assess the overall development impact of the project and to generate lessons for OPIC and other actors engaged in complex development projects in post-conflict countries.

Consequently, I am requesting that OPIC's Office of Accountability (OA) conduct a robust, independent internal review of OPIC's overall experience with the project, in order to generate lessons that might be applied to future projects. This review will seek to assess: (a) the credibility of allegations made against OPIC's client (both relating to projects supported by OPIC and those where OPIC was not engaged); (b) OPIC's application of relevant policies and procedures to the projects; and (c) the adequacy of OPIC's policy framework in the context of relevant country, sector, and client characteristics. Depending on its findings, the resulting

report may make suggestions for OPIC's approach to future projects relating to policies, procedures and/or good practices. This request is consistent with the OA's existing authority and mandate.

Further, I endorse the following planned components of the review process:

- The OA will have authority to specify the review's scope and design within the objectives of this request, access to all relevant information, and sufficient resources to implement the review in a timely manner.
- Once it has completed the review, the OA will circulate a draft report to Management for review of its factual accuracy. Upon incorporating comments from Management, the OA will finalize the report and transmit it to Management and the Board.
- OPIC's Management will prepare a written response to the report that addresses its observations and recommendations.
- The OA will post a substantive summary of the report on the OA's public website along with Management's response.
- To the extent that Management's response calls for changes to an OPIC policy or procedure, the OA will report to OPIC's P&CEO and Board on the implementation of the changes with respect to appropriate future projects.

Thank Keith,
Suzanne

14.1.2 Review team

The OA Buchanan review team consisted of the following:

- Keith Kozloff, OA Director
- Tom Walton, an independent environmental impact and management specialist with extensive field experience in Liberia reviewing World Bank and other development projects
- Helena Hallowanger, Forestry Sector Project Manager, Liberia Agency for Community Empowerment
- Separate interpreters for meetings with Bassa and Kpelle speaking interviewees
- Katherine Lafen and Peter Tierney, graduate students at the University of Maryland, and Christina Economy, graduate student at the University of Cambridge

14.1.3 Review methods

1. Collection and evaluation of internal written information and OPIC staff interviews

The team reviewed an extensive set of documents. See Annex 13.2 for a comprehensive list. The following OPIC staff with some role in the transactions were interviewed:

- Bob Berry
- Jim Polan
- Diana Jensen
- Arfa Alam
- Mary Boomgard
- Sanjeev Aggarwal
- Bill Pegues
- Lori Giblin
- Margaret Kuhlow
- Allan Villabroza
- Carlos Stagliano
- Alex Evans
- Lori Leonard
- Ralph Matheus

To promote candor by OPIC staff, former BRE managers and other parties, the OA offered interviewees the option of their comments being not for individual attribution in this review.

2. Site visit to collect information from stakeholders in Liberia

The site visit was conducted over a 10 day period, with pre- and post-visit activities by Ms. Hallowanger and her team.

The OA team met with GoL, former BRF managers, former BRF workers, rubber farmers ranging from smallholders to Firestone, charcoal workers, donor agencies, NGOs, and embassy staff. The meetings included:

- GoL: Ministry of Agriculture, Forest Development Agency, Environmental Protection Agency, Ministry of Labor. A meeting was also sought with Ministry of Lands, Mines and Energy but was unable to be arranged due to time constraints.
- Former BRF managers: Individual meetings were held with former Liberian BRF managers: Floyd Thomas, Nelson Hill, Roosevelt Gould, and also with people that Ms. Hallowanger met including Benson Whea and Momolu Varney.
- Former BRF workers: The OA Director and his US consultant met with a group of about 30 male workers, while the OA's Liberian consultant met with a group of female workers. The team also met with the labor union representing the former workers.
- Rubber farmers: The OA team (OA Director, US consultant, Liberian consultant, assistant, and Bassa translator) met individually with 8 smallholder farmers mostly on their farms, the head of the Rubber Farmers Association of Liberia, and senior managers on the Firestone Plantation.
- Charcoal workers: The OA team met with a group of charcoal workers on the Freeman Reserve which is adjacent to the Firestone Plantation. The OA Director, US consultant, and the Liberian Consultant's assistant met with a group of 20 male charcoalers, while the Liberian consultant and Kpelle translator met with female charcoalers. In addition, the team met the National Charcoal Union of Liberia (NACUL).
- Kozloff and Walton met with non-USG donor agencies including World Bank, IFC, EU, NORAD,
- Kozloff and Walton met with embassy staff (USAID, economics and commercial officers, and the Ambassador)
- The team met with Green Advocates and Accountability Counsel. Kozloff conducted phone conversation with SOMO.
- Kozloff met with Steve Cashin of Pan African Capital Group.

In addition, the OA inspected several farms and recorded the condition of the young rubber trees that had been planted by BRF. The team also visually confirmed that the large pile of composting wood chips formerly at the port of Buchanan are now gone.

3. Post-site visit activities

The OA team prepared an initial draft of the report following the site visit. This draft was circulated to OPIC staff who were previously interviewed as a check on factual accuracy. In addition, the OA Director held meetings with those offices within OPIC that would be potentially responsible for implementing recommendations emerging from the review. These inputs were used in revising the draft.

14.1.4 Constraints on the review

The review was constrained by several factors:

- Because BRE no longer exists as a corporate entity operating an enterprise in Liberia, it was difficult to obtain an official version of the client’s perspective. Moreover, corporate records that could potentially shed light on some allegations are kept in a locked storage container on a farm two hours outside of Monrovia, to which only one person has keys.
- Most of the events alleged in the complaint took place between 2008 and 2012, with the lapse of time between the events and the review sometimes limiting interviewees’ abilities to recollect details and dates.
- The aggrieved parties were contacted by the NGOs bringing the complaints just prior to the OA team’s visit, and their responses to OA questions suggested that some had been coached by the NGOs on what to tell the OA team.
- According to donors interviewed by OA, Liberian society is still affected by a legacy of distrust of institutions and “donor dependency” where people try take advantage of perceived financial opportunities. OA interviews may have been influenced by such perceived opportunities for financial gain.
- The OA team does not have formal expertise in conducting forensic investigations. Although such an investigator could conceivably have been hired, the OA Director determined that the primary objective of generating lessons for OPIC could be achieved even if the credibility of some allegations could not be fully resolved.
- The GoL is not in a position to constitute a comprehensive repository of the type of allegations made in the complaint, much less independently and consistently adjudicate them.
- When AC and GA learned of the timing of the OA’s site visit, AC made a quick trip to Liberia for the ostensible purpose of clarifying the purpose of the OA’s site visit to affected stakeholders. From the OA’s perspective, this was unnecessary and unwanted. The OA had already been working closely with a Liberian consultant who had extensive experience engaging with rural communities in the field. The challenges faced by the OA in subsequently establishing the credibility of allegations in the complaint were, if anything, exacerbated by the NGOs’ interactions with affected stakeholders that they initiated just prior to the OA’s site visit.

The OA’s assessment of the various allegations in the complaint fall into several categories of credibility. These categories are shown below with some examples:

- *Visual evidence that corroborates oral accounts* – level of maintenance on seedlings, offspring of female charcoalers
- *Broad contextual conditions are consistent with allegation* – gender violence
- *Convergence of multiple independent sources of oral information* – PPE issues, project grew too fast to manage labor issues, racist behavior by expats
- *Disputed oral versions with lack of documentation or independent corroboration of either version* – BRF offering to pay \$5 or \$10 per tree and then reneging
- *No evidence* – it was inevitable from start that project would fail.
- *No opinion due to inability to test allegation—people becoming sick due to water pollution from chip piles*

In the aggregate, the site visit and related research narrowed the wide-ranging divergences among different parties’ versions of past events, though it did not often eliminate these divergences.

14.2 Partial listing of reviewed documents

Category	Title	Author(s)	Date	Classification
Buchanan Project Documents: Environmental	BR Fuel Harvest Management Plan (HMP) Sept-Dec 2009	BRF	09/12/2009	Confidential
	BR Fuel HMP May-Aug 2010	BRF	05/08/2010	Confidential
	BR Fuel HMP Sept-Dec 2010	BRF		Confidential
	HMP Q4 Oct-Dec 2011	BRF	10/2011	Confidential
	HMP 2012 Jan-June 2012	BRF	01/2012	Confidential
	HMP Q4 2012 Oct-Dec 2012	BRF	10/2012	Confidential
	BR Fuel Harvest Management Plan H1 2013	BRF	2013	Confidential
	BR Fuel Environmental Monitoring Report 2009	BRF	2009	Confidential
	BR Fuel Environmental Monitoring Report 2011	BRF	2011	Confidential
	BR Fuel Mitigation Action Plan	BRF	2011	Confidential
	BR Fuel Environmental Monitoring Report H2 2012	BRF	2012	Confidential
	Buchanan Environmental and Social Action Plan	BRF	2011	Confidential
	Harvesting Best Practice Manual	BRF	01/03/2010	Confidential
Buchanan Project Documents: Farmers	Plantation Rejuvenation Agreements	BRF	2008	Confidential
	Redundant Rubber Agreements	BRF	2009	Confidential
	Termination notices	BRF		Confidential
	Woodchip pay slips	BRF		Confidential
Buchanan Project Documents: Employees	Employee handbook	BRF	July 2009; revised Feb 2011	Confidential
	BR Fuel Stakeholder Grievance Mechanism	BRF	06/27/2011	Confidential
	Employee Training Plan	BRF	2011	Confidential
	Buchanan Grievance Process	BRF	10/14/2011	Confidential
	Occupational Health and Safety Plan	BRF	04/2011	Confidential
	BR Fuel Fire Safety Plan	BRF	06/2009	Confidential
	Restructure Game Plan	BRF	01/28/2013	Confidential
Buchanan Management Documents and Internal Correspondences	Board minutes- BR Power	BRE	01/18/2008 03/10/2011	Confidential
	BR Fuel II- Project Completion Agreement	BRF, Pamoja Capital Ltd.	01/2012	Confidential
	Email correspondence regarding Liberian House Com. Decisions	A. Baillie & J. Steele	05/24/2012	Confidential

	Email correspondence regarding Liberian House Com. Decisions, BR Group statement	A. Baillie & J. Steele	05/24/2012	Confidential
	BRF CSR policy statement			
	BR Introduction Presentation: "Helping Liberia become the world's first biomass driven economy"	BRE	02/2010	Confidential
	BR Business Plan	BRE	07/2010	Confidential
	Correspondence between J. Steele, A. Baillie on HoR BR Power Review	BRE	05/24/2012	Confidential
	Correspondence between AC and BR management & legal	BRE	03/2013-11/2013	Confidential
Buchanan PR	BR Newsletter	BRF	Q1 2012	Public
	Buchanan Renewables Fact Sheet	BRE	02/2012	Public
Third Party Environmental Reports (commissioned by BR)	Environmental Management Plan	Earthtime	November 2009	Public
	Environmental Monitoring and Mitigation Plan	Earthtime	07/01/2009	Public
	ESIA Salala Plantation	Earthtime	2008	Confidential
	Earthcons Scoping Report BR Fuel	Earthcons	11/2007	Confidential
	James Siggs Scoping Report	James Siggs	12/2007	Confidential
	Development of BioFuel Resource-Liberia Rubber Tree Utilization	Schaeffer & Associates	11/2007	Confidential
	Harvesting Management Plan, Feb. 2009	EarthCons Inc., Emmanuel Weill-Halle, BRF	02/27/2009	Public
	Harvesting Management Plan DRAFT	EarthCons	02/06/2009	Confidential
	BR Fuel ESIA	EarthTime	10/2009	Public
	BR Power ESIA	Earthcons	10/2009	Public
SMQs	Self-Monitoring Questionnaire FY 2009	Steven Jacot-Descombes	06/30/2010	Confidential
	Self-Monitoring Questionnaire FY 2010	Don Durand	06/27/2011	Confidential
	Self-Monitoring Questionnaire FY 2011	Alexandra Baillie	07/31/2012	Confidential
OPIC Project Approval and Clearance Documents	Initial Loan Request, BR fuel			Confidential
	OIP Questionnaire	OIP	06/04/2008	Confidential
	Loan Agreement	OPIC	03/23/2009	Confidential
	BR Fuel Environmental Clearance RFA 200824	Carolyn Cannella, Mary Boomgard, Sanjeev Aggarwal	11/26/2008	Confidential
	BR Fuel Environmental Clearance RFC2009039 Insurance	OIP	02/10/2009	Confidential
	BR Fuel II Environmental Clearance RFC 2011049	Mary Boomgard	03/11/2011	Confidential
	BR Power Environmental Clearance RFC 2008201	Sanjeev Aggarwal, Mary Boomgard	11/13/2009	Confidential

	BR Fuel Economic Clearance	Stephanie Price, Berta Heybey	08/08/2008	Confidential
	Fuel Expansion Economic Clearance	Lori Leonard, Berta Heybey	01/18/2011	Confidential
OIP Monitoring Documents	Liberia Monitoring Trip Report; Buchanan Renewables	Carlos Stagliano	03/17/2013	Confidential
	BRF Risk Assessment Summary		01/11/2010	Confidential
	Trip notes	OIP	April 2012	Confidential
	OPIC BR Fuel Env. Questions & responses	Carolyn Cannella, Sanjeev Aggarwal	01/29/2008	
	OIP Memorandum: Review of the submitted EMMP for BRF	OIP	07/07/2009	Confidential
	"Buchanan Screen"	OIP	undated	Confidential
	OPIC Responses to embassy concerns	OPIC	?	Confidential
	Email Update from M. Kuhlow on Heritage newspaper article	Margaret Kuhlow	12/12/2012; 12/04/2012	Confidential
	OPIC- Embassy Monrovia Cable Correspondence		10/05/2009 01/03/2011 03/12/2012	Confidential
	OIP Summary of Embassy Monrovia Cables Related to BR	OIP	?	Confidential
	OPIC Cable responses to Embassy Monrovia	OPIC	?	Confidential
	West Africa OIP Monitoring Trip presentation	Carlos Stagliano, Arfa Alam, Mary Boomgard	04/2012	Confidential
	OPIC Environmental Questions Supplement	OIP	11/11/08	Confidential
	Preliminary Review of submitted HMP draft	OIP	Not dated	Confidential
	Second HMP Review	OIP	Not dated	Confidential
	Material Rejuvenation Agreement Key Provisions	OPIC	Not dated	Confidential
	OPIC Environmental Conditions Precedent	OPIC	Not dated	Confidential
	OIP Email Correspondence on Conditions Precedent with A. Baillie	OIP	June to July 2011	Confidential
OPIC Committee Documents	Investment Committee Paper	OPIC	01/19/2010	Confidential
	Investment Committee Minutes	OPIC	08/13/2008 10/22/2008 01/19/2011	Confidential
	Credit Committee Minutes – Buchanan Projects	Buchanan Projects Credit committee	08/06/08 09/24/08 01/10/11	Confidential
	Board of Directors Meeting Minutes	J. Polan, D, Jensen, A. Evans	09/18/2008 03/10/2011	Confidential
	Project Completion Agreement	Pamoja Capital Ltd. & OPIC	01/2012	Confidential
OPIC Public Documents	OPIC Press Release, BR Fuel expansion Press Release	OPIC	03/10/2011	Public

	BR Power Project Summary	OPIC	2008	Public
	BR Fuel I Project Summary	OPIC	2008	Public
	BR Fuel II Project Summary	OPIC	2011	Public
	Press release- Fuel expansion	OEA	03/10/2011	Public
	Project Snapshot, OPIC Blog	OEA	07/06/2011	Public
	OPIC in Action: Biomass in Liberia	OPIC public site	undated	Public
OPIC Correspondences	FOIA Request for Records Concerning BR Power Loans	Wilson Sonsini Goodrich & Rosati on behalf of AC, to Nichole Cadiente	03/06/2013	Public
	Emails between J. Morton and Natalie Bridgeman Fields of AC	OPIC	01/2014	Confidential
	Suggested Lessons Learned for OPIC Relating to the BR Project	Green Advocates	05/30/2014	confidential
MIGA Documents	Project Appraisal Document	World Bank	05/31/2012	Confidential
	Environmental and Social Review Summary (ESRS)	MIGA	11/18/2010	Confidential
	Buchanan Renewables Charcoal Impact Assessment Report	Tracey Draper	2011	Confidential
	Overview of Harvesting Non-Productive Rubber Trees & Charcoal Production in Liberia	MIGA	01/30/2012	Public
	Buchanan Renewables Fuel, Inc. Project Brief	MIGA	2010	Public
	MIGA news brief: "Stakeholders Gather in Liberia to Discuss Challenges Facing the Country's Charcoal Industry"	MIGA	03/09/2012	Public
Vattenfall Documents	Vattenfall- Environmental Due Diligence Report: Monroe Liberia Wood Fuel	Vattenfall	08/12/2009	Public
	Vattenfall- Social Responsibility Due Diligence Assessment: Liberia Wood Fuel Project	Vattenfall	08/12/2009	Public
	Vattenfall- Climate Considerations of the Monroe Project	Vattenfall	08/12/2009	Public
	OPIC Vattenfall Presentation	Vattenfall	08-31-2011	Confidential
	VBL Sales Update	Vattenfall	08-31-2011	Confidential
Independent Reports	K&M Engineering report	K&M		Confidential
	Independent Review of BRP IPP's Biomass Energy Project in the Republic of Liberia	Gov of Norway and NORAD	09/14/2009	Confidential
GoL Documents	Environmental Permit	EPA	12/19/2008	Public
	FDA Charcoal Workshop Invitation	Moses D. Wogbeh, Acting Managing Director FDA	02/02/2012	Public
	Letter from Ellen Johnson Sirleaf in support of BRP expansion	Ellen Johnson Sirleaf	03/08/2011	Confidential

	Letter to the Liberian FDA, MOA and EPA on Research	Green Advocates	04/18/2011	confidential
	Letter of Request to the Liberian EPA	SOMO	10/03/2011	confidential
	Letter from EPA to SOMO	Liberia EPA	12/12/2011	confidential
Project Complaints	Cut and Run	SOMO: Tim Steinweg, Kristóf Rácz, Joseph Wilde-Ramsing; Green Advocates: Alfred Brownell, Francis Colee; Swedwatch: Fredrik Sperling	03/2013	Public
	Burning Rubber	SOMO & Green Advocates	11/2011	Public
	Fueling Human Rights Disasters	Accountability Counsel	01/22/2014	Public
	OPIC Complaint Letter	Representatives of 3 stakeholder groups	01/22/2014	Public
Contemporaneous Information on Liberia and Buchanan	Rebuilding Liberia	Time Magazine	07/13/2009	Public
	Liberia: New Life for Old Rubber Trees	Irinnews.org	06/18/2010	
	Liberia: Rubber plantation workers strike over conditions, pay, child labour	Irinnews.org	02/10/2006	Public
	Annual Report: Liberia 2007	Amnesty International	2007	Public
	Annual Report: Liberia 2010	Amnesty International	05/28/2010	Public
	Vattenfall wants to generate electricity from shredded rubber trees	African Times, Marc Engelhardt	10/2010	Public
	BR Brutalizes Liberian Staff Victim Flown to Ghana	Daily Observer, Keith Morris	03/19/2012	Public
	'Protesters are Paid Agents of Buchanan Renewables', Asserts Grand Bassa Lawmaker	Monroviapost.com	06/22/2012	Public
	Liberia: Aggrieved BR Female Workers Want Ellen's Intervention	Heritage (Monrovia)	11/30/2012	Public
	Liberia: BR Technical Training Center Nearing Completion in Grand Bassa	AllAfrica.com	12/07/2012	Public
	Liberia: Bassa Youth Blast Lawmaker, Call on President Sirleaf to Approve BR Power Plant	Global News Network	10/23/2012	Public
	Electricity Scam?	Themonitor.com	Article undated;	Public

			printed 04/03/2012	
	The Global Integrity Report: 2009-2011	Globalintegrity.org		Public
	Worldwide Governance Indicators: Country Data Report for Liberia, 1996-2012	World Bank Institute		Public
	Failed States Index: Liberia Country Data and Trends	The Fund for Peace	2007; 2010	Public
	Transparency International Corruption Perceptions Index: Liberia	Transparency International	2007; 2009	Public
	Human Rights Report	Department of State	2007; 2009	Public
	Global Corruption Barometer 2013: Liberia	Transparency International		Public
	Overview of Corruption and Anti-Corruption in Liberia	Transparency International	03/05/2010	Public
	Rule of Law Index: Liberia	WJP Rule of Law Index	2010-2014	Public
	Buchanan Renewables and Employees Reaches Collective Bargaining Agreement	The 1847 Post	06/06/2012	Public
	Bassa Caucus Allays BR Workers Fear—Say ‘No Plan to Halt Company’s Operations’	The Informer (Monrovia)	06/26/2012	Public
	Liberia Buchanan Renewables Engages in Bad Business Practice	African Standard, Zeze Ballah	06/02/2012	Public
	Liberian Challenges Defeat Buchanan Renewables	African Energy	05/02/2013	Public
Background Desk Research	Rule of Law Tools for Post Conflict States	UNHCR	2006	Public
	Quality Standards for Inspection and Evaluation	Council of the Inspectors General on Integrity and Efficiency	01/2012	Public
	Standards of Proof in International Humanitarian and Human Rights Fact-finding and Inquiry Missions	Geneva Academy of international humanitarian law and human rights; Stephen Wilkinson		Public
	Guide to Human Rights Impact Assessment and Management	IFC		Public
	Training Manual on Human Rights Monitoring, ch. VII Information Gathering; ch VIII: Interviewing; Appendix I to ch. XX: Questionnaire-Interview Form	University of Minnesota Human Rights Library		Public
	Good Business: Implementing the UN Guiding Principles on Business and Human Rights	Secretary of State for Foreign and Commonwealth Affairs	09/2013	Public

The Equator Principles	Equator-principles.com	06/2013	Public
The Corporate Responsibility to Respect Human Rights: An Interpretive Guide	UNHCR	2012	Public
Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework	UN General Assembly	03/21/2011	Public
Truth Seeking: Elements of Creating an Effective Truth Commission	International Center for Transitional Justice. Ed. Eduardo Gonzalez and Howard Varney	03/18/2013	Public
CAO Compliance Appraisal Report, IFC Investment in Ficohsa, Honduras	Compliance Advisor Ombudsman, IFC	12/04/2013	Public
IFC Management Response to Compliance Audit Report	Oscar Chemerinski, Morgan Landy	01/03/2014	Public
Supporting Investments in Post-conflict Countries: Miga’s Experience; Aman Union Annual Meetings.	MIGA	10/04/2011	Public
Liberia: Sinoe Complains GVL to Roundtable on Sustainable Palm Oil	Mae Azango	02/21/2014	Public
Liberia at a Crossroads: Human Rights Challenges for the New Government	Human Rights Watch	09/30/2005	Public
IFC Eyes Energy, Mining Investment in Liberia, COO Says	Reuters	03/11/2013	Public
Risk Mismanagement? IFC Runs into Trouble in Honduras	Paul Stephens	01/15/2014	Public
Lofa’s Via River- a potential site for Liberia’s hydro power plant	AllAfrica.com	03/16/2014	Public
False and Inaccurate Reports on Liberian Operations	Sime Darby.com	2013	Public
Credibility Issues- Green Advocates Chief Defends Records	AllAfrica.com	04/25/2014	Public
Forest Industry Carbon Assessment Tool (FICAT)	IFC		Public
Executive Summary of the Environmental, Social, and Health Impact Assessment	African Development Bank		Public
IFC Greenhouse Gas Reduction Accounting Guidance for Climate-Related Projects	IFC Climate Business Department	12/2013	Public

14.3 Farm Contracts

This table summarizes key information about individual farms that was obtained by the OA via project/client documents and farm visits. The table is followed by photographs of some of the farms as numbered in the table.

Farm number	Plantation Rejuvenation Agreement & date	Contract Details	Redundant Rubber Tree Purchase Agreement & date	Contract details	Farmer Payment slip & Date of Issue	Number Trees harvested & Total monetary value of chips	Termination Contract & date	# Harvested (H), Replanted (R)
1 See photos	X 02/05/2008	Clearing only 5 acres, 4,000 trees			X 05/06/ 2008	2,054 \$1,057.35	X BR replanted 09/2008, maintained	H 2,054 R 2,222
2 See photos			X 11/10/2009	25 acres, 2,500 trees; Replanting, BR owns trees	X 01/12/ 2010	983 \$975		
3 See photos			X 06/09/2009	37 acres, 4,000 trees; Replanting, BR owns trees			X BR replanted 10/2009, maintained	H 5,633 R 9,240
4 See photos	X 08/19/2008	15 acres, 2,500 trees; Clearing only			X 11/30/ 2008	1,821 \$994.50	x BR replanted 06/2010, maintained	H 1,821 R 2,385
5 See photos							X 16 acres; BR replanted 06/2010, maintained	H 2,465 R 3,457
6	X 02/05/2008	50 acres, 6,000 trees; Clearing only			X 05/06/ 2008	9,754 \$3,968.28		
7 See photos			X 11/17/2009	28.6 acres, 3,000 trees; Replanting, BR owns trees				
8			X 12/24/2009	30 acres, 3,600 trees;				

				Replanting, BR owns trees				
9							X 18 acres; BR replanted 10/2011, maintained	H 2,766 R 3,946
10							X 21 acres; BR replanted 10/2011, maintained	H 4,562 R 4,569
11	X 02/29/2008	5 acres, 700 trees; BR replant and maintain, take 25% latex					X BR replanted 2009 & 06/2011, maintained	H 577 R 520
12	X 09/19/2008	50 acres, 14,000 trees; BR replant and maintain, take 25% latex						
13	X 09/12/2008	15 acres, 2,000 trees; BR replant and maintain, take 25% latex						
14	X 11/05/2008	15 acres, 3,500 trees; BR replant and maintain, take 25% latex						
15	X 12/05/2008	8 acres, 2,000 trees; BR replant and maintain, take 25% latex						
16	X 12/07/2007	50 acres, 6,000 trees; Clearing only						
17	X 09/23/2008	5.6 acres, 1,500 trees; Clearing only						
18	X 08/19/2008	50 acres, 6,500 trees; Clearing only						

19	X 08/01/2008	8 acres, 2,000 trees; Clearing only						
20	X 04/18/2008	6 acres, 2,500 trees; Clearing only						
21	X 02/27/2008	2 acres, 1,000 trees; Clearing only						
22	X 02/22/2008	20 acres, 2,000 trees; Clearing only						
23	X 10/27/2008	65 acres, 15,000 trees; BR replant and maintain, take 25% latex						
24	X 08/03/2008	48 acres, 12,000 trees; BR replant and maintain, take 25% latex						
25	X 12/10/2008	6 acres, 1,500 trees; BR replant and maintain, take 25% latex						
26	x 01/14/2008	5 acres, 1,000 trees; Clearing only						
27	X 01/12/2008	15 acres, 1,500 trees; Clearing only						
28	X 01/29/2008	47 acres, 2,500 trees; Clearing only						
29	X 01/14/2008	292 acres, 5,000 trees; Clearing only						
30	X 01/29/2008	2 acres, 800 trees; Clearing only						
31								19 acres; Replanted 07/2008
32	See photos							

33								9 acres; replanted 07/2008
34								16 acres; replanted 08/2008
35								16 acres; replanted 10/2009
36								

Farm #1





Farm #2



Farm #3



Farm #4



Farm #5



Farm #7



Farm #32



14.4 Information on Human Rights in Liberia available to OPIC

Information available prior to the first loan approval:

- “Liberia at a Crossroads,” Human Rights Watch, September 30, 2005. <http://www.hrw.org/legacy/background/africa/liberia0905/liberia0905.pdf>
- “Liberia: Rubber plantation workers strike over conditions, pay, child labour,” IRIN, February 10, 2006. <http://www.irinnews.org/report/58109/liberia-rubber-plantation-workers-strike-over-conditions-pay-child-labour>
- “Annual Report: Liberia 2007,” Amnesty International, 2007. <http://www.amnesty.org/en/region/liberia/report-2007>
- “Department of State Human Rights Report 2007.” March 11, 2008. <http://www.state.gov/j/drl/rls/hrrpt/2007/100489.htm>
- “Transparency International Corruption Perceptions Index – Liberia 2007.” http://www.icgg.org/downloads/CPI_2007.xls
- “Fund for Peace Failed State Index – Liberia 2007.” <http://ffp.statesindex.org/rankings-2007-sortable>

Additional human rights risk information available prior to the second loan approval:

- “Annual Report: Liberia 2010,” Amnesty International, May 28, 2010. <http://www.amnestyusa.org/research/reports/annual-report-liberia-2010>
- “Department of State Human Rights Report 2009.” <http://www.state.gov/j/drl/rls/hrrpt/2009/af/135961.htm>
- “WJP Rule of Law Index – Liberia 2010.” http://worldjusticeproject.org/sites/default/files/WJP_Rule_of_Law_Index_2010_Report.pdf
- “Transparency International Corruption Perceptions Index – Liberia 2009.” <http://www.ti-bangladesh.org/CPI/CPI2009/CPI-2009-allDocs.pdf>
- “Fund for Peace Failed State Index – Liberia 2009.” <http://ffp.statesindex.org/rankings-2009-sortable>

Further public information became available after second loan approval:

- “Firewood for Berlin,” *The African Times*, October 2, 2010. http://african-times.com/index.php?option=com_content&view=article&id=11835%3Afirewood-for-berlin&catid=118%3AOctober-2010-business&Itemid=63
- Cable correspondence between OPIC and Embassy.
- Days after the first of two disbursements was made to BRF, Dutch Center for Research on Multinational Corporations (“Somo”) and Green Advocates, a Liberian-based NGO, published “Burning Rubber” on November 10, 2011
- Complaint received by OA from former BRF human resources manager