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Global Witness and Green Advocates publish analysis of record deal between Chinese mining firm and Liberian Government

On January 19 2009, the China-Union Company signed a 25 year Mineral Development Agreement with the Government of Liberia for the exploration and mining of iron ore in the country's Bong Range. The deal is reported to be worth US\$2.6 billion, which would make it the largest ever foreign investment in Liberia. Its provisions include a requirement that the company make an up-front signature bonus payment of US\$40 million.

Global Witness (1) and Green Advocates (2) are today publishing an in-depth analysis of the contract by practitioners from the mining sector and experts in human rights and tax law. (3) The objective of this analysis is to highlight specific provisions that should be considered by the Liberian Legislature when reviewing this contract and also issues that should receive more attention in future concession agreements. This memorandum focuses on the most important positive aspects of the contract and also areas where there is room for improvement. (4)

The contract includes positive commitments to transparency though the contractual obligation to join the Liberia Extractive Industry Transparency Initiative (5), disclose information on payments to the Government and publish the contract. The agreement also contains robust transfer pricing provisions and the Concessionaire and the Operating Company are made jointly and severally liable – provisions that were notably lacking in previous concession agreements.

"The transparency measures in this agreement are an important safeguard against corruption and should be applauded," said Green Advocates Executive Director Alfred Brownell. "The Government must now apply this kind of transparency to the way it spends and accounts for the US\$40 million signature bonus. Liberians have a right to know how this money is being used."

Despite the positive aspects of the contract, the Agreement is vague in parts, potentially leaving it open to abuse. Greater clarity and rigour is required to prevent serious problems from arising in the future. Weaker elements of the contract which the Legislature should consider amending are the provisions relating to the resettlement of communities, the fiscal stabilisation clause and the clauses governing the feasibility study.

Ultimately, the contract is only as effective as its implementation. As such, it is critical that significant international support is given to develop state capacity, local civil society and legal avenues to provide the checks and balances needed to ensure oversight of the contract's execution.

"The Liberian government should be congratulated on negotiating an Agreement which has the potential to play a very positive role in Liberia's development and which is a significant improvement on other recent natural resource concession contracts between the state and international companies." said Natalie Ashworth, Campaigner for Global Witness. "We encourage Liberia's lawmakers now to use their voice to ensure that the final, ratified, Bong Mines contract represents the best possible deal for Liberia and its people."

To download please go to the Global Witness Website at www.globalwitness.org

For press enquiries, please contact:

Green Advocates – Alfred Brownell in Liberia – 00231 4790951

Global Witness – Natalie Ashworth in London – 0044 207 561 6369 or 0044 7968160377

(1) Global Witness exposes the corrupt exploitation of natural resources and international trade systems, to drive campaigns that end impunity, resource-linked conflict, and human rights and environmental abuses. Global Witness was co-nominated for the 2003 Nobel Peace Prize for its leading work on 'conflict diamonds' and awarded the Gleitsman Foundation prize for international activism in 2005. For more information on Liberia, see other Global Witness reports and briefing documents, available at www.globalwitness.org

(2) The Association of Environmental Lawyers of Liberia (Green Advocates) was founded in 2001 by a group of progressive law school graduates. Green Advocates is Liberia's first and only public interest environmental law organization. Through advocating for strong environmental laws, working to enforce existing laws, and empowering citizens to participate in environmental decision-making, Green Advocates is helping to build a sustainable future for Liberia.

(3) This can be provided to parties who are interested.

(4) This memorandum does not examine every positive and negative aspect of the contract.

(5) The Extractive Industries Transparency Initiative (EITI) was launched in June 2003 by the UK government as a response to the growing international concern that lack of transparency in the flow of revenues from oil and mining companies to developing countries can hide gross corruption and waste of these revenues, contributing to political instability and even violent upheaval. The EITI is a coalition of governments, companies, civil society groups, investors and international organizations. The crucial feature of EITI is that companies disclose their payments, and governments disclose their receipts, enabling citizens to cross-check the accuracy of each set of figure. The EITI aims to strengthen governance by improving transparency and accountability in the extractives sector.