

REPORT ON THE FORENSIC AUDIT AND REVIEW

OF THE OPERATIONS OF

GUYANA FORESTRY COMMISSION

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Executive Summary

1. Findings

Functioning of the Board

- 1.1 Although the Guyana Forestry Commission Act 2007 provides for the appointment of members of the Commission for maximum of three years, the practice has been for their tenure of appointment to be for one year, renewable. Given that over the years, Cabinet has re-appointed most of the members, it may be beneficial if their appointments are for two or three years, with a staggering arrangement to provide for continuity. This is likely to enable members to plan for and make a more meaningful contribution to the work of the Commission.
- 1.2 The Board is required to meet as often as it considers necessary for its purposes. Generally, it held meetings on the fourth Thursday of every month. A review of the minutes of these meetings for the period January 2012 to 31 May 2015 indicates that the Board met on 34 occasions. **However, up to the time of reporting, no further meeting took place since the last meeting of 24 April 2015. In addition, a number of members did not attend meetings on several occasions.**
- 1.3 The minutes of the 245th board meeting dated 20 May 2013 recorded concern about the continuing absence of one member. Correspondence seen also indicates that **“there were times when the Commission was unable to meet because of a lack of a quorum” and that “certain key members are unavailable and the Secretary struggles to find a quorum” of five members. A review of the minutes also suggests that at several of the meetings, only five members attended.**
- 1.4 Given their relevant backgrounds, Commission members are required to make a significant contribution to the effective functioning of the Commission in achieving the objectives outlined in the Act. **It follows that their prolonged absence from meetings is likely to impact adversely on the operations of the Commission. This is especially so, considering that the work of the Commission is organized by committees.**

Organisation and management

- 1.5 I have reviewed the Guyana Forestry Commission Act 2007 and the Forests Act of 2009. I have also examined the way the Commission is organized and managed and I have had detailed discussions with management. In addition, I have reviewed the work plans and

annual reports of the various divisions for the period under review. **I am of the view that the Commission's interpretation of its mandate is consistent with both Acts and that the Commission has been properly organized to discharge its responsibilities.**

Export of logs

- 1.6 Most of the tropical timber producing countries have put in place measures to either restrict the export of logs or to ban their exports altogether. However, Guyana is yet to take effective action in this regard. Since 2009, the Commission had expressed concern about the extent of export of logs. Accordingly, it had proposed a ban on such exports with a view to encouraging downstream processing. However, at a Stakeholders Forum held in the same year, the Commission agreed to an alternative proposal whereby there would be a phased increase in the export commission. For example, the export commission on wamara was 7% in 2009. This increased to 10% in 2010 and 2011. The current export commission for this species is 17%.
- 1.7 **Despite the above measure, log exports in 2014 have increased by 75%, compared with 2013, from approximately 80,000 cubic metres to 140,000 cubic metres. It is evident that the Commission needs to implement additional measures to restrict the export of logs and to encourage downstream processing in order to maximize the use of Guyana's forest produce for the benefit of its economy through job creation as well as revenue generation through the production and sale of finished products both locally and abroad.**
- 1.8 During the period 2007 to 16 November 2015, Baishanlin and four companies owned/controlled by it, exported a total of 50,928 cubic metres of logs with an FOB value of US\$4.483 million. The latter accounted for 43,868 cubic metres or 86.1% valued at US\$7.410 million. Baishanlin has, however, failed to fulfill its obligations to set up a downstream wood processing plant despite assurances it had given since 2007 to do so as well as generous fiscal concessions the company was granted.
- 1.9 The Commission calculates export commission on the Free On Board (FOB) value of the logs, which is standard practice internationally. There are benchmark values determined by the Forest Products Development and Marketing Council (FPDMC). In the granting of export licences, the Commission ensures that the FOB invoice prices are not below the benchmarks set.
- 1.10 When concessionaires ship logs to the destination countries, the final cost takes into account costs relating to insurance and freight as well as other costs for transporting the logs to locations within the countries where they are sold. In addition, the exporting company will have to apply its own mark-up in order to derive a profit. **Therefore, the final price of the logs (whether by way of transfer pricing or otherwise) would be**

significantly higher than the FOB invoice price on which the export commission is calculated. It does not appear to be an indication of under-invoicing and hence loss of revenue, unless the benchmark values are set too low.

The Baishanlin case

- 1.11 Baishanlin International Forest Development Inc. was incorporated in 2006 with the main objective of setting up downstream wood processing operations in Linden and on the East Bank Demerara. On 4 November 2011, the Commission granted the company a State Forest Exploratory Permit (SFEP 01/2011) covering 104,783 hectares of State forest. **This was despite the fact that Baishanlin did not meet the criteria for the grant of such a permit, including: (a) the submission of audited financial statements for the last five years; (b) evidence of technical and financial qualifications; and (c) a history of compliance.**
- 1.12 A key consideration for the grant of the SFEP was the assurance Baishanlin had given in relation to the setting up of a state-of-art integrated wood processing value-added facility in Linden, Region 10. The company had leased 200 acres for this purpose and had given a commitment to complete the facility by the end of 2013, following which the Government of Guyana would make available a further 100 acres for further value-added processing.
- 1.13 As a condition for the grant of the SFEP, the company was required to: (a) carry out an Environmental and Social Impact Assessment (ESIA) before any extraction could begin; (b) prepare a business plan; and (c) do a forest inventory. **However, at the time of the expiration of SFEP 01/2011 on 4 November 2014, the company did not honour its obligations.** Baishanlin contended that it faced a number of constraints, including passing through eight concessions and the need to repair/upgrade roads; and that it had since been able to access the area. As a result, on 1 October 2014, Baishanlin requested an extension of one year to fulfil these obligations under SFEP 01/2011 as well as to set up the wood processing facility.
- 1.14 An exploratory permit, however, expires on the earlier of the expiry date contained in the permit or on the third anniversary of the permit. Section 9 (9) of the Forests Act 2009 specifically prohibits any renewal of such a permit. There is also no provision in the Act for an extension once the expiry date reaches. **Despite these requirements, the Commission approved of Baishanlin's request for an extension of SFEP 01/2011.**
- 1.15 Baishanlin's extended permit expired on 4 November 2015, but there was no board in place to address the issue. The Minister responsible for natural resources indicated that: (a) the company applied for a further extension of two years to enable it fulfill its obligations under the permit, especially as regards to setting up of the wood processing

facility; and (b) the Government was favourably disposed to approving Baishanlin's request. The Ministry of the Presidency later clarified that the Government had not taken any decision and that it has requested information from the company about its proposed business plan and evidence of financing. Upon receipt of this information, Baishanlin's request would be reviewed and a decision taken. Up to the time of reporting, the company was yet to provide the requested information. **If this second request for extension is approved, the company would have enjoyed the benefit of the grant of an exploratory permit covering a period of six consecutive years whereas the law allows for a maximum period of three years for such a permit.**

- 1.16 **Notwithstanding Baishanlin's failure to honour its obligation under SFEP 01/2011, on 26 April 2013, the Commission granted the company a second exploratory permit (SFEP 01/2013) covering 73,015 hectares of State forest.** This time, the company submitted audited financial statements for the period 2007-2011. **However, a review of these statements indicates that the company was in dire financial difficulties. In particular, except for 2007, the auditors have qualified the accounts of the company because of accumulated losses that cast doubts as to the ability of Baishanlin to continue as a going concern for the foreseeable future without sustained financing.**
- 1.17 The Commission also granted Baishanlin two State Forest Permits (SFPs) covering an additional 8,170 hectares of State forest. **However, it is not clear on what basis these permits were granted.** The Commission has since advised that one permit has been relinquished in March 2015.
- 1.18 The Forests Act prohibits the granting a State forest authorisation to two or more persons associated together in a joint venture unless each of them qualifies under the Act for the grant of such an authorization. In addition, without the written consent of the Commission, the holder of a State forest authorisation cannot engage or be involved in any act that results or likely to result in a change of effective control, including transferring the authorisation or entering into a sub-contracting, sub-letting arrangement. If this happens, the holder has to give written notice to the Commission and surrender the authorisation. Any such transfer, sub-contracting or sub-letting arrangement is void, and the authorization is deemed revoked.
- 1.19 During the period 2009 to 2014, the shareholders/directors of Baishanlin acquired controlling interest in five logging companies, through the acquisition of shares. **However, there was no evidence that the specific approval of the Commission was granted in relation to the change of ownership/control of these companies.** In the circumstances, the holders of the TSAs should have surrendered their authorisations to the Commission. These companies hold Timber Sales Agreements (TSAs) covering a total of 441,119 hectares. **Baishanlin therefore had access to a total of 627,072 hectares of State forest.**

- 1.20 In addition, while evidence was seen that the Commission granted approval for joint ventures between Baishanlin and these logging companies, it is unclear whether the provisions of the Act are applicable to existing holders of State forest authorisations. In any event, Baishanlin was only the holder of an exploratory permit and therefore would not have qualified to enter into a joint venture agreement with the holders of TSAs.
- 1.21 According to information provided by the Guyana Revenue Authority, during the period 2012-2015, the Government granted Baishanlin fiscal concessions on a variety of machinery, equipment and construction materials **with a CIF value of \$7.464 billion, equivalent to US\$37.320 million. This was based on investment agreements entered into between the Government of Guyana (represented by the Minister of Finance) and Baishanlin for the construction of a wood processing facility in Region 10. The total value of concessions granted amounted to \$1.827 billion.**GRA indicated that it was unable to provide information relating to the earlier years because of computer problems.
- 1.22 A review of the list of items of machinery, equipment and construction materials for which fiscal concessions were granted indicates that many of the items were either unrelated to, or were significantly in excess of, the requirements for the construction of wood processing facility. Indeed, the evidence suggests that the fiscal concessions granted were substantially in relation to Baishanlin's ownership/control of the five logging companies having TSAs as well as its proposed investment at Providence, East Bank Demerara. This is not withstanding that the investment agreements were exclusive to the wood processing facility in Linden.
- 1.23 Up to the time of reporting, Baishanlin had not fulfilled its obligations under the investment agreements and was requesting an additional two years to do so. This was despite the fact that, in a letter to the former Prime Minister, the company had given the assurance of setting up the wood processing facility by the end of 2007. A further assurance was given in July 2012 in a letter to the former Minister of Trade, Industry and Commerce that the facility would be ready by the end of 2013.
- 1.24 The investment agreements specifically provide for their termination where, among others, there has been a failure to undertake the business proposal without providing a reasonable explanation. When this happens, the company is required to repay the value of all fiscal concessions granted. Despite the persistent failure by Baishanlin to honour its obligations under these agreements, and without reasonable explanations, **no action taken to terminate the agreements and to recover the value of the fiscal concessions granted.**

1.25 In addition, the Guyana Revenue Authority and/or Go-Invest was/were required to visit the business premises and inspect assets that benefitted from the fiscal concessions. **However, there was no evidence that this was done. The GRA has confirmed that it had not done so.**

The Vaitarna case

1.26 Simon and Shock International Logging Inc. was granted a SFEP (03/2007) in December 2007 covering 391,874 hectares. In 2010, Vaitarna Holdings PVT Ltd. acquired all the shares in the company and paid the outstanding debt to the Commission of US\$254,000. **However, there was no evidence of the specific approval of the Commission in relation to the change of ownership of the company.**

1.27 Notwithstanding this, the Commission granted Simon and Shock two extensions for exploratory operations to May 2012. The SFEP was converted into a TSA (01/2014) in March 2014. **Simon and Shock would have had the benefit of an exploratory permit covering a period of over six years whereas the Forests Acts provides for the validity period for a SFEP to be for a maximum of three years.**

1.27 In July 2010, Vaitarna Holdings acquired the TSA held by Caribbean Resources Ltd. (CRL), a subsidiary of Colonial Life Insurance Co. The concession, with an area size of 345,961 hectares, had expired and the Government decided against its renewal because of the inability of CRL to make beneficial use of the concession.

1.28 A number of other entities had expressed an interest in the reallocation of the concession. However, in view of the need for the Government to urgently obtain funds of at least G\$500 million to address CLICO's liabilities to Guyanese stakeholders and the willingness of Vaitarna Holdings to offer G\$600 million as consideration for the grant of the concession, the Board and the Government agreed to reallocate the concession to this company. **The company therefore has access to 737,835 hectares of State forest.**

1.29 **Vaitarna Holdings was granted fiscal concessions on a variety machinery and equipment with a CIF value of \$1.142 billion, equivalent to US\$5.712 million, during the period 2011 to 2014.** This was based on an investment agreement it had entered into with the Government of Guyana.

Guyana-Norway REDD+ Partnership

1.30 With a gross deforestation rate of 0.065% in 2014, Guyana was well within the range of 0.056 – 0.1%. The loss of intact forest was mainly due to mining activities but has stabilized over the last four years and was within the benchmark set. **However, emissions**

from illegal forest logging continued to be a source of concern. The Commission has indicated that the benchmark should be revised.

Internal Audit

- 1.31 There is a need for the Commission's Internal Audit Unit to upgrade its operations consistent with the requirements of the Institute of Internal Auditors.

Maintenance of reserve fund

- 1.32 **The Commission has not been maintaining a reserve fund, despite the mandatory requirement of the Act.** Correspondence seen indicated that in 2004 the Minister had advised the Commission to maintain a reserve of at least one year's expenses.

Transfers to other State agencies

- 1.33 **During the period 2006 to 2010, the Commission made payments to other State agencies totalling \$1.284 billion out of its retained earnings (accumulated profits), based on Cabinet decisions.** Of this amount, two payments totalling \$600 million were made to the National Industrial and Commercial Investments Ltd. to meet the 2007 Cricket World Cup expenditure and to assist in the cost of construction of the Marriott Hotel. Another amount of \$600 million was transferred to the Governor of the Bank of Guyana as the liquidator of the Colonial Life Insurance Company.

Investments

- 1.34 Section 21 of the Act provides for the Commission, with the approval of the Minister, to: (a) invest any money in any securities; or (b) sell or otherwise dispose of any of its securities. According to correspondence seen, in 2004 the Board approved of the sum of \$300 million being invested in the Colonial Life Insurance Company (CLICO). **However, there was no evidence that the Minister had granted approval for this investment.**

Granting of loans

- 1.35 Section 22 (1) (a) of the Act prohibits the Commission from making any loan or grant except for the purpose of carrying on the functions of the Commission. Despite this, in September 2014, Cabinet approved of the Commission granting a loan of US\$600,000 .to the Iwokrama International Centre.

Bank balances

- 1.36 The Commission's main operating bank account was overdrawn by \$90.245 million as at 31 May 2015. The interest rate on the overdraft was 6.5%. For May 2015, the overdraft interest was \$489,204.

Procurement and contract management

- 1.37 The Commission does not have its own procurement rules. A draft has nevertheless been prepared. It would therefore be important for a copy of the draft to be sent to the National Procurement and Tender Administration Board for review and endorsement in order to ensure compliance with the Procurement Act.

Financial reporting and audit

- 1.38 At the time of reporting, the audit of the Commission's 2013 accounts was in progress, and therefore the Commission was two years in arrears in terms of financial reporting and audit. In addition, since 2009, the audited accounts of the Commission had not been laid in the Assembly.

2. Recommendations

- 2.1 In relation to the functioning of the Board, the following recommendations are made:
- (a) The Minister, acting in accordance with Section 2 (3) of the Schedule to the Act, revokes the appointment of a member for absence without approval for more than three consecutive meetings of the Commission, or for more than four meetings in any one year. It may be desirable for the Schedule to be amended to make attendance at board meetings a statutory requirement;
 - (b) The tenure of appointment of the Commissioners should be for two or three years, as opposed to the one-year tenure, to allow for continuity, notwithstanding that there is provision for renewal; and
 - (c) Given the detailed responsibilities of the Commission for ensuring that Guyana's forest resources are sustainably managed and conserved as well as for encouraging the development and growth of forestry, consideration should be given to the appointment of a full-time Chairman to oversee the management of the organization and to lend additional support to its efficient and effective functioning, without getting involved in policy execution.

- 2.2 Having regard to the measures taken by other tropical timber producing countries to restrict or ban the export of logs, and Guyana's failure to do so in order to encourage downstream processing, as a first step, the Government of Guyana in collaboration with the Guyana Forestry Commission should:
- (a) Restrict the export of certain species of forest produce in log form;
 - (b) Allocate quotas to concessionaires desirous of exporting logs from their concessions;
 - (c) Make it a mandatory requirement for concessionaires to engage in downstream value-added processing, failing which their permits will be revoked; and
 - (d) Provide all concessionaires, both local and foreign, with the relevant fiscal concessions to enable them to engage in downstream valued-added activities.
- 2.3 As regards Baishanlin, since the company had not fulfilled its obligations under SFEP 01/2011, and given the fact that the Forests Act does not permit a renewal of such a permit at the end of three years, SFEP 01/2011 is no longer valid. Accordingly, the related State forest should be returned to the Commission for reallocation. In addition, the Government of Guyana should consider terminating the investment agreements with the company and the recover the value of the fiscal concessions granted to it.
- 2.4 Since the Forests Act prohibits the transfer of ownership/control of a forest concession without the specific approval of the Commission, the five concessionaires that have transferred such ownership/control to officials of Baishanlin should be made to surrender their concessions to the Commission for reallocation to other potential concessionaires.
- 2.5 In relation to the other areas covered by this report, the following recommendations are made:
- (a) Internal Audit makes every effort to secure membership of the Institute of Internal Auditors in order to ensure compliance with the IIA Standards in the conduct of its audits;
 - (b) The Commission takes urgent measures to set up a reserve fund not only to ensure compliance with Section 16 with the Guyana Forestry Commission Act but also to provide funds in event of financial difficulty in any particular year. This is likely to obviate the need for recourse to the Consolidated Fund to meet any shortfall in funding;
 - (c) Cabinet discontinues the practice of authorizing the transfer of funds from the Commission to other State agencies to meet expenditure as such a practice not only

violates Article 217 of the Constitution but also results in an under-reporting of expenditure in the public accounts;

- (d) The Commission ensures strict compliance with the Act by requiring the written approval of the Minister of Finance before any investment is made;
- (e) Cabinet ceases approving the granting of loans by the Commission that are not in conformity with the Act;
- (f) Using the proceeds from its fixed deposits, the Commission expedites the liquidation of the overdraft in its main bank account in order to avoid the further accumulation of further interest charges;
- (g) The Commission expedites the submission of its draft procurement rules to the NPTAB for its approval; and
- (h) The Commission takes measures to have its audited accounts for 2010 to 2012 laid in the National Assembly as early as possible.

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**Report on the forensic audit and review of the operations of the
Guyana Forestry Commission**

1. Background

- 1.1 The Government of Guyana has indicated that it was reviewing the performance and efficiency of publicly owned entities, statutory bodies, projects and activities financed by or through public funds. Accordingly, it has commissioned forensic audits and reviews of the operations of a number of entities, and has engaged my services to undertake such an audit and review of the Guyana Forestry Commission (GFC).

2. Terms of reference

- 2.1 The terms of reference for the engagement are as follows:
- (i) To determine GFC's adherence to and fulfillment of principles of corporate governance in all aspects, including its interpretation of its mission, adherence to legal or statutory and policy instruments and good practices;
 - (ii) To assess and test systems and detect any instances of corporate malfeasance and inefficiency for remedy and/or judicial interventions and systems realignment;
 - (iii) To determine the authenticity and validity of significant commercial and financial transactions entered into by the GFC with related parties, suppliers and customers, and measure the extent of potential prejudice the entity may have suffered through such dealings, if any;
 - (iv) To carry out a comprehensive financial systems review which should look at all systems, decisions and practices which have underpin GFC's finances, and test and assess financial discipline at all levels. Without limitation, the Consultant should:
 - (a) Review and examine all financial books and records of GFC as required to undertake such review and to obtain such clarifications and explanations as may be required in relation to such books and records;
 - (b) Review all contract administration and approval processes in relationship to the expenditure of funds;
 - (c) Review all material expenditures and contracts made by GFC and obtain all necessary information and explanations relating to such expenditures and contracts;

- (d) Examine all areas, including budgeting, financing, expenditure, management of revenue inflows, trade terms, procurement or purchase decisions and supply chain management;
 - (e) Examine GFC's assets management system, including its fixed assets, their disposal and management or deployment;
 - (f) Examine GFC's marketing, production and commissioning policies, systems and agreements to determine their integrity, efficacy and responsiveness; and
 - (g) Examine GFC's archiving policy both by way of records keeping and as a performing asset that yields revenue for the entity; and
- (v) To recommend statutory, legal or organizational changes required to identify and prevent any recurrence of improprieties.

2.2 The audit and review may be extended to cover any or all of the following:

- (i) To conduct a human resources audit which should include key issues such as manpower policy and needs determination, selection and recruitment regarding philosophy, grading, departmentalization, payroll system and management, performance culture and the whole policy on advancement and promotions, labour issues, skills development and deployment. Examine current initiatives, their access and distribution and their impact on skills attraction and retention on staff motivation, performance and commitment;
- (ii) To determine the planning culture at the GFC;
- (iii) To determine GFC's manpower and skills development policies to equip its key functional areas with strategic competences needed for migration to a digital area and beyond;
- (iv) To recommend a business model, development and innovativeness which should help a restructuring exercise by gauging GFC's capacity to align itself with and keep adjusting to the larger macro-environment through periodic strategic interventions; and
- (v) To gauge GFC's readiness to do business in an environment characterized by open competition locally, regionally and globally and the removal of statutory sources of revenue, including subsidies.

3. Scope and methodology

- 3.1 As per terms of reference, the period covered by the audit and review was from 1 January 2012 to 31 May 2015. I conducted my review in three phases – planning, execution and reporting. In the planning phase, I sought and obtained information about GFC’s operations, mainly through the use of questionnaires; a review of detailed documentation provided; and discussions with senior management. I then prepared a detailed audit plan setting out clearly the procedures I intended to follow, and various tests I proposed to carry out to arrive at conclusions relative to the terms of reference.
- 3.2 I held an entry conference on 16 June 2015 with the senior management to discuss, among others, the terms of reference for the audit and review as well as my interpretation and understanding of them in relation to GFC’s operations. Following the entry conference, I began planning the assignment followed by the execution of the field work. However, work was temporarily suspended to facilitate the completion of the forensic audits of the Marriott Hotel and the National Industrial and Commercial Investments Ltd. It resumed on 6 October 2006.
- 3.3 The general approach to undertaking the assignment was the use of questionnaires in order to solicit as much information as possible and to obtain further understanding of GFC’s operations. Supporting documents were requested and obtained, and additional discussions were held with key management personnel.
- 3.4 I concluded the field work following the holding of an exit conference with senior management on 17 November 2015. I then proceeded to prepare a draft report and submitted it to the Commissioner. Following the receipt of his comments, I finalized my report and submitted it to the Minister Finance on 31 December 2015

4. Background information on the operations of the GFC

- 4.1 The total area of Guyana is 21 million hectares of which 18.3 million hectares are forested. Of this latter amount, 12.8 million hectares comprise State Forest administered by the Guyana Forestry Commission (GFC), a statutory body responsible for ensuring that Guyana’s forest resources are sustainably managed and conserved. The majority of the other 5.5 million hectares is owned and administered by Amerindian communities, that is, they are title-owned land. The remaining forest and state lands are administered by the Guyana Lands and Survey Commission but the Commission is required to monitor all forestry activity. As such, where there is commercial extraction of forest produce, the Commission is involved.

4.2 The main responsibilities of the Commission are in relation to policy implementation and the development of procedures and guidelines; sustainable forest management, community forestry; and planning the effective utilization of Guyana's State Forest resources. The specific functions as outlined in the Guyana Forestry Commission Act 2007 are as follows:

- (a) To develop, advise the Minister, and carry out forestry policy;
- (b) To prepare plans, codes of practice, and guidelines for the conservation and management of forests;
- (c) To research, collate, analyse, prepare and disseminate data, statistics, and other information about forests and all aspects of forestry, including forestry ecology and the use of forest produce;
- (d) To make forest inventories;
- (e) To provide or facilitate education and training in forestry and forestry-related jobs;
- (f) To provide forestry extension services and give advice to persons and communities interested or involved in forestry;
- (g) To provide for an inspection, certification, and accreditation service for quality control of forest produce;
- (h) To represent Guyana in regional and international forestry meetings and negotiations and in relation to Guyana's international obligations concerning forestry; and
- (i) To administer the Forests Act 2009, including collecting and recovering all fees, charges, levies, premiums, fines, penalties, costs, expenses and other moneys payable under that Act.

4.3 The Commission is responsible to the Minister for the discharge of its functions. By notice in the *Gazette*, the Minister may give directions of a general character as to the policy to be followed by the Commission in the discharge of its functions. The Commission appoints the Commissioner of Forests who is also the Chief Executive Officer of the Commission responsible for executing the policy of the Commission; directing the day-to-day business of the Commission and giving directions to other employees, consultants and advisors of the Commission.

4.4 The work of the Commission is undertaken by committees. Prior to February 2012, there were three sub-committees, namely Technical Sub-Committee; Finance Sub-Committee and Staff Matters Sub-Committee. Meetings were held every two months. In January 2014, the sub-committees were re-organised into two sub-committees through the merger of the Finance Sub-Committee and the Staff Matters Sub-Committee into a Corporate Affairs Sub-Committee.

4.5 The work of the Commission is guided by National Forest Plan 2011 which relates to land use; forest management; forest industry; research and information; training and

education; administration and governance; and international conventions and collaboration.

4.6 In the discharge of its functions, the Commission uses the following key monitoring tools:

- Forestry Legislations;
- National Forest Policy/Plan;
- Collaboratively developed guidelines such as the Code of Practice for large concessions, small concessions, and timber processing;
- Manual of Procedures;
- National log tagging and tracking system;
- Guidelines for conducting inventories and preparing Forest Management Plans and Annual Operational Plans;
- Guidelines for monitoring of produce in transport;
- Guidelines for monitoring of produce for export;
- Licensing procedures for forestry operations;
- Guidelines for Environmental monitoring; and
- 53 monitoring stations located at strategic control points throughout the country: 39 fixed stations; 7 mobile stations; and 7 offices only.

4.7 The Commission facilitates the effective implementation of the guidelines by providing vocational training through the FTCl;and extension training through the FRMD and the FMD.The Commission also provides considerable support to the University of Guyana and the Guyana School of Agriculture academic forestry programs.

4.8 Over the last five years, the forestry sector has contributed 3.4% of Guyana’s GDP (from primary products), with foreign exchange earnings of US\$270 million. The average number of persons employed in logging and sawmilling operations is 20,000.

4 Findings and recommendations

5.1 Functioning of the Board of the Commission

5.1.1 In accordance with Section 7 of the Act, the Commission is to comprise no less than nine and not more than 13 members, including a chairman, appointed in writing by the Minister; and the Commissioner as *ex officio* member. The members are to have relevant knowledge and experience in forest management, forest industries, manufacturing, marketing, business management, finance, economics, environmental management, Amerindian affairs, law, land use planning, education and training, human resources development, information systems, or research and development.

- 5.1.2 The Commission provides oversight of the management of the Commission and makes important decisions in relation to its mandate. By memorandum dated 15 January 2015, Cabinet has appointed the following members to the Commission: Dr. Indarjit. Ramdass (Chairman), Mr. Andrew Bishop, Mr. Rajnarine Singh, Mr. Donald. Singh, Ms. Vanessa Benn, Mr. Bertie Xavier, Mr. James Singh (*Ex officio*), Mr. Clinton Urling, Mrs. Prema Ramanah-Roopnarine, Mr. Seion George (Workers' representative) and Ms. Yvonne Pearson. The Corporate Secretary is Mr. Jacy Archibald.
- 5.1.3 Although members can be appointed for maximum of three years, the tenure of the current members is for one year and expires on 31 December 2015. The previous members of the Commission were also appointed for one year as per Cabinet decision CP(2013)1:3:HH(7) dated 17 January 2013. **Given that most of the members have been re-appointed, it may be beneficial if their appointment is extended for two or three years, with a staggering of appointments to provide for continuity. This is likely to enable members to plan for and make a more meaningful contribution to the work of the Commission.**
- 5.1.4 The Commission is required to meet as often as it considers necessary for its purposes. As a general rule, meetings are held on the fourth Thursday of every month. A review of the minutes of the meetings of the Board for the period January 2012 to 31 May 2015 indicates that the Commission met on 34 occasions. **However, up to the time of reporting, no further meeting took place since the Commission's last meeting of 24 April 2015. In addition, a number of members did not attend meetings on several occasions, as shown at Table I.**

Table I
Board members' absence from meetings 2012-2015

#	Name	2012 (Out of 10)	2013 (Out of 11)	2014 (Out of 11)	2015 (Out of 3)	Total (Out of 36)
1	Bertie Xavier	7	8	8	2	25
2	Prema Roopnarine	6	5	8	3	22
3	Andrew Bishop	4	4	5	3	16
4	Vanessa Benn	4	1	1	0	6
5	Brian Greenidge	3	7	N/A	N/A	10
6	Donald Singh	0	5	2	1	8
7	Yvonne Pearson	N/A	N/A	5	3	8
8	Clinton Urling	N/A	N/A	3	2	5
9	Seion George	N/A	2	2	2	6

5.1.5 The minutes of the 245th meeting dated 20 May 2013 recorded that concern was expressed at the continuing absence of Mr. Xavier and that the Board was not benefiting from his representation. Correspondence seen also indicates that **“there were times when the Commission was unable to meet because of a lack of a quorum” and that “certain key members are unavailable and the Secretary struggles to find a quorum” of five members. A review of the minutes also indicated that at several of the meetings, only five members were in attendance, which is a highly unsatisfactory state of affairs.**

5.1.6 Given their relevant backgrounds, Commission members are required to make a significant contribution to the effective functioning of the Commission in achieving the objectives outlined in the Act. **It follows that their absence from meetings is likely to impact adversely on the operations of the Commission. This is especially so, considering that the work of the Commission is organized by committees.**

5.1.7 *The Commission commented that: (a) Mr. Xavier lives in Annai, Region 9 and access to Georgetown is by vehicle/plane which poses transportation difficulties; (b) whilst absenteeism of certain board members was identified as a source of concern, the Commission’s work did not suffer adversely as a result of this; and (c) attendance of all members is important for complete decision making and follow-up.*

5.2 Organisation and management of the Commission

5.2.1 The Commission is organized into five divisions, namely (a) Forest Resources Management; (b) Forest Monitoring; (c) Planning & Development, including REDD Secretariat; (d) Human Resources & Administration; and (e) Finance & Management Information Systems.

Forest Resources Management Division

5.2.2 This Division is responsible for ensuring that:(a) forest resources are sustainably managed to the highest practicable standards;(b) social, economic and environmental benefits are optimized; and (c) the needs and aspirations of all interest groups are considered. It is guided by the National Forest Plan 2011 that has been developed to address forest policy. The Plan includes the following programmes:

- Low Carbon Development Strategy;
- Increased value-added production;
- Additional guidelines for sustainable forest management;
- Improvements in marketing strategies;
- Meeting training and human resources capacity needs;

- Ensuring continuity in community development;
- Transparency in forest allocation; and
- Equitable sharing of forest resources.

5.2.3 In carrying out its responsibilities, the Division is guided aCode of Practice for timber harvesting which concessionaires are required to follow, including Annual Operational Plans and five-year Forest Management Plans. The Division comprises five units, namely, Inventory Unit; Large Concessions Unit; Small ConcessionsUnit; Forest Resources (mapping) Unit; and the Herbarium. Each unit has standard operating procedures.

5.2.4 Specific responsibilities of the Division include:(a) data collection on national forest resource;(b) conducting surveys and inventories;(c) researching and making recommendations on forest dynamics and silviculture;(d) planning and recommending the allocation of concession areas;(e) preparing operational guidelines for forest management planning; (f) evaluating management and operational plans; (g) prescribing standards for forest management; and (h) providing support for forestry extensions. It is also responsible for building a GIS capacity, developing a database of digital geographical data and providing a service to both external and internal stakeholders.

Forest Monitoring Division

5.2.5 The Forest Monitoring Division is responsible for the enforcement of the forest laws and regulations;processing and approval of forestry licenses;monitoring and control of the forestenvironmentbased on approved principles and established criteria;assessing the social impact of operations within the State Forests; and the collection of revenue. It is also responsible for processing export documents (with forest produce), quality control, promoting forest products, and assisting in enquires in relation to lumber and logs.The Division also actively provides extension services, such as training and capacity-building to forestry stakeholder groups.

5.2.6 The work of the Division is guided by a Manual of Procedures dated 2012. There is also a Code of Practice for forest operations dated May 2014 which provides a range of standards, guidelines and rules that help the lessee to adopt appropriate practices. Key monitoring tools includethe Code of Practice, the log tracking system, concession level, and environmental monitoring. These tools form part of the chain of custody system for Guyana’s forestry operations. The Commission has 53 monitoring stations located at strategic control points throughout the country: 39 fixed stations; 7 mobile stations; and 7 offices only.

5.2.7 There are four components of the forest monitoring system, namely: (a) forest concession monitoring (permitting, payment of royalties, and monitoring) to ensure strict adherence of forest management activities performed by the concessionaires; (b) monitoring of produce in-transit, involving mainly the Log Tracking System to verify origin of raw material and to control the level of harvesting; (c) sawmills and lumberyards monitoring; and (d) exports to control all exportations and to verify legality of produce to be exported.

Planning and Development, including REDD Secretariat

5.2.8 The Planning and Development Division is responsible for implementing the National Forest Plan, conducting economic studies and other relevant studies on the forest sector, reporting on forest sector information and coordinating the Commission's social development programme. The Division formulates project proposals and seeks funding for projects to be developed. It also implements project activities that are approved and financed, under the oversight of the office of the Commissioner.

5.2.9 The Division works in close collaboration with other divisions as well as external agencies, such as the Forest Products Development and Marketing Council (FPDMC), International Timber Trade Organisation (ITTO) and the Food and Agriculture Organisation (FAO); and provides information to the Bank of Guyana, the Ministry of Finance, Guyana Energy Agency, and Bureau of Statistics. It is also involved in community forestry activities and the European Union Forest, Law Enforcement, Governance and Trade (EU FLEGT) Voluntary Partnership Agreement Programme.

5.2.10 An integral part of work of this Division relates to the REED+ Programme. In 2009, the Governments of Guyana and Norway entered into an agreement whereby Guyana would benefit from payments up to US\$250 million through 2015 to limit deforestation degradation rates as well as greenhouse gas emissions. Payments were to be made based independent verifications of performance mainly in relation to a number of indicators against benchmarks set. To date, Guyana has received US\$190 million in payments based on the verification reports. At the time of reporting, the fifth verification visit was being conducted.

Human Resources & Administration

5.2.11 This Division is responsible for staff management, development and implementation of human resource policies and procedures, education, training, including in service training and liaison with relevant teaching and training institutions. It is also responsible for building maintenance, the implementation of health and safety policies, and security issues.

5.2.12 A herbarium is available for public use and has a collection of wood samples and plant specimens. These are sold on a cost recovery basis.

Finance & Management Information Systems Division

5.2.13 The Finance Division is responsible for: (a) managing the financial resources of the Commission; (b) preparing the annual budget of the Commission; (c) preparing annual financial statements for submission to the external auditors and liaising with them to ensure the timely completion of the audit. The work of the Division is guided by the Finance Policies and Procedures Manual. The Division also provides services to other departments and acts as liaison forum for stakeholders.

5.2.14 In terms of information technology, the Division: (a) assists in improving data communication between internal and external stakeholders; (b) ensures technological advancements are captured; (c) maintains reliability, security and availability of information that is accessed throughout the Commission; (d) ensures increased data accuracy, productivity and processing speeds/capabilities; (e) develops end-user reporting capabilities; and (f) trains staff in new technological advancements/developments.

Internal Audit

5.2.15 The Commission has an Internal Audit Unit comprising an Internal Auditor, three divisional Audit Assistants (Berbice, Demerara, and Essequibo) and two export audit assistants. It carries out: (a) monthly checks on forest stations, especially in relation to the collection of revenue; (b) daily checks on export commission and cross-checks on a sample basis at wharves and other locations; (c) weekly checks of Customs Content ship reports to ensure GFC authorization; and (d) systems review relating to licence issuance, tag issuance; checks on lumber yards and sawmills. All forest stations are audited once every year, and on average two stations are audited every month.

5.2.16 Specifically, the Internal Audit activity covers the following areas:

- Monthly Collectors Cash Book Statements (CCBS);
- Monthly revenue and expenditure as well as bank reconciliation statements;
- Systems relating to license issuance, tag issuance, fuel usage, stores, State Forest Permits (SFPs) and Timber Sales Agreements (TSAs);
- Checks of lumber yards and sawmills;
- Daily checks on export commission received; and

- Weekly checks on Customs Content ship reports.

5.2.17 The Internal Auditor reports administratively to the Commissioner and functionally to the Board. He prepares reports on average twice per month and submits them to the Commissioner. He also summarises these reports on a quarterly basis for consideration by the Board. A review of these reports for the period January 2012 to March 2015 indicates that the focus was mainly in relation to systems and procedures, and no major issues were highlighted.

5.2.18 I have reviewed the Guyana Forestry Commission Act 2007 and the Forests Act of 2009. I have also examined the way the Commission is organized and managed and I have had detailed discussions with management. In addition, I have reviewed the work plans and annual reports of the various divisions for the period under review. **I am of the view that the Commission's interpretation of its mandate is consistent with both Acts and that the Commission has been properly organized to discharge its responsibilities.**

5.3 Grant of State Forest Concessions and Permits

5.3.1 A State forest authorization is an exploratory permit, a concession, a use permit, an afforestation agreement, or a community forest management agreement. These authorisations/permits do not give exclusive right of occupation over the area unless specified in the authorization nor do they permit the holder to occupy or take any forest produce from any land that is lawfully occupied by any person or group. Where such an authorization is in force in respect of any forest produce in any area, no other authorization can be granted in respect of the same kind of forest produce in that area.

5.3.2 The Commission grants four main types of permits in respect of State Forests under its control, namely, State Forest Concession (large and small); State Forest Exploratory Permit; Wood Cutting Lease; and Timber Sales Agreement.

State Forest Concession

5.3.3 In accordance with Sections 6-8 of the Forests Act of 2009, persons may apply to the Commission for the grant of a forest concession. The Commission's Forest Resources Allocation Committee (FRAC) reviews the application and makes a recommendation to the Commissioner. The Board's Technical Sub-Committee meets to further review the application and recommendation. The Committee then makes its recommendation to the full Board which makes a decision as to whether or not the applicant can be granted a forest concession.

- 5.3.4 A concession is granted based on evaluation of the applicant using approved principles and criteria. These include:(a) meets the financial and technical requirements in addition to history of compliance; and (b) has good faith intention as well as the competence and resources. A legally binding agreement is then entered into, specifying the quantity and kind of forest produce to be harvested, as well as a commitment to engage in conservation activities. A concession may also be granted to carry out forest conservation operations in an area even if forest produce suitable for commercial use occurs in the area. The expiry date of a concession is per agreement or for 40 years whichever is earlier. A concession can only be renewed if the holder does not default in the earlier agreement and has satisfied the relevant requirements for renewal.
- 5.3.5 There is provision for the grant or renewal of smaller concessions based on a public notice, or other forms of publicity, inviting interested persons to apply. A small concession is defined as having a maximum size of 8,097 hectares (approximately 20,000 acres or 31 square miles) or less. In relation to a forest area larger than 8,097 hectares, a concession can only be granted if the applicant is the holder of an exploratory permit; or if the applicant has satisfied compliance and other requirements to carry out forest conservation operations in the area concerned. A key requirement is for there to be in place a Forest Management Plan a duration of three to five years as well as an Annual Operation Plan, duly approved by the Commission.

State Forest Exploratory Permit

- 5.3.6 In accordance with Section 9 of the Forests Act 2009, a person may apply for the grant of a permit to carry out exploratory operations within a specified area of State forest with a view to subsequently applying for a concession in that area. The application for a State Forest Exploratory Permit (SFEP) must be in response to a public notice or other forms of publicity, as the Commission deems necessary to bring to the attention of persons interested in applying for an exploratory permit.
- 5.3.7 An applicant for an SFEP is required to pay a non-refundable application fee of US\$20,000; must have audited financial statements for the last five years; provide evidence of technical and financial qualifications; and a history of compliance. If the Commission is satisfied that an applicant meets these requirements, it invites the applicant to submit a bid specifying the premium he/she is offering to pay for the permit. The premium must be above the minimum value specified by the Commission. If more than one applicant qualifies, the permit is granted through negotiations with the qualified applicants, or the permit is offered through competitive bidding in accordance with the regulations.

- 5.3.8 *The Commission commented that Sections 9 (6) and (7) of the Act state that the Commission “may” invite the applicant to submit a bid; and if more than one applicant qualifies, the Commission “may” grant the permit by negotiating with the qualified applicants; or by offering the exploratory permit to the public by competitive tender in accordance with the regulations. The Commission is therefore not legally compelled to collect a bid if there is only one applicant.*
- 5.3.9 Although not specified in the Act, if the Commission approves of an application for SFEP, the application is forwarded to the Cabinet Sub-Committee on Natural Resources for endorsement. Once the permit is granted, the holder is only allowed to cut and take specified kinds and quantities of forest produce from the exploratory area for testing, research and limited commercial purposes to the extent necessary to recoup no more than the appointed percentage of the costs and expenses (excluding capital expenditure) incurred in the exploratory operations during the life of the permit.
- 5.3.10 Appointed percentage is defined as the percentage prescribed by regulations, or where no percentage is prescribed, 25 per cent. However, to date no regulations have been made under the new Act and therefore the latter applies. It is also important to note that capital expenditure, such as the purchase of vehicles and equipment, is not included in the computation. This would require the holder of the permit to submit periodic financial returns attesting to its operational costs.
- 5.3.11 An exploratory permit expires on the earlier of the expiry date contained in the permit or on the third anniversary of the permit. In other words, an exploratory permit is valid only for a maximum of three years. The law does not allow for the renewal of an exploratory permit. However, while the permit is in force, the holder may apply for a concession in respect of all or part of the exploratory area. Within the three-year period of the SFEP, the holder is required to have a Management Level Forest Inventory and a Forest Management Plan. It is also required to carry out an Environmental and Social Impact Assessment (ESIA).

Use Permit

- 5.3.12 Section 10 provides for persons to apply to the Commission for the grant of a Use Permit to carry out one or more of the following: scientific research; education training; recreation or eco-tourism; taking photographs, making films or videos and sound recordings; or any other purpose after public notification. The permit is granted after due consultation with the relevant stakeholders.
- 5.3.13 The holder of a Use Permit cannot cut or take any forest produce unless needed for *bona fide* scientific research in which case the permit will specify the quantity and kind of produce to be cut and taken. The permit expires on the date specified in the permit or at

the end of the calendar year in which it was issued. However, a permit can be renewed before it.

Community Forest Management

- 5.3.14 Communities are permitted to use forest resources to meet local needs in terms of income generation and economic development on a sustainable basis and with due consideration to the enhancement of environmental stability. Upon application by a community group, the Commission may enter into a forest management agreement authorizing the group to undertake activities consistent with the agreement.
- 5.3.15 The Commission has to be satisfied that the persons involved have been given a free and fair opportunity to join or otherwise participate in the affairs of the group. They must also be living in close proximity of the specified forest area in addition to strong traditional ties with the area. The agreement expires on the date stated in the agreement or on the second anniversary of the agreement, whichever is earlier.

Afforestation Agreement

- 5.3.16 After consultation with the relevant stakeholders, the Commission upon application may enter into an agreement with a person authorizing him/her to plant specified trees and plants in a specified area of a State forest and to manage the planted area in accordance with a forestry management plan approved by the Commission.

Security Bond

- 5.3.17 A holder of a State forest authorization (other than a community forest management agreement) must execute and pay a bond as security for: (a) performance and observance of the conditions stipulated in the authorization; and (b) fulfillment of all his/her responsibilities under the Act, including payment of any fine, charge levy, premium, fine, penalty, costs, expense or other moneys. The holder must also replenish the bond from time to time, if part or all of it is forfeited.
- 5.3.18 The requirement for the execution of a bond is mandatory for the grant or renewal of all concessions and exploratory permits. However, in exceptional circumstances, the Commission may waive this requirement by public notification and must state the reason(s) for doing so.
- 5.3.19 Of the total forest concessions granted, 45% relates to foreign ownership of large concessions while 26% represents local ownership. Small concessions to local owners

account for 23% while allocations to local communities amounted to 6%.Table II gives a breakdown of the various permits issued as at 31 May 2015.

Table II
Summary of types of permits

#	Type of permit	Number	Area (Hectares)	% of Forest Estate
1	State Forest Permits (Concessions)	525	2,054,357	17.0
2	State Forest Exploratory Permits	7	570,302	5.0
3	Wood Cutting Lease (WCL)	1	21,267	0.0
4	Timber Sales Agreements (TSAs)	27	4,435,811	36.0
	Sub-Total	560	7,081,737	58.0
5	GFC Forest Reserves	11	17,797	0.0
	Total State Forest Allocated	571	7,099,534	58.0
	Total State Forest Unallocated		5,218,350	42.0
	TOTAL STATE FOREST ESTATE		12,317,884	100.0
	PROTECTED AREAS			
	Iwokrama	1	371,680	-
	Kaieteur National Park	1	61,091	-
	Others (Shell Beach, Kanukus)	2	730,300	-
	TOTAL PROTECTED AREAS		1,163,071	-

5.3.20 Keys challenges relating to the granting of the various concessions and permits include:

- Non-beneficial occupation of allocated state forest allocations;
- Low productivity of concessions;
- Lack of adequate accessibility to concessions;
- High cost of fuel, accounting for 60% of operational costs;
- Non-submission or late submission of forest inventories;
- Lack of submission of newly inventorised blocks;
- Inadequate planning by concessionaires;
- Possible exhaustion of lands for small scale loggers;
- Local and International market availability;
- High cost of capital leading to high cost for financing for retooling;
- Limited availability of skills in a stable and reliable supply; and
- High incidence of log exports and lack of value-added activities.

5.3.21 *The Commission commented that the current concession allocation mix provides a fair spread of concession allocation among small, medium and large operators. In recent years, many forest concessions were issued to communities (indigenous, non-indigenous and mix communities.) To date, a total of approximately 500,000 hectares have been issued to 73 community logging groups. These provide direct and indirect benefits to over 3,000 residents of these communities.*

5.3.22 *The Commission further commented that due to the fact that most of the accessible areas have already been issued out, small operators will face increasing challenge to gain access to forest resource without incurring substantial financial investments. In addition, both large and small operators face other challenges, such as changing market requirements, imported wood products and substitutes e.g. Medium Density Fibreboard (MDF) and pine lumber, cost of financing, cost of production, availability of skilled labour, intrusion of mining activities within forest concessions, high cost of road construction, substantial investment in machinery cost. In view of these challenges and the fact that sustainable forest management is an important pillar to a green economy, consideration should be given for benefits such as duty free concessions, low cost financing etc. to forest concessionaires through a legislative and structure regime. These recommendations have been made to the Tax Reform Committee.*

5.4 **Log exports**

5.4.1 According to a discussion paper dated February 2007 prepared by the Ministry of Agriculture and the Guyana Forestry Commission, the international trends in promoting and ensuring sustainable forest management indicated a growing occurrence of restrictions in the export of logs, especially in tropical timber producing countries. In some cases, there was a total ban on the export of logs, as shown below:

<u>Country</u>	<u>Status of log exports</u>
Brazil	Banned the export of all logs since 1969
Cameroon	Banned export of all logs
Central African Republic	Restrictions on log exports
Columbia	Regulations restricting the exportation of logs in force for over ten years. Only round wood coming from planted forests can be exported
Congo	Moving towards log export restrictions
Cote d'Ivoire	Banned export in log form
Gabon	Instituted log export quota system from January 2007
Ghana	Export of logs banned since 1997. Levies imposed on export of air dried timber for nine important species
India	Banned logging in natural forests
Indonesia	Local logging bans, particularly in East Kalimantan
Malaysia	Complete ban on log exports since 1985
Myanmar	Working towards a restriction of log exports
Papua New Guinea	Export of certain species of logs banned
Philippines	Banned logging of primary forests since 1990
Thailand	Banned logging in natural forests
Venezuela	Banned five main species since 2001.

5.4.2 Since 2009, the Guyana Forestry Commission had expressed concern about the extent of export of logs. Accordingly, it had proposed a ban on such exports with a view to encouraging downstream processing. However, at a Stakeholders Forum held in the same year, an alternative proposal was agreed upon whereby there would be a phased increase in the export commission. For example, the export commission on wamara was 7% in 2009. This was increased to 10% in 2010 and 2011. The current export commission for this species is 17%.

5.4.3 **Despite the above measure, log exports in 2014 have increased by 75%, compared with 2013, from approximately 80,000 cubic metres to 140,000 cubic metres. It is evident that additional measures need to be adopted to restrict the export of logs and to encourage downstream processing in order to maximize the use of Guyana's forest produce for the benefit of its economy in terms of revenue generation through the export of finished products as well as job creation.**

5.4.4 *The Commission commented that the first log export policy was introduced in 2009 as a mechanism to promote further value added activities and reduce the exports of logs. The*

policy provided for a graduated increase in the export commission charged for the export of logs and also compute higher percentage for certain key species. Prior to 2009, a flat rate of 2% export commission was charged on all species of logs exported based on the FOB value. This policy was revised in 2012 and an even higher levels of commission charged. Log export at the moment is less than 35% of production which means in excess of 60% of production is available for local value added activities. In terms of volume, log export for 2014 was 138,502m³ whilst production of logs was 406,433m³ representing 34% of total logs produced. This essentially means that the remaining 66% is available for local added value activities. For the main species used in local added value, the table below summarizes the percentage of production that was exported for each year:

Percentage of Production Exported as Logs (2009 and 2014)

Species	Percentage of log production exported in 2009	Percentage of log production exported in 2014
Purpleheart	88%	51%
Greenheart	13%	10%
Washiba	88%	3%
Shibadan	78%	15%

5.4.5 The Commission further commented that it is cognizant of the need to reduce these levels. A proposal has been developed for the further revision of this policy and some of the provisions include a restriction or ban of certain key species and increase in the rate for other species. This policy is under consideration by the Department of Natural Resources and the Environment (DNRE) prior to public consultations. For Guyana's particular case, the proposed policy is envisaged to provide the following impacts:

- o increase in local added value forest products manufacturing;
- o more effectively supply domestic demand in housing, construction and utility sectors;
- o protect species that are in short supply in the forest whilst maximizing the value of the volumes harvested;
- o creating more jobs in the forest sector;
- o reducing the possibility of pressure on the forest of Guyana and thus limit deforestation and forest degradation; encourage investment in manufacturing forest sector; and
- o enhancing Guyana's forest product market.

5.4.6 Export commission is calculated on the free on board (FOB) value of the logs. There are benchmark values determined by the Forest Products Development & Marketing Council.

In the granting of export licences, the Guyana Forestry Commission ensures that the FOB invoice prices are not below the benchmarks set.

- 5.4.7 When the logs are shipped to the destination countries, the final cost takes into account costs relating to insurance and freight as well as other costs for transporting the logs to locations within the countries where they are sold. In addition, the company exporting the logs will have to apply its own mark-up in order to derive a profit. Therefore, the final price of the logs (whether by way of transfer pricing or otherwise) would be significantly higher than the FOB invoice price on which the export commission is calculated. It is not an indication of under-invoicing and hence loss of revenue.
- 5.4.8 In its publication Volume 19 Number 13, 1st – 15 July 2015, the International Tropical Timber Organisation (ITTO) Market Report referred to reports emanating from the media in Guyana in connection with log prices. The following has been extracted from the report:

The ITTO has noted that prices reported in Volume 19 Number 11 of its market report for the period June 1-15, 2015 have been referenced incorrectly in a recent analysis by the media in Guyana.

ITTO wishes to emphasise that in its report log prices for China are not CIF as has been represented by the media in Guyana. The ITTO report clearly indicates that prices reported for the Guangzhou and Yuzhu International Timber Market are wholesale prices. These wholesale prices include the cost of domestic transport and mark-ups along the supply chain to the wholesale market.

ITTO has noted that there has been an attempt at comparing Guyana FOB price for logs exported to China directly with the wholesale prices reported in the ITTO report and advises that such a comparison will lead to an incorrect interpretation of price structures for logs exported to China from Guyana.

- 5.4.9 *The Commission commented that it has been following closely the issue of possible transfer pricing and/or under-invoicing of timber products, particularly logs to one of the main destinations – China. Directly attempting to establish links to management and ownership, falls outside of the jurisdiction of the GFC – especially since importing companies of Guyana's logs in China have no obligation to disclose to the GFC its shareholding, ownership and control documents and management structure. To this end, the GFC has taken a two-phased methodology for the investigation:*

- *The analysis of Guyana's current log export prices relative to current International tropical log export prices; and*
- *A specific analysis of the actual prices reflected in the ports in China for Guyana's log species.*

5.4.10 *The Commission further stated that the following can be concluded from the analysis above:*

- *There is no evidence of transfer pricing. Data from the Chinese authorities, together with shipping Information from companies that ship to China (from Guyana), together with GFC export prices (FOB), shows that CIF price for Guyana's logs fall within/or in close proximity with the declared price by the Chinese authorities. The GFC has noted that certain recent analysis has attempted to incorrectly compare FOB export prices with CIF import prices of Guyana's logs in China. Further, there has been an attempt to use wholesalers price (on-sellers) as though it were the FOB or CIF price. For example, the main source used in the local media to claim transfer pricing (based on the recent Volume 19 of the ITTO MIS Report), is taken from: **Guangzhou Yuzhu International Timber Market Wholesale Prices** (Page 15 of Report). Information for the Chinese authorities that wholesaler markup on the CIF prices include Chinese taxes ranging from 13-20% based on size and type of product, and additionally, a separate mark up for the product being on sold to buyers. This is typical of any Wholesaler market in China and elsewhere; and*
- *Prices of logs in the export market are determined by species and diameter sizes. The size range of most of Guyana's species to China falls in the range below 50cm diameter. Prices that are being compared for sizes that are above this range will give an incorrect comparison and will further erroneously show a price disparity when in reality this does not exist, given current actual sizes of Guyana's logs being exported.*

5.4.11 *The Commission has provided information as regards the export of logs during the period 2007 to 16 November 2015 by Baishanlin and companies controlled by it, as shown at Table III:*

Table III
Summary of the export of logs for the period 2007-2015

#	Name of company	Year	Quantity (cubic metres)	Value US\$
1	Baishanlin International Forest Development Inc.	2007, 2014-2015	7,060	1,073,582
2	Haimorakrabra Logging Company Inc.	2008-2015	29,710	5,012,045
3	Puruni Wood Products Inc.	2012-2015	-	-
4	Wood Associated Industries Co. Ltd.	2007-2015	12,380	1,978,199
5	Kwebana Wood Products Inc.	2015	1,778	419,599
	TOTAL		50,928	8,483,425

5.5 The Baishanlin case

5.5.1 Baishanlin International Forest Development Inc. was incorporated on 20 September 2006 under the Guyana Companies Act 1991 with the main objective of setting up downstream wood processing operations in Linden and on the East Bank Demerara. To date, the company was granted two SFEPs (01/2011 and 01/2013) covering 104,768 and 73,015 hectares respectively. Baishanlin was also granted two State Forest Permits (ESS 8/2014 and ESS 9/2014) covering an additional 8,170 hectares. ESS 9/2014 was, however, relinquished in March of 2015.

5.5.2 In addition, during the period 2010 to 2014, the shareholders/directors of Baishanlin acquired controlling interest in five logging companies, through the acquisition of shares. These companies hold Timber Sales Agreements (TSAs) covering a total of 441,119 hectares. **Baishanlin therefore had access to 627,072 hectares of State Forest.**

State Forest Exploratory Permit 01/2011

5.5.3 In September 2006, the Commission advertised for the grant of a SFEP for two contiguous blocks with total area of 104,768 hectares (Block A – Left Bank Essequibo River, Right Bank Rewa River, Right Bank Aktayaru Creek; Block B – Left Bank Berbice River, Right Bank Essequibo River). On 28 December 2006, Baishanlin applied for the grant of a SFEP covering the above area. As per Section 9 of the Forests Act 2009, the company was required to have, among others, audited financial statements for the last five years; evidence of technical and financial qualifications; and a history of compliance. Since Baishanlin was only recently incorporated, it could not have met these and other requirements.

- 5.5.4 On 6 March 2007, the Chairman of Baishanlin, Mr. Chu Wenze, wrote to the then Prime Minister giving a background of his involvement with two companies in China and enquiring about the possibility of acquiring 300 acres of land. Mr. Wenze indicated that: **(a) he had already signed an investment agreement with the Government of Guyana; (b) the wood-drying equipment would arrive on 10 March 2007; and (c) once the land is acquired, “you will see a modern wood processing plant here by the end of 2007”.** Mr. Wenze further stated that he was informed that it might take two months for tax exemption on US\$12 million worth of equipment to be approved.
- 5.5.5 In December 2008, the Commission reviewed Baishanlin’s application for the SFEP and found it to be deficient. The company was informed of this, and Baishanlin resubmitted its application on 12 February 2009. According to the minutes of Commission’s Technical Sub-Committee of the board, all the deficiencies identified were adequately addressed to the satisfaction of the Commission. However, the matter was not taken to the Board since the Government had indicated that it had some concerns about various aspects of the company, including financing arrangements. In any event, since Baishanlin was only formed in 2006, it could not have produced audited financial statements for five years nor could it have demonstrated any history of compliance.
- 5.5.6 At its meeting of 27 July 2011, the Technical Sub-Committee agreed to recommend to the Board that Baishanlin be awarded the SFEP. The company had leased 200 acres in Region 10 to establish state-of-art integrated wood processing value-added facility and had given a commitment to complete the facility by the end of 2013, following which the Government of Guyana would make available a further 100 acres for further value-added processing. However, the submission of the audited financial statements remained outstanding. **Notwithstanding this, Baishanlin was awarded State Forest Exploratory Permit 01/2011 on 4 November 2011 for 104,768 hectares.**
- 5.5.7 As a condition for the grant of the SFEP, the company was required to: (a) carry out an Environmental and Social Impact Assessment (ESIA) before any extraction could begin; (b) prepare a business plan; and (c) do a forest inventory. **However, at the time of the expiration of the SFEP on 4 November 2014, these were not completed.** Baishanlin contended that it was faced with a number of constraints, including passing through eight concessions and the need to repair/upgrade roads; and that it has since been able to access the area. As a result, on 1 October 2014 Baishanlin requested an extension of one year to fulfil its obligations under the permit, including the setting up of the wood processing facility.
- 5.5.8 **The Commission’s board approved of Baishanlin’s request for an extension of the SFEP, and by letter dated 28 October 2014, the Commissioner informed the company of the board’s**

decision. As indicated above, an exploratory permit expires on the earlier of the expiry date contained in the permit or on the third anniversary of the permit, and by Section 9 (9) of the Forests Act 2009, the renewal of such a permit is specifically prohibited. There is also no provision in the Act for the extension of an SFEP once the expiry date is reached. **The extension granted to Baishanlin in effect constitutes a renewal of the SFEP and therefore is in conformity with the Act.**

- 5.5.9 *The Commission commented that the provision of audited financial statement would only be applicable if the company was operational for five years. If this was a requirement, then it means that no newly incorporated company in Guyana (regardless of previous forestry experience elsewhere) would qualify for the grant of an SFEP. In addition, the Government and the Commission did a due diligence on the Company, and at that time they were satisfied that Baishanlin had the experience and adequate financial and other resources to undertake the stated operations.*
- 5.5.10 *The Commission further commented that the extension granted to Baishanlin followed precedence set with other SFEPs, and that whilst a renewal is not in conformity with the Act, an extension does not raise specific non-conformance with the Act. In addition, the company was not granted the lease with access to an initial 200 acres of the land until around 2010. This land was essentially very low, water-logged land with no road access. However, the GFC continuously reminded the company that they needed to place emphasis on the completion of the wood processing facility.*
- 5.5.11 Baishanlin's extended permit expired on 4 November 2015, but there was no board in place to address the issue. According to media reports, the Minister responsible for natural resources indicated that: (a) the company applied for a further extension of two years to enable it fulfill its obligations under SFEP01/2011, especially as regards to setting up of the wood processing facility; and (b) the Government was favourably disposed to approving Baishanlin's request. The Ministry of the Presidency later clarified that no decision was taken and that it has requested information from the company about its proposed business plan and evidence of financing. Upon receipt of this information, Baishanlin's request would be reviewed and a decision taken.
- 5.5.12 At the time of reporting, the company was yet to submit the requested information. **If this second request for extension is approved, the company would have enjoyed the benefit of the grant of an exploratory permit covering a period of six consecutive years whereas the law allows for a maximum period of three years for such a permit.**
- 5.5.13 *The Commission commented that in actuality, the two-year extension requested relates to the additional time needed to complete the wood processing facility and that if the*

extension is granted, Baishanlin would have to fulfill this requirement as the main deliverable.

- 5.5.14 A State forest authorization may be suspended at any time if the Commissioner believes that the holder: (a) commits an offence under the Act or has breached the Act; or (b) is incapable of carrying out operations in accordance with the authorization, any applicable forest management plan or annual operations plan. For authorizations covering more than 8,097 hectares, the holder is given reasonable opportunity to remedy or rectify the matter(s) giving rise to the suspension. However, an authorization can be suspended if the Commissioner is satisfied that the delay can result in irreversible degradation of or irreparable damage to the forest concerned.
- 5.5.15 The suspension of a State forest authorization lapses after six months unless the Commission has made a decision on the matter giving rise to the suspension. However, a suspension cannot exceed one year, and there is provision for amendment to the authorization or for revoking it. Notwithstanding this, at any time the Commission may amend a State forest authorization by written agreement with the holder. A holder can also surrender his/her authorization at any time by giving written notice to the Commission. All movable property is to be removed with 90 days after expiry, surrender or revocation of a State forest authorization.
- 5.5.16 **Despite the above requirements relating to the non-performance of the holder of a State forest authorization, there is no evidence of any action being taken to enforce these requirements as they relate to Baishanlin.**
- 5.5.17 By letter dated 12 July 2012, the Managing Director of Baishanlin, Mr. Chu Hongbo, wrote to the former Minister of Trade, Industry and Commerce referring to the investment agreement it had entered into with the Government of Guyana, which had expired on 21 February 2012. The letter sought to update the Minister on four projects proposed to be implemented in the next five years, namely forest development, industrial park, construction of commodity mall, and housing development.
- 5.5.18 The letter further stated that the Baishanlin's equipment was not suitable for Guyana forest terrain and that most of them had deteriorated tremendously and would have to be sold as scrap. Accordingly, the company was requesting duty-free concessions on a wide range of heavy duty vehicles and equipment, wood processing, shipbuilding and shipping equipment, construction equipment and materials, power generation equipment and fuel. **It is not clear whether duty-free concessions were granted for machinery and equipment that the company claimed were unsuitable and had deteriorated, as the Guyana Revenue Authority was unable to provide the related information for period earlier than 2012.**

Commented [PB1]: Commissioner Singh's Comment - BSL applied for a further **EXTENSION of up to 1 year to complete the SFEP requirements**. The 2 years refers to the additional time requested to complete the **Wood Processing Facility**.

As such, the text was adjusted to reflect this distinction.

5.5.19 The Commission commented that the granting of Baishanlin’s SFEP was intended to support its value added investments. A comparison of actual achievement to date against proposed targets was undertaken and based on a review, the company met most of its commitments with the notable exception of the construction/operationalization of the wood processing factory, as shown in the table below. In addition, the Baishanlin and the China Development Bank have indicated that additional financing should be released in early 2016 with the major focus being the construction/operationalization of the wood processing facility.

Investment Area	Investment Plans	Achievements
Pre-harvest activities, site preparation and infrastructure	Conduct pre-harvest and site preparation activities to enable forest harvesting.	Total primary roads built: 300km; Total secondary roads build: 200km; Total investment in infrastructure is: US\$8M. Fully met as per Annual Plan requirements
Harvesting	Commence harvesting to a maximum of 100,000m ³ per annum when wood processing plant fully operational.	Total Investment in machinery to date includes 350 units of machinery comprising of skidders, log loaders, logging trucks, excavators, bulldozers, compactors, dump trucks, tugs and barge, etc. at a total value of US\$40M. In 2014, total production volume was approx. 50,000m ³ (1/10 of total national production). This production was consistent with the GFC guidelines for SFM. Machinery requirements fully met harvesting at acceptable level
Wood Processing Facility	Obtain relevant permission and approval necessary for the establishment of the wood processing facility; commence site work; and operationalise wood	Lease for wood processing facility secured. EPA Permit obtained. Initial site works and road access have commenced at conception.

	<i>processing plant</i>	<i>Design of factory Completed.</i> <i>Not Met. Baishanlin expects the China Development Bank to release additional finances in the early 2016 to complete construction of wood processing factory by last quarter 2017.</i>
<i>General: financing commitment, employment & Others</i>	<i>Secure financing in the amount of US\$130M over 3 years commencing 2012; create employment for 150 persons over a 3-year period; create the necessary supporting infrastructure for logging and wood processing operation.</i>	<i>US\$72M invested to date; 151 persons employed of which 100 are Guyanese; Total investment in local employment to date is: US\$3.6M; Total of 12 units have been built: working camps, and houses.</i> <i>Partially Met. BSL expects additional financial disbursement from China Development Bank in first quarter 2016.</i>

5.5.20 In terms of forest development, the company erroneously referred to the allocation to it of State Forest Concession of 104,768 hectares whereas it as granted a SFEP. As noted above, the holder of a SFEP can only carry out harvesting to the extent of recovering a maximum of 25% of operating expenses (excluding capital expenditure). The letter further stated that the Commission had granted permission to harvest 25-28 blocks per year.

5.5.21 *The Commission commented that the completion of ESIA and the forest inventory are pre-conditions for the completion of the forest management plan. However, for the harvesting to commence to recover the 25% operational costs, Baishanlin had to complete a 100% pre- harvest forest inventory. This was done and verified by Commission prior to the issuance of the approval for harvesting.*

5.5.22 The list of machinery and equipment for which duty-free concessions were requested, as per letter dated 12 July 2012, are shown at Tables IV to VI. This is in addition to a variety of construction equipment and materials for the Industrial Park, Commodity Mall and Housing Development, including power generation equipment and 200,000 gallons of diesel fuel per year.

Table IV
List of machinery and equipment for forest operations

#	Description	Quantity	#	Description	Quantity
1	Skidder	50	15	15-seater mini bus	10
2	Excavator	20	16	30-seater mini bus	10
3	Bulldozer	40	17	Fuel tank truck	5
4	Dump truck	50	18	Sprinkler	5
5	Logging truck	50	19	Goods transport truck	50
6	Loader	30	20	Container truck	50
7	Chainsaw	150	21	Low-bed truck	5
8	Motor grader	5	22	Mechanic service truck	5
9	Compactor	5	23	Concrete mixer truck	20
10	Crane	5	24	Concrete pump truck	5
11	Forklift	50	25	Asphalt paver	1
12	Car	20	26	Spare parts	100,000
13	Jeep	20	27	All types of tyres	10,000
14	Pick-up	20			

Table V
List of wood processing equipment

#	Description	Quantity	#	Description	Quantity
1	Saw-wood processing	20	7	Plywood production	10
2	Wood door processing	50	8	Wood house production	20
3	Wood floor production	20	9	Kiln drying equipment	50
4	MDF production	2	10	Line crane	20
5	CNC engraving machine	300	11	Gantry crane	2
6	Chipping machine	50			

Table VI
List of shipping and shipbuilding equipment

#	Description	Quantity	#	Description	Quantity
1	Tug boat	10	4	Jet boat	4
2	Barge	20	5	Shipbuilding equipment	20 sets
3	Wharf crane	5	6	Steel plates for shipbuilding	20,000 tons

5.5.23 On 26 September 2013, the Government of Guyana, represented by the Minister of Finance, entered into a new investment agreement with Baishanlin relating to the construction and operations of the wood processing facility in Linden. The agreement was valid for one year unless it was renewed. There were two renewals, the latest being

on 26 January 2015. There were also three supplementary agreements which were renewed annually.

5.5.24 Table VII shows for the period 22 August 2012 to 29 January 2015 the various investment agreements entered into with Baishanlin and their renewal, including supplementary agreements. This information was obtained from GO-Invest via the Minister within the Ministry of Finance.

Table VII
List of investment agreements with Baishanlin: 2015-2015

#	Date	Description	No. of items for fiscal concession
1	22/08/12	Investment Agreement (Renewal)	48
2	07/11/12	Investment Agreement (Supplementary)	21
3	28/02/13	Investment Agreement (Supplementary 2)	13
4	26/09/13	Investment agreement	98
5	27/09/13	Investment Agreement (Renewal)	44
6	07/01/14	Investment Agreement (Supplementary Renewal 1)	11
7	26/01/15	Investment Agreement (Renewal)	44
8	28/01/15	Investment Agreement (Supplementary 3 Renewal)	87
9	29/01/15	Investment Agreement (Supplementary 2 Renewal)	3

5.5.25 It is evident from the above table that an investment agreement was entered into prior to 2012 and that there was one renewal and two supplementary agreements during the period 2012 to 2013. On 26 September 2013, a new investment agreement was entered but it is not clear whether the previous agreement and the supplementary agreements were cancelled. There were also three supplementary agreements. All of these agreements relate exclusively to the construction of the wood processing facility in Linden.

5.5.26 According to information provided by the Guyana Revenue Authority (GRA), for the period 2012 to 2015, fiscal concessions were granted to Baishanlin on machinery and equipment with a CIF value of G\$7.464 billion, equivalent to US\$37.321 million. **GRA indicated that it was unable to provide information relating to the earlier years because of computer problems.**

5.5.27 The actual fiscal concessions amounted to G\$1.827 billion, as shown at Table VIII:

Table VIII
Summary of fiscal concessions granted to Baishanlin during the period 2012-2015

Year	CIF Value \$'000	Duty Exempted \$'000	VAT Exempted \$'000	Excise Exempted \$'000	Total Exempted \$'000
2012	1,828,224	30,341	305,639	31,677	367,657
2013	5,518,531	254,323	956,017	225,555	1,435,895
2014	71,509	1,626	11,702	-	13,328
2015	45,929	2,526	7,753	-	10,279
TOTAL	7,464,193	288,816	1,281,111	257,232	1,827,159

5.5.28 In support of the above, the GRA has provided 125 letters of approval covering the period 19 October 2012 to 19 March 2015. From these letters, a summary of list of machinery and equipment for which the concessions were granted has been extracted and shown at Table IX. However, four letters did not provide specific details about the related machinery equipment acquired from Machinery Corporation of America Inc. and Heilongjiang Baishanlin Wood Co. Ltd. There are therefore not included in the table. GRA explained that these relate to the acquisition of seamless steel tube, an assortment of steel and steel plates, Caterpillar bucket, and Caterpillar contractor grapple.

Table IX
List of machinery and equipment for which fiscal concessions were granted

#	Description	Quantity	#	Description	Quantity
1	Skidder	20		Nissan bus	2
2	Excavator	10		Road roller	7
3	Bulldozer	27		Oil tank truck	2
4	Dump truck	75		Brick making machine	1
5	Tractor truck	34		Concrete batching plant	1
6	Loader	15		Container truck	20
7	Yamaha boat	1		Lorry truck	2
8	Motor grader	5		Cement mixer	6
9	Dredger	1		Transit mixer truck	3
10	Crane	6		Concrete pump truck	1
11	Forklift truck	4		Generating sets	33
12	Car	2		Water treatment plant	1
13	Jeep	2		Winch	2
14	Crawler	1		Shearing machine	1
15	Trailer	54		Bending machine	1
16	Water pump set	16		Shovels, barrows, wire rope & other equipment	

- 5.5.29 Other items for which fiscal concessions were granted as per the above letters include: 4,140 kg. diluter; 34,965 kg. industrial anti-corrosion paint; 47,075 sacks of cement; 11,998 tons of cement; 1,380 tons of steel.
- 5.5.30 A review of the list of items of machinery, equipment and construction materials for which fiscal concessions were granted indicates **that many of the items were either unrelated to, or were significantly in excess of, the requirements for the construction of wood processing facility. Indeed, the evidence suggests that the fiscal concessions granted were substantially in relation to Baishanlin's ownership/control of the five logging companies having TSAs as well as its proposed investment at Providence, East Bank Demerara.**

State Forest Exploratory Permit 01/2013

- 5.5.31 On 26 March 2013, the Technical Sub-Committee considered Baishanlin's application for a second SFEP involving 73,015 hectares. The company had submitted audited financial statements for 2006-2011; evidence of US\$30 million to be invested; and information that of a significant number of heavy duty machinery in Guyana which would be used.
- 5.5.32 **A review of the audited financial statements of Baishanlin indicated that the company was in dire financial difficulties. The auditors have qualified the Baishanlin's accounts for 2007 to 2011. In their opinion on the 2011 accounts, the auditors stated that: (a) there were no agreements in support of loans totalling \$1.903 billion to the company; (b) interest was only charged on some loans; (c) the company continued to make losses which for 2011 amounted to \$313.763 million; and (d) there was an accumulated shareholders' deficit of \$1.187 billion as at 31 December 2011.**
- 5.5.33 **The auditors have also raised concerns about Baishanlin's ability to operate in the foreseeable future as a going concern unless it was able to obtain sustained financing. Despite the findings of the auditors, as well as the fact that the company failed to honour its commitments under SFEP 01/2011, Baishanlin was granted a second State Forest Exploration Permit 01/2013 on 26 April 2013 for 73,015 hectares.**
- 5.5.34 *The Commission commented that the granting of the second SFEP to Baishanlin was aimed at further boosting and consolidating the raw materials requirement for the Wood Processing Facility. However, it stands to reason that such approval should have awaited the completion of the wood processing facility.*
- 5.5.35 Further examination of Baishanlin's audited financial statements for 2011 indicated that three loans were granted to the company totalling \$1.903 billion, repayable over a five-year period and that the terms and conditions had not yet been determined. **One of**

these loans amounting to \$1.117 billion was granted by the company's chairman, Mr. Chu Wenze. At the end of 2010, Baishanlin's indebtedness to Mr. Chu Wenze was \$1.276 billion.

5.5.36 By letter dated 6 November 2013 addressed to the then Minister of Natural Resources, Baishanlin requested approval "in cancelling 25% allowable cut restriction and enjoy normal TSA allowable cut policy in concession of Sherwood Forrest Inc., SFEP 01/07, Baishanlin SFEP 01/2011 and SFEP 01/2013". As will be noted, Baishanlin had acquired controlling interest in Sherwood Forrest in May 2010.

5.5.37 The letter went on to state that Baishanlin had signed an agreement of sale for the purchase of 100% shares with Demerara Timbers Ltd. which held a TSA involving 520,000 hectares of forest concession. However, the matter of the sale was subject to dispute and was engaging the attention of the court. Accordingly, Baishanlin had requested its three lawyers "to write letters to the related Minister, Commissioner and the Judge to cease DTL's operation...Baishanlin is asking the assistance from Hon. Minister to cease DTL's operation and urge the case on court".

5.5.38 In response to the above letter, the Forestry Commission made it clear that: (a) the restriction in harvesting relating to a SFEP is a requirement of the Forests Act 2009;(b) the restriction could not be lifted; (c) there are strict procedures for the conversion of a SFEP into a TSA, including the conduct of an ESAI which Baishanlin needed to follow. The Commission did, however, give approval, as a one-off consideration, for the harvesting of 35 blocks for SFEP 01/2013 based on a verification exercise which it carried out.

5.5.39 As regards the dispute between Baishanlin and Demerara Timbers Ltd., the Commission advised that the arrangement "is a private venture and this was not brought to the attention of GFC for prior approval. The Forest Act requires that for any transfer of shares must be approved by the GFC, unfortunately this was not done in this case.... We wish to note that forest concessions are not transferrable without prior approval of the GFC. As such, any agreements made to the contrary are invalid".

Baishanlin's acquisition of controlling interest in logging companies

5.5.40 In accordance with Section 15 of the Forests Act 2009, a State forest authorisation cannot be granted to two or more persons associated together in a joint venture unless each of them qualifies under the Act for the grant of such an authorization. In addition, by Section 16, except with the prior written consent of the Commission, the holder of such an authorization cannot engage or be involved in any act that results or is likely to result in a change of effective control, including transferring the authorisation or entering into a sub-contracting or sub-letting arrangement. If this happens, the holder has to give

written notice to the Commission and surrender the authorisation. Any such transfer, sub-contacting or sub-letting arrangement is void, and the authorization is deemed revoked.

- 5.5.41 During the period 2009 to 2014, the directors/shareholders of Baishanlin (Messrs. Chu Hongbo, Zhang Li Na, Chu Wenze) acquired the majority, if not, all of the shareholdings in a number of logging companies having TSAs and SFEPs with the Commission, as shown at Table X:

Table X
Acquisition by Baishanlin's officials of shareholdings in other logging companies

#	Name of company	% of shares acquired	Date of acquisition	Names of shareholders	Names of other company officials
1	Sherwood Forrest Inc.	100	May 2010	Chu Hongbo	Chu Wenze, Zhang Li Na
2	Haimorakabra Logging Co.	90	July 2007	Chu Wenze	Chu Hongbo
3	Wood Associated Industries Co. Ltd.	45	April 2009	Chu Wenze	Chu Hongbo, Zhang Li Na, Chu Wenze
4	Puruni Woods	90	August 2013	Chu Wenze, Chu Hongbo, Yu Mingxin, Gao Wei, Zhang Min	Chu Hongbo
5	Kwebanna Wood Products Inc.	90	April 2014	Chu Wenze, Chu Hongbo	Chu Wenze, Chu Hongbo, Chu Tong Wei

- 5.5.42 In July 2007, Sherwood Forrest Inc. was granted SFEP 01/2007 covering 167,066 hectares. In May 2010, Mr. Chu Hongbo acquired 100% ownership of the shares in the company and became the Managing Director. The other Directors were Chu Wenze and Zhang Li Na. **The SFEP was converted into a TSA on 8 May 2015 while the Environmental Permit was given on the same day. This was the last business day before the 11 May 2015 National and Regional Elections.**

- 5.5.43 The Commission granted S Kharie and Sons Logging a TSA in 2004 covering an area of 52,896 hectares. There was a name change to Haimorakabra Logging Co. Inc. in March 2006 following incorporation of company. Mr. Chu Wenze bought 90% of the shares in the company and became Chairman while Chu Hongbo became Secretary. On 4 November 2011, a TSA was granted to the new company.

- 5.5.44 The Commission granted Woods Association Industries Co. Ltda TSA in January 2000 covering an area of 26,085 hectares. In April 2009, Mr. Chu Wenzhe bought over the shares in the company. With effect from 3 April 2012, the new directors were Messrs. Zhang Li Na, Chu Wenzhe and Chu Hongbo.
- 5.5.45 In August 2004, Puruni Woods was granted a SFEP covering an area of 110,253 hectares. The Commission converted the SFEP into a TSA in July 2007. In August 2013, Heilongjiang Forest Engineering and Processing Development Inc. bought 90% of the shares in the company, and Mr. Chu Hongbo became Director/Secretary as well as the Managing Director.
- 5.5.46 In April 2009, the Commission granted Kwebanna Wood Products Inc. a TSA covering 87,361 hectares. The original company was A. Mazarally and Sons but the new company was incorporated in January 2008. In October 2010, there was a change in directorship of the company, with Mr. Chu Hongbo becoming the Managing Director while the other directors were Messrs. Chu Wenzhe, and Chu Tongwei.
- 5.5.47 **There was no evidence that the specific approval of the Commission was granted in relation to the change of ownership/control of these companies.** In the circumstances, the holders of the SFEPs/TSAs should have surrendered their authorisations to the Commission.
- 5.5.48 **While evidence was seen that the Commission granted approval for joint ventures between Baishanlin and these logging companies, it is unclear whether the provisions of the Act are applicable to existing holders of State forest authorisations. In any event, Baishanlin was only the holder of an exploratory permit subsequent to 2011 and therefore would not have qualified to enter into a joint venture agreement with the holders of TSAs.**
- 5.5.49 *The Commission commented that prior to the 2009 Act, there was no requirement for the joint ventures to be approved by the Commission and that Baishanlin had acquired Haimorakabra Logging Co. during this period. Subsequent to the 2009 Forests Act, and with the approval of the Commission's Board, Baishanlin entered into joint ventures with the other four companies. In addition, because of the extremely low production of logs and lumber which impacted negatively on local construction, added value and export markets, the GFC Board convened meetings with stakeholders to identify reasons for this low productivity; and to agree on acceptable recommendations that were in keeping with GFC's legislation. Arising out of these meetings, it was agreed to allow Board approved joint ventures in accordance with a clearly defined framework.*
- 5.5.50 *The Commission further commented that Baishanlin's investment proposal includes an integrated wood processing facility at Linden. The input capacity for this factory is*

approximately 300,000 cubic meters of logs. The company indicated that to accumulate and obtain a guaranteed supply of raw materials the company began to invest in partnership arrangements with other forest companies in possession of concessions from the GFC. These include Sherwood Forest, Haimorakabra, WAICO, Puruni Woods and Kwebana Wood Products. These joint venture arrangements were approved by the GFC Board. In addition, the company was granted two SFEPs to support its investment. To date, however, little progress has been made in terms of completing and operationalizing the wood processing facility...The joint ventures and other similar business arrangements were approved by the GFC Board based on a systematic mechanism to aid production and value added in the sector at the time.

5.5.51 The issue, however, is not so much one of joint venture, but a situation where the Act specifically prohibits the change of ownership/control of a State Forest concession without the approval of the Commission. In addition, it is inconceivable that the Board should have approved of the joint venture to guarantee a supply of raw materials for the wood processing facility when in fact: (a) the facility was yet to be built despite several assurances given as well as the enjoyment of generous fiscal concessions to facilitate the construction; and (b) the major activity of Baishanlin and the companies for which it has joint venture agreement was the export of logs.

5.6 The Vaitarna Case

5.6.1 Simon and Shock International Logging Inc. was granted a SFEP (03/2007) on 19 December 2007 covering 391,874 hectares. In 2010, Vaitarna Holdings PVT Ltd. acquired all the shares in the company and paid the outstanding debt to the Commission of US\$254,000. **However, there was no evidence of the specific approval of the Commission in relation to the change of ownership of the company.**

5.6.2 Notwithstanding this, the Commission granted Simon and Shock two extensions for exploratory operations to May 2012. The SFEP was converted into a TSA (01/2014) on 5 March 2014 with an expiry date of 4 March 2029. **Simon and Shock would have had the benefit of an exploratory permit covering a period of over six years whereas the Forests Act provides for the validity period for a SFEP to be for a maximum of three years.**

5.6.3 By letter dated 2 July 2010, Vaitarna Holdings expressed an interest in acquiring the TSA held by Caribbean Resources Ltd. (CRL), a subsidiary of Colonial Life Insurance Co. since 1989. The concession, with an area size of 345,961 hectares, had expired in February 2010, and the Government decided against its renewal because of the inability of CRL to make beneficial use of the concession.

5.6.4 A number of other entities had expressed an interest in the reallocation of the concession. However, in view of the need for the Government to urgently obtain funds of at least G\$500 million to address CLICO’s liabilities to Guyanese stakeholders and the willingness of Vaitarna Holdingsto offer G\$600 million as consideration for the grant of the concession, the Board and the Government agreed to reallocate the concession to this company.The company had submitted an Annual Operations Plan for 2011 and was granted a State forest concession (TSA 01/2010) on 7 September 2010 for 25 years, renewable for another 25 years at the option of Vaitarna Holdings. **The companytherefore has access to 737,835 hectares of State forest.**

5.6.5 According to information provided by the Guyana Revenue Authority, Vaitarna Holdings was granted fiscal concessions on a variety machinery and equipment with a CIF value of \$1.142 billion, equivalent to US\$5.712 million, during the period 2011 to 2014. This was based on an investment agreement it had entered into with the Government of Guyana. Table XI provides the relevant details:

Table XI
Summary of fiscal concessions granted to Vaitarna Holdings

Year	CIF Value \$'000	Duty Exempted \$'000	VAT Exempted \$'000	Excise Exempted \$'000	Total Exempted \$'000
2011	837,797	125	134,068	-	134,193
2012	59,048	-	7,326	1,459	8,785
2013	8,926	4,017	4,349	14,237	22,603
2014	236,669	11,248	39,667	-	50,915
TOTAL	1,142,440	15,390	185,410	15,696	216,496

5.7 Guyana-Norway REDD+ Partnership

5.7.1 In 2009, the Governments of Guyana and Norway entered into an agreement whereby Guyana would benefit from payments up to US\$250 million through 2015 to limit deforestation degradation rates as well as greenhouse gas emissions. Payments were to be made based independent verifications of performance mainly in relation to a number of indicators against benchmarks set. To date, Guyana has received US\$190 million in payments based on the verification reports.

5.7.2 This shortfall was mainly due to the aborted Amaila Falls Hydro Project which Norway had supported as well as the delay in application for membership to the Extractive Industries Transparency Initiative (EITI). Application was to have been made in June 2015 but the date was revised to June 2016. The Government has recently approved of a

Budget Transparency Action Plan proposed by the European Union, and one of the activities in the Plan relates to application for membership to the EITI.

5.7.3 According to the Director of Norway’s International Climate and Forest Initiative, there were no discussions to extend the partnership. Norway would like the Government to come up with an alternative plan for renewable energy. At the time of reporting, discussions were on-going following the Conference of Parties’ meeting of the United Nations Framework Convention on Climate Change (UNFCCC) in Paris.

5.7.4 The verification of performance indicators under the REDD+ Partnership relates to: (a) gross deforestation; (b) loss of intact forest landscape; (c) forest management; carbon loss as an indirect effect of new infrastructure; (d) emissions resulting from illegal logging activities; and emissions resulting from anthropogenically caused forest fires. The results of the verification exercise covering the period 2011 to 2014 are shown as Table XII:

Table XII
Results of verification of REDD+ Performance Indicators: 2011-2014

#	Description	Benchmark	2011	2012	2013	2014
1	Gross deforestation rate (%)	0.056 – 0.1	0.054	0.079	0.068	0.065
2	Verification of loss of intact forest landscape (hectares)	7.605M	7.605M	7.605M	7.604M	7.604M
3	Forest management (tons of CO ₂)	3.387M	3.685M	2.159M	3.107M	3.366M
4	Carbon loss (hectares)	4,368	5,460	1,963	4,352	4,231
5	Emissions from illegal logging (tons of CO ₂)	411,856	18,289	11,217	11,533	13,823
6	Emissions from forest fires (hectares/year)	1,706	28	208	395	265
7	Emissions from subsistence forestry, land use and shifting cultivation lands (hectares/year)	-	-	-	765	167

Note: Year 2011 Assessment covered a period of 15 months and Benchmark relates to 12 month periods. This specifically relates to Indicators 3 and 4 where the annual benchmark was not exceeded.

5.7.5 As can be noted, with a gross deforestation rate of 0.065% in 2014, Guyana was well within the range of 0.056 – 0.1%. The loss of intact forest was mainly due to mining activities but has been stabilized over the last four years and was within the benchmark

set. However, emissions from illegal forest logging continued to be a source of concern. The Commission has indicated that the benchmark should be revised.

5.8 EU FLEGT Programme

5.8.1 In 2012, after consultations with key stakeholders, a policy decision was taken to enter into formal negotiations with the European Union on a Forest Enforcement Governance and Trade Voluntary Partnership Agreement (EU FLEGT VPA). The objective is to provide a “a forest legality framework supporting sustainable forest management and trade, whilst improving Guyana’s access to international markets”.

5.8.2 The Commission has recorded the following achievements to date:

- Three rounds of negotiations were held in December 2012, July 2013 and April 2015;
- Updated Joint Road Map document;
- Draft Legality Definition for Guyana FLEGT VPA defining what constitutes legal timber in the Guyana context;
- Draft Regulatory Framework – the laws and guidelines within which the VPA will operate;
- Draft Product Scope outlining the products to be covered under the Agreement;
- Draft Woodcutting Tracking System, including annexes and articles;
- Draft Communication and Consultation Strategy designed to advise on best practices to achieve the outcome of a strong and comprehensive stakeholder engagement;
- A scoping of impacts study to inform Guyana’s next steps in bridging the gap between the current situation and what is required by the VPA across various stakeholder groups; and
- Approval of funds for various aspects of support to stakeholders under the DFID Grant Funding Mechanism.

5.9 Internal Audit

5.9.1 According to the Institute of Internal Auditors (IIA), internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps the organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

5.9.2 Internal audit is an integral part of an organisation’s internal control system designed to assist an organization in ensuring that: (a) its business is carried out in an orderly and efficient manner; (b) there is adherence to policies, applicable laws, regulations and

circular instructions; (c) assets are safeguarded; and (d) fraud, error and theft and prevented and detected; and (d) accounting and other related records are complete, accurate and reliable. Membership of the IIA and following the internal auditing standards and guidance promulgated by the Institute will enhance the effective functioning of the Internal Audit.

5.9.3 The Commission's Internal Audit Unit comprises an Internal Auditor, three divisional audit assistants (Berbice, Demerara, and Essequibo) and two export audit assistants. It carries out: (a) monthly checks on forest stations, especially in relation to the collection of revenue; (b) daily checks on export commission and cross-checking on a sample basis at wharves and other locations; (c) weekly checks of Customs Content ship reports to ensure GFC authorization; and (d) systems review relating to licence issuance, tag issuance; checks on lumber yards and sawmills. All forest stations are audited once every year, and on average two stations are audited every month.

5.9.4 The Internal Audit activity covers the following areas:

- Monthly Collectors Cash Book Statements(CCBS);
- Monthly revenue and expenditure as well as bank reconciliation statements;
- Systems relating to license issuance, tag issuance, fuel usage, stores, State Forest Permits (SFPs) and Timber Sales Agreements (TSAs);
- Checks of lumber yards and sawmills;
- Daily checks on export commission received;
- Weekly checks on Customs Content ship reports

5.9.5 The Internal Auditor reports administratively to the Commissioner and functionally to the Board. He prepares reports on average twice per month and submits them to the Commissioner. He also summarises these reports on a quarterly basis for consideration by the Board. A review of these reports for the period January 2012 to March 2015 indicates that the focus was mainly in relation to systems and procedures, and no major issues were highlighted. However, the Commissioner does not issue formal responses to these reports and therefore it is not clear what actions are taken in relation to the recommendations contained in them. The Internal Audit also does not have in place in place a system for tracking the implementation of recommendations.

5.9.6 Although the Internal Audit prepares an annual work plan, there is no strategic plan over a three to five-year period out of which is derived the annual or operational plan. In addition, the annual plan is approved by the Commissioner instead of the Board. There is also no audit committee in place.

5.9.7 *The Commission commented that the Corporate Sub-Committee of the Board functions as the Audit Committee and that this Sub-Committee, along with the Commissioner, and Internal Audit Unit had drafted an Internal Audit Charter which was approved by the Board. As regards responses to internal audit reports and the monitoring of the implementation of recommendations, the Commission acknowledged the need for improvement by having formal arrangements in place.*

5.10 Maintenance of a Reserve Fund

5.10.1 In accordance with Section 16 of the Act, the Commission shall maintain a reserve fund and transfer to it from the net surplus for each year an amount not less than the amount fixed by the Minister and notified to the Commission. If the reserve is insufficient to cover any net loss of the Commission recorded in its profit and loss account for any financial year, the amount of the deficiency shall be charged to the Consolidated Fund. If in any subsequent year a net surplus accrues to the Commission, the Commission shall pay into the Consolidated Fund the amount agreed by the Minister of Finance until the amount charged on the Consolidated Fund, together with interest, is fully paid.

5.10.2 **The Commission, however, has not been maintaining a reserve fund, despite the mandatory requirement of the Act. Correspondence seen indicated that in 2004 the Minister had advised the Commission to maintain a reserve of at least one year's expenses.**

5.10.3 *The Commission commented that general discussions were held with various Finance Ministers on the subject but no affirmative decision was taken to set up this fund. Notwithstanding this, funds of the Commission are invested in term deposits accounts in addition resources are provided through annual budgeting to meet the next year expenses. These two provisions still enable the main tenets of such fund to be kept.*

5.10.4 The financial performance of the Commission for the period 2009 to 2014 is summarized at Table XIII.

Commented [PB2]: Commissioner Singh's comments:

We kindly recommend the proposed rewording given the justification below:

The reports are sent via the GFC Intranet. Responses are sent via the Intranet and follow ups are done constantly at Senior Management levels, and with the IA. The IA keeps track of the recommendations and brings any slippages to the attention of the CoF and the respective Head

Table XIII
Financial performance 2009-2014

Year	Income \$'000	Expenditure \$'000	Net operating Income \$'000	Taxation \$'000	Net Profit/(Loss) \$'000
2009	772,217	820,121	(47,904)	22,369	(70,273)
2010	1,775,285	1,009,048	766,237	-	766,237
2011	1,113,226	1,286,958	(173,732)	-	(173,732)
2012	1,246,506	1,270,611	(24,105)	-	(24,105)
2013	1,143,338	1,047,774	95,564	-	95,564
2014	1,569,504	1,336,451	233,053	-	233,053
NET PROFIT					826,744

Note: The results for years 2013 and 2014 are based on unaudited financial statements.

5.10.5 As can be noted, the Commission made a net profit of \$766.237 million in 2010. This was due mainly to a payment made by Vaitarna for licence fee for the grant of concession previously held by Caribbean Resources Ltd.

5.10.6 The Commission recorded losses of \$70.274 million, \$174.587 million and \$24.105 million in 2009, 2011 and 2012 respectively. However, there was no recourse to the Consolidated Fund, as it had accumulated cash balances of \$840.445 million, \$543.954 million and \$479.153 million at the end the respective years. The retained earnings (accumulated profits) at the end of 2009, 2011 and 2012 were \$57.139 million, \$1.082 billion and \$1.058 billion respectively.

5.10.7 The significant increase in retained earnings in 2011 was due to the transfer of an amount \$1.065 million described under current liabilities as taxation. The note to the financial statements for 2010 indicated that that "the GFC is required to make transfers to the Consolidated Fund and other payments as determined by the GOG. The amount in the tax provision will be subject to review or settle against these payments".

5.11 Transfers to other State agencies

5.11.1 The Commission has been making payments from its retained earnings to other State agencies based on Cabinet decisions, details of which are shown at Table XIV.

Table XIV
Details of payments made to other State agencies

#	Year	Transferred to	Amount \$'000	Remarks
1	2006	NICIL	300,000	For Cricket World Cup
2	2007	NICIL	300,000	For the Marriott Hotel Project
3	2008	Environmental Protection Agency	20,000	For services rendered
4	2009	Environmental Protection Agency	31,000	
5	2010	NARI	33,000	For services rendered
6	2010	Bank of Guyana	600,000	Transfer based on payment by Vaitarna for licence fee for the grant of concession previously held by Caribbean Resources Ltd.
7	2015	Transfer to the Consolidated Fund	100,000	RE: letter dated 23 September 2015 from Finance Secretary (Ag.). In 2003, a transfer of \$400 million was made to the Consolidated Fund.
		TOTAL	1,384,000	

5.11.2 In accordance with Article 217(3) of the Constitution, "No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of Parliament". It follows that funds cannot be transferred to other State agencies to meet public expenditure as such a practice, apart from being a violation of the law, undermines authority of Parliament to approve such expenditure. In addition, since the expenditure was not included in the National Estimates, it was not reflected in the Public Accounts of Guyana, thereby resulting in a significant under-reporting of expenditure.

5.12 Investments

5.12.1 Section 21 of the Act provides for the Commission, with the approval of the Minister, to: (a) invest any money in any securities; or (b) sell or otherwise dispose of any of its securities. According to correspondence seen, in 2004 the Board approved of the sum of \$300 million being invested in the Colonial Life Insurance Company (CLICO). **However, there was no evidence that the Minister had granted approval for this investment.**

5.12.2 *In response, the Commission submitted a letter dated 28 December 2015 from the Chairman of the Board indicating that the then Minister of Finance and the Minister with responsibility for Forestry had given verbal no objection for the Board to make a final decision on the matter. The Commission nevertheless acknowledged that a formal written communication from the Minister should have been provided approving of the investment.*

Commented [E3]: We kindly request for consideration of this rewording in light of the communication provided by Mr. Balgobin (as attached), the then Chairman of the GFC Board.

5.12.3 In 2010, the Governor of the Bank of Guyana was appointed the liquidator of CLICO. The Commission had written to him requesting an update on the matter. By letter dated 30 April 2015, the Governor advised the Commission that payments in favour of government organisations, under which the Commission fell, were yet to begin, as priority was being given to policy holders.

5.13 Granting of loans

5.13.1 Section 22 (1) (a) of the Act prohibits the Commission from making any loan or grant except for the purpose of carrying on the functions of the Commission. On 10 September 2014, Cabinet, by decision CP(2014)9:2:BB, approved of the Commission granting a loan of US\$600,000 in six monthly installments of US\$100,000 to the Iwokrama International Centre, commencing May 2014. Repayment was to commence on 31 January 2016 at a rate of US\$50,000 per month for the period January to December 2016, plus interest at 5%, with an additional 2% in event of default. However, the loan is not in conformity with the Act since the operations of Iwokrama do not relate to the functions of the Commission.

5.13.2 *The Commission commented that although the Act prohibits the making of loans and grants for such purposes as in the case of Iwokrama, Section 22 (1) (c) provides for the Commission to make loans and grants available on terms and conditions deemed appropriate by the Commission. However, based on Section 11 (1) (a), the loan may be deemed as not being in conformity with the Act since the operations of Iwokrama do not relate to the functions of the Commission.*

5.14 Bank balances

5.14.1 The Commission's main operating bank account 401-238-1 at the Demerara Bank was overdrawn by \$90.245 million as at 31 May 2015. The interest rate on the overdraft was 6.5%. For May 2015, the overdraft interest was \$489,204.

5.14.2 The Commission maintains five bank accounts for its operations, two term deposits accounts and eight project-related accounts, as shown at Tables XV and XVI:

Table XV
Balances on GFC's operating bank accounts
as at 31 May 2015

#	Bank	A/c No.	Description	Balance G\$'000	Balance US\$'000
1	Republic Bank	688-051-2	Salaries Account	13,132	-
2	Republic Bank	688-050-4	Main Account	7,524	-
3	Republic Bank	1-179-0	Foreign Currency A/c	-	117
4	GBTI	00103579011	Export Commission	144,129	
5	Demerara Bank	401-238-1	Main Account	(90,245)	-
	TOTAL			74,540	117

Table XVI
Balances on GFC's Project bank accounts
as at 31 May 2015

#	Bank	Account No.	Description	Balance G\$'000	Balance US\$'000
1	Demerara Bank	401-721-6	GFC/ITTO Project (Phase II)	10,586	-
2	Demerara Bank	600-717-3	GFC/ITTO Project (Phase II)	-	3
3	Demerara Bank	401-895-8	GFC/Norway Support	4,891	-
4	Demerara Bank	600-378-4	GFC/Norway Support	-	492
5	Demerara Bank	401-812-2	GFC/DFID Support	4	-
6	Demerara Bank	600-842-9	GFC/DFID Support		1
7	Demerara Bank	401-913-9	GFC/ITTO Support (CITES)	4,015	-
8	Bank of Guyana	0163700316001	Forest Carbon Partnership	11,358	
	TOTAL			30,854	496

5.14.3 The Commission also had two one-year term deposits with balances of \$56.816 million and \$94.695 million (\$151.511) million as at 31 May 2015 with maturity dates of 24 November 2015 and 23 December 2015 respectively. While the Commission receives interest of 2.5% and 2.0% respectively, it is required to pay interest at a rate of 6.5% on its overdraft of \$90.245 million. In the circumstances, it would have been more cost-effective to recall the investments in order to liquidate the overdraft.

5.14.4 *The Commission commented that the overdraft facility at Demerara Bank was obtained to assist in meeting short term expenses and to aid in the liquidity position of GFC. The relevant term deposit account has recently reached maturity and thus efforts are being made to liquidate the overdraft facility by the end of 2015.*

5.15 Human resources management

5.15.1 There are no significant findings on which to report.

5.16 Procurement and contract management

5.16.1 In accordance with Section 24 of the Procurement Act 2003, public corporations and other bodies in which controlling interest vests in the State may, subject to the approval of the National Procurement and Tender Administration Board (NPTAB), conduct procurement according to their own rules and regulations, except to the extent that such rules and regulations conflict with the Act or the regulations, the Act and the regulations shall prevail. In addition, if funds are received from the Treasury for a specific procurement, then the corporation or other body shall be obliged to follow the procedure set out in the Act and the regulations.

5.16.2 The Commission, however, does not have its own procurement rules. A draft has nevertheless been prepared. It would therefore be important for a copy of the draft to be sent to the NPTAB for review and endorsement in order to ensure compliance with the Procurement Act.

5.17 Asset management

5.17.1 There are no significant findings on which to report.

5.18 Financial reporting and audit

5.18.1 In accordance with Section 25 of the Act, within six months of the end of the financial year, the Commission is required to submit to the Minister an annual report containing an account of the activities undertaken during the year in such detail as the Minister may direct. In addition, within eight months of the close of the year, the Minister shall cause to be laid in the National Assembly the audited accounts of the Commission.

5.18.2 At the time of reporting, the audit of the 2013 accounts was in progress, and therefore the Commission was two years in arrears in terms of financial reporting and audit. In addition, since 2009, the audited accounts of the Commission had not been laid in the Assembly. Table XVII shows the status of financial reporting and audit for the years 2010 to 2014:

Table XVII
Status of financial reporting and audit: 2012-2014

Year	Date submitted for audit	Date of issue of audit report	Remarks
2010	8 July 2013	24 June 2014	Financial statements were resubmitted following the completion of the 2009 audit
2011	17 April 2013	17 September 2015	Updated financial statements submitted on 12 August 2014. Audit contracted to Parmesar, Chartered Accountants
2012	12 August 2014	19 Nov 2015	-
2013	12 August 2014	Not yet finalised	Audit field work completed.
2014	Not yet submitted	-	-

5.18.3 *The Commission acknowledged that has been in arrears in the completion and submission of audited financial reports and having them laid within the stipulated time frame in the National Assembly. However, this was due to circumstances beyond the control of GFC. Several factors contributed to this state of affairs, including capacity issues at the Auditor General's Office. In 2014 the audit of GFC was contracted out to Chartered Accountants, Parmesar & Company. This has led to the fast tracking of the audits. The audit for 2012 has been completed with an unqualified audit report issued in November 2015. Currently, the 2013 audit is in progress with an expected completion date of mid-January 2016. By the second quarter of 2016, the audit of 2014 and 2015 accounts is expected to be completed.*

6. Recommendations

- 6.1 In relation to the functioning of the Board, the following recommendations are made:
- (a) The Minister, acting in accordance with Section 2 (3) of the Schedule to the Act, revokes the appointment of a member for absence without approval for more than three consecutive meetings of the Commission, or for more than four meetings in any one year. It may be desirable for the Schedule to be amended to make attendance at board meetings a statutory requirement;
 - (b) The tenure of appointment of the Commissioners should be for two or three years, as opposed to the one-year tenure, to allow for continuity, notwithstanding that there is provision for renewal; and

(c) Given the detailed responsibilities of the Commission for ensuring that Guyana's forest resources are sustainably managed and conserved as well as for encouraging the development and growth of forestry, consideration should be given to the appointment of a full-time Chairman to oversee the management of the organization and to lend additional support to its efficient and effective functioning, without getting involved in policy execution.

6.2 Having regard to the measures taken by other tropical timber producing countries to restrict or ban the export of logs, and Guyana's failure to do so in order to encourage downstream processing, as a first step, the Government of Guyana in collaboration with the Guyana Forestry Commission should:

- (c) Restrict the export of certain species of forest produce in log form;
- (d) Allocate quotas to concessionaires desirous of exporting logs from their concessions;
- (c) Make it a mandatory requirement for concessionaires to engage in downstream value-added processing, failing which their permits will be revoked; and
- (d) Provide all concessionaires, both local and foreign, with the relevant fiscal concessions to enable them to engage in downstream value-added activities.

6.3 As regards Baishanlin, since the company had not fulfilled its obligations under SFEP 01/2011, and given the fact that the Forests Act does not permit a renewal of such a permit at the end of three years, SFEP 01/2011 is no longer valid. Accordingly, the related State forest should be returned to the Commission for reallocation. In addition, the Government of Guyana should consider terminating the investment agreements with the company and to recover the value of the fiscal concessions granted to it.

6.4 Since the Forests Act prohibits the transfer of ownership/control of a forest concession without the specific approval of the Commission, the five concessionaires that have transferred such ownership/control to officials of Baishanlin should be made to surrender their concessions to the Commission for reallocation to other potential concessionaires.

6.5 Recommendations relating to the other sections of this report are as follows:

- (a) Internal Audit makes every effort to secure membership of the Institute of Internal Auditors in order to ensure compliance with the IIA Standards in the conduct of its audits;
- (b) The Commission takes urgent measures to set up a reserve fund not only to ensure compliance with Section 16 with the Guyana Forestry Commission Act but also to

provide funds in event of financial difficulty in any particular year. This is likely to obviate the need for recourse to the Consolidated Fund to meet any shortfall in funding;

- (c) Cabinet discontinues the practice of authorizing the transfer of funds from the Commission to other State agencies to meet expenditure as such a practice not only violates Article 217 of the Constitution but also results in an under-reporting of expenditure in the public accounts;
- (d) The Commission ensures strict compliance with the Act by requiring the written approval of the Minister of Finance before any investment is made;
- (e) Cabinet ceases approving the granting of loans by the Commission that are not in conformity with the Act;
- (f) Using the proceeds from its fixed deposits, the Commission expedites the liquidation of the overdraft in its main bank account in order to avoid the further accumulation of further interest charges;
- (g) The Commission expedites the submission of its draft procurement rules to the NPTAB for its approval; and
- (h) The Commission takes measures to have its audited accounts for 2010 to 2012 laid in the National Assembly as early as possible.

7. Acknowledgement

- 7.1 I wish to express my gratitude to the Commissioner and senior management staff for the cooperation extended to me during the course of this assignment.

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Public Financial Management Consultant
31 December 2015