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Affected Communities' negotiation with the Alpha Logging & Wood Processing Incorporated concession in Gbarpolu County

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Introduction

The National Forestry Reform Law (NFRL) of 2006¹ and its Ten Core Regulations of 2007² provide for logging companies to commit financial, economic, social and other forms of benefits to communities that are affected by their logging activities or operations. This can be fulfilled through the negotiation, signing and implementation of a Social Agreement between Affected Communities and a concession holder.

The Social Agreement establishes a code of conduct regarding rights and responsibilities of the company and the affected communities.³ It is intended to establish financial and other forms of benefits for the affected community.⁴ A statement of mutual benefit and interest must be contained in the Social Agreement.⁵ Monitoring and evaluation has also been included in the revised Social Agreement template. These progressive provisions of the revised Social Agreement will enhance mutual engagements and relationship building between the concession holder and Affected Communities.



A CS-IFM Team member interviewing a Paramount Chief in Kologbandi Town, Gou-nwalai District Gbarpolu County © CS-IFM

Unfortunately in situations where logging companies promised to provide social and economic benefits to Affected Communities, the standards have not been binding and not enforced by the FDA. It has been alleged that Concession Holders and some political elites were involved in coercing Affected Communities to sign Social Agreements that largely did not benefit the larger affected community.⁶

footnotes

- 1 NFRL, 2007, Sections 5.1 (f) (iii) and 5.3 (b) (vi).
- 2 Part 3, Regulation 105-07 in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 3 FDA, 2015, Social Agreement Template, Page 2.
- 4 Section 34, Regulation 105-07 in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 5 FDA, 2015, Social Agreement Template, Page 2.
- 6 Civil Society Independent Forest Monitors, 2013, Liberia Social Audit of 2012/2013: Assessing the Forestry Sector, [http://loggingoff.info/sites/loggingoff.info/files/CS-IFM\(2013\)%20LiberiaSocialAudit.pdf](http://loggingoff.info/sites/loggingoff.info/files/CS-IFM(2013)%20LiberiaSocialAudit.pdf).
- 7 Page III of the Social Agreement signed between Alpha Logging the communities of Bokomu and Gou-nwalai Districts in Gbarpolu County.
- 8 Regulation 102-07, in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 9 Section 22, Regulation 104-07, in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 10 Regulation 102-07, Part 6 Section 61 (c)3, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 11 Section 35, Part 3, Regulation 105-07, in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.
- 12 Regulation 101-07, in Ten Core Regulations, www.fda.gov.lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf.

This brief assesses the entire Social Agreement process including representation, participation and negotiation between Alpha Logging and the affected communities of Gou-nwalai and Bokomu Districts in Gbarpolu County. What remains a challenge especially for the company is the assurance that they will deliver on the promises they have made to the community.⁷ The community has a very high expectation about development as well as the availability of job opportunities which may be provided by the company.

The purpose and objective of the social agreement

The FDA is required to consult with communities in areas identified for logging and to secure their written consent through their Community Forestry Development Committees (CFDC).⁸ The Concession Holder must negotiate a Social Agreement with the affected communities before any logging operations can take place.⁹ In order for a Social Agreement to be negotiated in good faith, the FDA must obtain Free, Prior and Informed Consent in writing from the CFDC of the would be affected communities.¹⁰ The Regulation also provides that a Concession Holder must give the affected communities fifteen days' notice for any meeting held to negotiate a Social Agreement in said communities. The Regulation additionally provides that the notice should be via local and national radio announcements as well as written notice to any persons or a forest management stakeholder.

Additionally, the Regulation states that in negotiating a Social Agreement, the Contract Holder shall afford each CFDC and the affected communities that it represents the opportunity to participate in at least one public meeting attended and facilitated by the FDA.¹¹ This will ensure that the communities have exercised their rights to express their views and comments regarding access rights and benefits under the Forest Resource License. Communities have legal rights to be involved in the governance of their forest and receive direct financial benefits as well.¹² The two legally enforceable financial benefit streams communities are entitled to include cubic meter fees and 30% of the Land Rental Fees paid by the Concession Holder to the Government. The forestry legal framework provides that 'the total annual financial benefit provided by the Holder for the benefit of all Affected Communities with respect to logging under the Forest Resource License... must equal or exceed US\$1.00 per cubic meter' and that this is based on 'verifiable information recorded in the Chain of Custody System (COCS)'.¹³ Even if they are not included in the Social Agreement terms and conditions, the logging concession holders and the National Government are under legal obligation to pay these fees to communities in order to render the timber legal. The Social Agreement that is negotiated between Affected

A CS-IFM Team member interviewing a Clan Chief in Kologbandi Town, Gou-nwalalai District Gbarpolu County © CS-IFM



Communities and logging concession holders are primarily about agreeing to additional terms that will enhance peaceful co-existence between the communities and the company during the life of the concession.

The regulation regarding the Social Agreements states that the Contract Holder must 'minimize effects on traditional practises such as sacred sites, Non Timber Forest Products (NTFP) sites, taboo animals and plant sites, hunting grounds and medicinal plant sites to the extent that they respect traditional laws, practices and regulations'. The Company must provide schools for employees' children, give first preference for locals when looking for employees, build the camp near the affected community, hold quarterly meetings with the affected community, ensure payment of benefit sharing fees, protect water collection points, participate in community development programs and timber operations must not affect subsistence agriculture.

Methodology

The Civil Society-Independent Forest Monitoring (CS-IFM) team of the NGO Coalition of Liberia visited Guo-nwolaila and Bokomu Districts 16th – 20th December 2015 and interviewed communities affected by the activities of Alpha logging. The affected towns covered include; Kologbandi, George Village, Neakai, Gomou, Fanpolu, James Village, Kpakormah and Kpelekpata.

The team developed and administered questionnaires to the community dwellers including the Paramount Chief, Clan Chief, Traditional Leaders, and other interviewees. The questionnaires were developed using the revised Social Agreement Template, the NFRL 2006 and Ten Core Regulations of 2007.

Although a total of 34 community members were interviewed by the CS-IFM team, only three CFDC members (two within the affected community and one in Monrovia) could be contacted. Other interviewees included the Paramount Chief, two clan chiefs, seven town chiefs as well as seven women leaders, six youth leaders, three Traditional Leaders and five Senior Elders.

Background

The Concession Holder of FMC A in Gou-nwaliala and Bokomu Districts, Gbarpolu County is Alpha logging. This logging company is legally registered with the government of Liberia. The concession covers a total of 119,240 hectares and falls in Lofa and Gbarpolu Counties, but this brief is focused only on the Affected Communities of Gbarpolu County. The company started operations in Lofa County (Zorzor and Salayea Districts) in 2009 but did not agree a Social Agreement with the Affected Communities of Gbarpolu County because of the company disagreement on the cost to construct a standard bridge over

the St Paul River between Gbarpolu and Bong County which is the shortest route until July 2015, after three re-negotiations over a seven year period. As a result, since the signing of the Social Agreement the company has not commenced any operations on the Gbarpolu side of the concession.

During the field research, the CS-IFM team obtained copies of an unsigned Social Agreement as well as a list of members and other details of the CFDC of FMC A concession in Gbarpolu County. Three copies of the unsigned Social Agreement were seen with three town chiefs in separate locations at different times. The list of members as well as other information of the CFDC was provided to the team by the Chairman of the CFDC. Subsequently, in February 2016, the team were provided a copy of the signed Social Agreement.

The Affected Community

The Affected Communities of the FMC A Concession in Gbarpolu County consists of twelve towns and two villages including: Niakeh, Gomu, Fenpolu, Sow, Gain-gashia-shu, Kelleh, Tanglay, Veilla, Kpayeakolleh, Palakolley, Kologbandi and Kplekpleh Towns. The villages include: James and George villages. This community has a CFDC which was formed in 2009. Although claiming to represent the entire population of the various respective towns and villages, the CFDC members are all men.

The main livelihood activity of the community dwellers is subsistence farming. Alternative livelihood activities include hunting and small-scale illicit gold mining. Most of the towns and villages on the Gbarpolu side of the concession are only accessible by walking; The nearest access point from a main road is by the St. Paul River to Kologbandi, the home of the Paramount Chief and headquarters of the CFDC which is at least 1 hours' walk. The shortest distance from one town to another is 2-3 hours walk.

Key Findings

How was the Gou-nwaliala and Bokomu Districts' Social Agreement negotiated?

Negotiations of the Social Agreement included holding meetings amongst the affected community and Alpha logging. The negotiation process was facilitated by the FDA and none of those interviewed (including the CFDC Chairman, the Paramount Chief, women group representatives, youth leaders and senior elders) who mentioned the presence of FDA were able to provide any relevant documents to support evidence of the meetings.

The CFDC Chairman said that the CFDC documents are in the possession of their Secretary who was out of the community at the time of the CS-IFM team's visit.

Nonetheless, according to the CFDC Chairman and confirmed by five of the respondents including three

footnotes

- 13 Section 34, Regulation 105-07, in Ten Core Regulations, www.fda.gov/lr/wp-content/uploads/2015/07/FDA-TEN-CORE-REGULATIONS.pdf
- 14 Schedule 1 Page 18-the Social Agreement signed between Alpha Logging and the FMC A communities in Gbarpolu County.
- 15 Code of Conduct Page 13 bullet point 8 of the final Social Agreement signed between Alpha Logging and Bokomu and Gou-nwaliala Districts in Gbarpolu County.
- 16 Section IV (a) Bullet Point 4 of the Final Social Agreement signed between Alpha Logging and Bokomu and Gou-nwaliala Districts in Gbarpolu County.
- 17 In line with the FDA's, 2015 Social Agreement Template, (Section IV (a) Bullet Point 2), the FMC-A Gbarpolu Social Agreement states CFDCs 'must abide by the following conditions'-They must be permanent residents of the community or communities that the Committee represents'.

town chiefs, one senior elder and the Paramount Chief, the negotiation started as far back as 2009.

During a cell phone interview with an official of the CFDC in Monrovia, he confirmed that the CFDC have had their new election on March 14, 2015 in Kpayea-kolley, Gbarpolu County with the following individuals currently serving as officials and members representing their communities:¹⁴

Table 1: CFDC elected officials and members representing their communities

Names	Position	Sex	Town/Location
1. E. Moses Loryah	Chairman	Male	Niakeh
2. Arlington B. Kollie	Co-Chairman	Male	Kelleh
3. Johnson Z. Goto	Member	Male	Gbetelemu
4. Alfred S. Morris	General Secretary	Male	Forkpata
5. George M. Smith	Treasurer	Male	Gelesiasu
6. George F. Kpawulu	Member	Male	Palakwele
7. Joseph Y. Korvah	Member	Male	Fanpolu
8. William L. Nanah	Member	Male	Kologbandi
9. Moses Y. Baimelin	Chaplain	Male	Taingay
10. Jerry G.S. Kenekenee	Member	Male	Kpayeakwelle

The negotiation was marred by lengthy delays, as the community previously demanded that the contract holder construct a bridge across the St. Paul River linking the rest of the affected communities to the nearest accessible road, which connects to Bong County.

On July 12 2015, the Social Agreement was finally signed between the communities of Gou-nwalia and Bokomu Districts and Alpha Logging. All of the 34 respondents interviewed during the field investigation confirmed that prior to the negotiation and signing of the social agreement, the community held four cluster meetings amongst themselves at different times and locations. These meetings were held in Kologbandi, the home town of the Paramount Chief and headquarter of the CFDC and also in Kpayea-kolleh. All respondents also said that since the formation of the CFDC in 2009, there have been no operations by the company.

For five months, up to the time of the CS-IFM research in December 2015, there was no signed copy of the Social Agreement in the community, even though the CFDC Chairman mentioned to the researchers that the Concession Holder and FDA promised to send a signed copy to the community in the soonest possible time.

From the interviews conducted, the team clearly established that all of the respondents know the name of the company including the name of the person who signed on behalf of the affected community.

On the question of the signing date of the Social Agreement, the CFDC Chairman said 'during August 2015', the Paramount Chief said September 2015, a Women's Group Leader and the rest of the 34 respondents said they don't remember the signing date but all confirmed that the Social Agreement was signed in Kologbandi Town, the headquarters of the CFDC. They strongly expressed and confirmed that their local leaders, traditional leaders, women and their leaders, youth and their leaders including ordinary community members

were present during the signing ceremony. All of the respondents also confirmed the Political Representative of the District was present during the signing ceremony.

All of the respondents said they were satisfied with the negotiation process of the Social Agreement. But the anticipation on the part of the larger community to see the company beginning operations cannot be over emphasized.

However, one citizen is concerned about the community dwellers having access to timber for their domestic use. He mentioned that there is a process for local people to have access to timber which is not clear in his view.¹⁵

All of the 34 respondents indicated that they are satisfied with the way the CFDC represented their community during the negotiations and signing of the Social Agreement. They said since 2009 up to December 2015 the CFDC have been meaningfully representing their community by keeping the community's interest on the table including discussion for the benefits of the community.

Monitoring and evaluation issues

The CS-IFM team observed that the CFDC of FMC A of Alpha logging concession could be faced with huge challenges of engaging the Concession Holder if the company fails to deliver on the terms of the Social Agreement due to the following reasons.

The CFDC of this community has a membership of ten and they are all men, each representing an affected town of the concession. Most importantly, the CS-IFM team was able to interact with only two active¹⁶ members including the Chairman who resides in Niakeh and another member who resides in Kologbandi. Additionally, the team managed to get in contact with another member who resides in Monrovia via cell phone. This appears to be in contradiction of the FDA guidelines and the actual Gbarpolu Social Agreement.¹⁷ It is of concern that the CFDC is not upholding the application of the law and it is challenging for non-resident CFDC members to adequately engage the Concession Holder.

The issues of communication and information dissemination are serious concerns as the CFDC represents a large and remote area. The CFDC Chairman said one channel for information is through the National Union of CFDCs of Liberia (NUCFDC). A respondent representing a town chief mentioned that a kinsman who works directly with the concession holder sometimes visits the communities as an individual and he shares information with them. Other respondents including a women leader and a Clan Chief mentioned that in order to disseminate information internally, they use town messengers who have to walk from one town to another for at least 2-3 hours and then hand information to another messenger who will have to travel a similar distance to pass the same information. The larger community's only means of easily accessing information is via a local radio station located in Bong County.

Only a draft copy of the Social Agreement was seen with most of the respondents because it was given to every town chief. According to the CFDC Chairman the Concession Holder took the only signed copy because the FDA has not attested to it. The community have not received their copy of the Social

Agreement since five months up to the time the CS-IFM team conducted this investigation. All of the respondents including the CFDC Chairman, community leaders as well as traditional leaders indicated that they have signed a Social Agreement with Alpha logging but there is not a signed copy of the agreement available in the community.

Given that this is the first Social Agreement the community have ever signed and it took more than five years to obtain, there were mixed views among the respondents when they were asked whether they feel able to use this Social Agreement to make sure that the company delivers on its promises. Of the 34 respondents, the Paramount Chief, a Clan Chief, a permanent citizen, a Town Chief and the CFDC Chairman mentioned that they are not able to use the Social Agreement to hold the concessionaire accountable to deliver on its promises because they do not have a signed copy of the final Social Agreement.

Seven respondents indicated that they will be able to use the Social Agreement because it is a legally binding instrument between the community and the concession

holder. Twenty one other respondents indicated 'yes' but did not give further explanation.

Seventeen respondents indicated that they do not have other concerns about the newly signed Social Agreement. The Paramount Chief mentioned that members of the affected communities be given the opportunity to learn about industrial logging. A Town Chief said the performance of the concession holder will help them to determine the changes in the process, whilst a women group leader in one of the villages said she's concerned that community members will be barred from farming in the forest and that the construction of the road that is mentioned in the Social Agreement is a good thing but the location of the connecting road is farther passing through upper Lofa County unlike through Bong County which is a shorter distance.



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Conclusions

The CFDC, despite having the opportunity for elections in 2015, has not taken the opportunity to improve representation by (a) including women, (b) excluding those who don't have permanent residence in the community, or (c) have a more active membership.

The implication that the wider community did not use the elections as an opportunity to demand these changes suggests a lack of awareness of the role of the CFDC. The women's group leaders interviewed indicated they did not know of the CFDC.

Once the CFDC decided to no longer hold out for a bridge in its original location, and to negotiate a different social agreement, it has taken five months after the signing ceremony for the document to reach them. This has led to perceived delays in forest operations starting and the benefits the community hope to gain from these operations.

Limited access to the community has exacerbated the problems of information sharing. The CFDC relies on its links to the NUCFDCs in Monrovia, and the wider community is informed by local radio.

The challenges of CSOs providing support to remote CFDCs teaches us lessons about the bigger challenge of assisting CSOs to provide support to Community Forestry Management Boards (CFMBs), as there could be over 100 of these across Liberia.

Recommendations

The CFDC should offer to restructure itself to be representative, active, and compliant with its own social agreement regarding residency.

CSOs should be more active in guiding and supporting the work of CFDCs, including provision of a legal representative to strengthen the community's position in negotiations.

The FDA and CSOs must increase their awareness-raising activities throughout communities, in particular to strengthen the ability of ordinary citizens to hold their CFDCs (and increasingly, CFMBs) to account.

The FDA must act far more promptly in providing a final, signed copy of each new social agreement to the respective community. If necessary, this should include pressurising expediency by the Contract Holder. This could be an important demonstration of the FDA acting in the interests of the community, or at least taking a neutral, facilitatory role, as opposed to relying unduly on the Contract Holder.

The FDA must provide training to CFDCs in the law and its regulations, and monitoring the technical aspects of logging. This will aid the CFDC to maintain the trust of the community and will allow informed engagement with the Contract Holder.

Now the social agreement is finalised, Alpha logging must be quick to start discussions with the community about an annual operating plan (as stipulated in the social agreement), and show a high level of will to hold meetings with the CFDC more frequently than the once-a-year stipulated in the social agreement.

The FDA must perform its role in ensuring legality by supervising the full implementation of all social agreements.

The CFDC must hold monthly community meetings, as required by its social agreement, to avoid misunderstandings and speculation.

CSOs should improve their work on awareness-raising and information sharing. An SMS/text based information exchange system with CFDCs and CFMBs has been proposed, for example.

The FDA should provide better prior notice of the elections, social agreement negotiations, or other significant events, in particular so as to encourage CSOs to offer support to the community at these times.

Such actions need to be enhanced in number and effectiveness as the anticipated large numbers of CFMBs are established.