



Civil Society Coalition Statement on Oil Palm Concessions in Liberia

Background

In response to recent developments in Liberia's agricultural sector, a coalition of Liberian civil society organizations working toward sustainable natural resource management, transparent governance, and respect for the rights of the rural poor have deemed it necessary to offer a formal, pointed statement on events that have transpired in the past few years. Liberia presently finds itself embroiled in an international controversy over the allocation of huge concessions to foreign oil palm concessions, with numerous observers commenting on the troubling circumstances faced by communities whose land was leased away without their consent. At the heart of the matter is a questionable agricultural strategy that appears to prioritize the needs of foreign plantation owners over those of rural Liberian citizens. Close examination of the major concession agreements reveals remarkably weak protections and benefits for rural communities and unfortunately includes provisions that also violate the country's international human rights obligations.

In the palm oil sector alone, nearly two million acres of land have been leased to three concessionaires under terms that are causing severe negative impacts on the livelihoods, cultural survival, and food security of communities living within the concession zone. Some community representatives have alleged that they were pressured into allowing the companies to clear their farmland and have expressed anger that they were not given the right to decide whether that land should be given to oil palm companies in the first place. Already, implementation of concession agreements in Sinoe and Grand Cape Mount counties has provoked mass outcry in the regions, generating negative press coverage for Liberia and leading to retaliation by some community members against company operations.

For their part, the palm oil industry and the Liberian government have been vocal in their claims that the plantations will bring benefits to Liberia, and indeed, the concessions will generate some form of employment, rehabilitate some essential infrastructure, and provide revenue for the central government. However, many of the jobs will be seasonal or temporary, and the impacts of the plantations on smallholder farmers, local landowners, and rural communities will be immense and irreversible. More importantly, there appears to be little or no formal examination of the potential risks inherent in the allocation of so much highly arable land to a foreign company for over 50 years; given the importance of sound agricultural policy to poverty reduction, it is troubling that such a high-impact industry – which will carry the majority of its profits to destinations outside the country's borders – appears to have been given national priority over smallholder farmers in concession areas. This does not bode well for a sustained and successful economic trajectory in Liberia.

After a November 2012 conference of community representatives from areas affected by oil palm plantations and the release of a statement by conference participants, a coalition of civil society organizations in Liberia have determined that it is time for a change. To achieve a healthy, responsible agricultural strategy in Liberia, it will be necessary for the coalition to mount a sustained campaign to impact government policy and reign in the excesses of foreign palm oil concessionaires. In order to avoid misuse of valuable resources and the entrenchment of dangerous grievances among rural populations, it is critical that the government and the concessionaires address community frustration and institute a moratorium on further plantation expansion until the contracts have been revisited and appropriately amended.

Detailed, specific analysis of the concession agreements and line recommendations for contract review and project development are included in other civil society reports and published materials; the following is intended to provide a broad view of what must change in the immediate future in order to resolve the crisis. The coalition intends to work with government and the concessionaires towards a productive and fair solution that will benefit rural communities and the Liberian nation, but it is also necessary to take a firm, principled stance on the below action points. We therefore urge policymakers to immediately implement the following reforms.

Recommendations

- **Develop a comprehensive review and reform program for the agriculture sector. The reform process should involve the participation of all stakeholder groups, be modelled on the approach adopted for forest sector reform, and should critically re-examine the economic logic of granting huge agricultural concessions to foreign entities. The livelihoods of rural communities must be strengthened by an agricultural policy that promotes smallholder productivity and which takes into account the rights of the rural poor.**

Where agricultural concessions are involved, a new policy should allow for those who will be affected by their development to be at the center of decision-making regarding land in their communities. The policy should also ensure greater access by communities to all relevant information about concessions and government agricultural programs, as well as improve community access to participatory social and environmental impact assessment processes. It should be based on the principles of fairness and justice, and be backed by appropriate legislation, institutional capacity building, and monitoring programs. This reform should aim to bring more transparency to the process of negotiating and concluding land deals with foreign businesses, make governance institutions more accountable, and address land hoardings by concessionaires. More broadly, there is a dearth of published government materials that suggest that thorough due diligence was done before the decision was made to prioritize foreign investment in the agricultural sector, rather than to stimulate domestic productivity and access to markets. If agricultural policy in Liberia is to provide the ground for poverty reduction – as has been the case in so many other successful countries – it is crucial that the government clearly explains its plans for balancing private and public investment, coordinating efforts to provide extension services, and assisting smallholders in getting products to market. Rather than following a simplistic model that will create a rentier state in Liberia – a circumstance that will do little to promote good governance – the government should seek to formulate and clearly explain a strategy that will stimulate the Liberian private sector and maximize the value of its land.

- **The contracts must be revisited and renegotiated immediately, to incorporate the input of affected communities and the wider Liberian populace. In the interim, expansion into new community areas should cease until the renegotiations have been concluded.**

To adequately address the structural shortcomings of oil palm concessions in Liberia, it will be necessary to re-examine the contracts, taking specific note of provisions that are in violation of national laws, regional and international standards including the African Charter on Human and Peoples' Rights and jurisprudence of the African Commission on Human and Peoples' Rights. For example, clauses that allow non-consensual resettlement or which mandate the government to free the concession area of "encumbrances" – human settlements – must be re-evaluated and changed to bring the contracts in conformity with the country's stated policy of responsible natural resource management as well as its international human rights obligations. Detailed, specific provisions related to the communities' roles in granting access to land, and protections for those who are affected by the concessions but not hired as employees, must be included in amended contracts.

- **It must be formally recognized that rural communities own the land they rely on for survival, and therefore have the right to accept or reject development on their customary land. Corporate operations must only occur after investors receive official, written consent from communities that live where they wish to develop plantations, and civil society must have a formal, agreed upon role to monitor such a process.**

As the land reform process in Liberia shows, it is an established consensus that rural communities have the right to hold some form of collective title over the land they use and rely on. This legal status must be understood to apply also to communities that fall within oil palm concessions, and their ability to allow or refuse corporate operations to take place on their land must be enshrined legally and in practice by both governments and concessionaires. There can be no agreement between the government and corporate actors that does not include formal rights for

communities to grant – or refuse – their consent to investments that will affect their lands and livelihoods. This principle must be applied retroactively to the existing concessions, and even as the contracts are revisited it will be necessary for all future expansions to include a well-managed, transparent, and professionalized process for negotiations between communities and concessionaires that respects these formal rights.

While the land reform process will continue for some time, in the intervening period it takes for new legislation to be enacted, the right to “Free, Prior, and Informed Consent” that is enshrined in Liberia’s Community Rights Law and the RSPO Principles and Criteria must be rigidly followed by concessionaires and closely monitored by government and civil society. FPIC is a procedural right for ensuring the effective implementation of the underlying community ownership of land and the protection of the related key rights of rural Liberian citizens, and serves to ensure that they are not deceived or unduly pressured in the creation or implementation of agricultural concessions.

This process must be completely transparent, and as per best practices, include a role for civil society to monitor meetings between concessionaires and communities, and to offer legal and practical advice during an adequate period of time that can be used by communities to evaluate corporate offers and expansion plans. Communities must not feel pressured by either government or corporate agents, and consent must be solicited from a broad range of community members rather than solely from traditional leaders.

FPIC negotiations between oil palm concessionaires and rural communities must happen in an environment of transparency, education, and adequate compensation as dictated through fair negotiations that are entirely premised on legal community ownership of land. The civil society coalition stands ready to provide open, public reports on FPIC negotiations and to ensure that national law, RSPO by-laws and human rights laws are followed in both their letter as well as their spirit. To this end, they must be holistically incorporated into the negotiations as an independent third-party monitor.

- **For communities with farms already damaged, compensation rates for destroyed crops must be amended to reflect their real value, adjusted over the lifetime of the land absorbed by oil palm plantations. Compensation for crops should be in additional to formal agreements with communities to allow for expansion of palm oil plantation on their land.**

The official rates of crop compensation are out of date and far too low. Community members who have their crops destroyed or damaged by oil palm companies are typically paid one lump-sum cash payment that represents only a fraction of the lifetime worth of those crops. All payments must be adjusted to reflect the on-going productivity of crops at a projected market rate. It should be expressly stated in the newly published official rates that they are *minimum* rates, and that any final compensation payments must be the outcome of a negotiated process with the owners of the crops that accords with the right to Free, Prior and Informed Consent and the communities’ customary rules. No crops are to be damaged prior to the written consent of the community and the legitimate land users where damage is to take place, even if they do not hold official deed. These amended compensation rates should be drafted by the Liberian government and made publicly available for consultation with communities and civil society as well as the international community before being finalised.

Context

Since 2006, the Government of Liberia has entered into binding contracts – known as concession agreements – with three major oil palm producing foreign investors: Sime Darby (Malaysia), Golden Veroleum (Indonesia), and Equatorial Palm Oil (UK). These concessions cover massive tracts of Liberian land; in total, they span nearly two million acres – just under 10 percent of the country’s total land mass. Hundreds of thousands of Liberian citizens live in districts that were granted to the concessionaires, yet the input and consent of those citizens was never directly solicited at any point before the contracts were concluded and signed into law.

While employment opportunities will be given to a needy rural population, the jobs are often seasonal and low-paying, and services such as education, housing, and health are only offered to employees and their direct family –

meaning that if a worker loses her job her children will have to leave school, she will no longer be able to visit the hospital, and she will be homeless. This is an inordinate amount of power to give to a foreign company, and will result to large extent in the plantations becoming a “state within a state.”

Already, implementation of concession agreements in Sinoe and Grand Cape Mount counties has provoked mass outcry in the region, generating negative press coverage for Liberia and leading to acts of sabotage against company operations. Although companies have worked to extend benefits to local populations, including employment and some small-scale development initiatives, thus far their presence has severely disrupted the existence of communities that fall inside their concessions. Most troublingly, close examination of the concession agreements themselves reveal extremely weak protection and benefits for rural communities and include provisions that legal experts say violate the country’s international human rights obligations.

Two complaints have been filed against Sime Darby Plantation Liberia and Golden Veroleum Liberia by community representatives to the Roundtable on Sustainable Palm Oil (RSPO). During the period after a critical op-ed was published in the New York Times in early 2012, the Liberian government admitted to “mistakes.” Most recently, President Ellen Johnson-Sirleaf agreed in London to “revisit” the agreements with a critical eye, and Sime Darby’s chief of operations in the country told the BBC that the company doesn’t need all the land it was given and indeed did not know how many people lived in the concession area before they signed the agreement. Both of these comments reflect a lack of due diligence at the early stages of the concession negotiation and underline the need for a thorough, transparent review of the current situation.

A coalition of Liberian civil society organizations working to protect the interests of rural communities and to promote sustainable economic development, sound natural resource management, and good governance recently organized a three-day meeting for affected community members to discuss the presence of multinational oil palm producers in the countryside. Over 150 community delegates attended the meeting, which concluded with the signing of a “Statement and Declaration by Affected Community Members from the Sime Darby and Golden Veroleum Concessions.” Based on the statement as well as prior field research and policy analysis, the civil society coalition has unanimously agreed on the above principles and will be making sustained advocacy efforts at the local and international level to promote change in Liberia’s agricultural policy.

While Liberia’s citizens rightly expect economic growth and equitable development that benefits the entire country, unsound agricultural policies that disenfranchise rural farmers – exchanging vast tracks of valuable land for low-paying jobs in plantations that primarily benefit foreign interests – is not a sound policy to achieve sustainable growth. On behalf of rural communities, concerned observers, and future citizens, the coalition urges the government and concessionaires to immediately adopt the above recommendations and prevent a potential crisis.