

January 22, 2014

Submitted via electronic mail

Ms. Elizabeth Littlefield
President & CEO
Overseas Private Investment Corporation
1100 New York Avenue NW
Washington, DC 20527
Email: elittlefield@opic.gov

Re: Complaint Related to OPIC's Buchanan Renewables Project in Liberia

Dear President Littlefield:

Farmers, charcoal producers and workers (the "Complainants")¹ hereby submit this complaint regarding human rights, labor and environmental abuses caused by the operations of Overseas Private Investment Corporation ("OPIC")-supported Buchanan Renewables ("BR") in Liberia. Because OPIC was a key investor in BR and was responsible for oversight of the project's inadequate due diligence, OPIC now has the responsibility to investigate, address and provide remedy for harm. Complainants therefore urge OPIC to convene a transparent and independent process to secure appropriate remedy for project-affected communities. Complainants also ask OPIC to critically evaluate its role in financing BR's Liberian operations by launching an independent investigation of the project's serious human rights and environmental abuses.

Between 2008 and 2011, OPIC approved three loans to BR totaling US\$216.7 million, which represented nearly 70% of total project costs. OPIC claimed that its support for BR would have a strong development impact in Liberia by cutting down rubber trees for biofuel to be used in a BR-constructed power plant, rejuvenating family farms and creating sustainable energy for Liberia. Instead, the project was characterized by serious abuses and drove impacted communities further into poverty. The project ultimately failed, and BR abruptly withdrew from the project area in early 2013, devastating local communities.

Hundreds of Liberians are now *worse off* than they were prior to OPIC's investment in BR. For example:

- **Indigenous, smallholder farmers** who had subsisted on income from their rubber trees had their trees cut down and have been left without critical income and struggling to

¹ Each group of Complainants has selected the undersigned individuals to represent them in this matter. This Complaint explicitly excludes and does not cover affected individuals who have credible allegations against them of harming other members of the affected communities because of the BR Project. Complainants are also represented by Liberia-based Green Advocates International and U.S.-based Accountability Counsel. Contact information for these Legal Representatives and the Complainants' Representation Agreement are attached as Annex 1. Complainants ask that communication with them be through email sent to each email address on the contact information list. This Complaint also benefits from research conducted by Netherlands-based SOMO and Sweden-based Swedwatch.

maintain their farms and satisfy basic needs. Additionally, adults and children have suffered as a result of contaminated water linked to BR's activities on the farms. Family members attribute the death of at least one child to this project-related water contamination, and communities still lack access to clean water.

- **Charcoal producers** were harmed when BR denied them access to rubber trees they used to maintain their livelihoods. BR employees abused subsistence charcoal producers by demanding bribes – or sex from women – to access wood the company had promised to give them for free. As a result, OPIC's allegedly climate-friendly investment drove charcoal producers to degrade nearby natural forests, causing negative climate impacts.
- **Workers** suffered from rampant labor rights violations, including inadequate protective equipment and safety training. Many workers suffered debilitating and permanent injuries from workplace accidents and did not receive adequate medical care or compensation. Several female agriculture workers reported that their male supervisors sexually abused them and retaliated if they refused their supervisors' sexual advances.

Members of all of these groups are now struggling to feed their families and have had to take children out of school due to the impacts of BR's abuses.

Due diligence should have revealed that BR's model was designed in a way that prevented previously self-sustaining farmers and charcoal producers from providing for their own welfare once the project began. As detailed in the attached Annex,² OPIC, in violation of its social and environmental rules, failed to require an appropriate level of due diligence regarding BR's operations in Liberia and did not take adequate action to stop or remedy the harm experienced by Complainants as a result of BR's activities.

Given OPIC's key role in the project, OPIC now shares responsibility for the desperate situation in which Complainants now find themselves. OPIC's failure to conduct appropriate due diligence regarding these issues, even in the face of warning signs that BR's promises were not being fulfilled, led it to provide significant support to this destructive project over the course of several years. The harm caused by BR was foreseeable, given the project's location in a post-conflict region with a long history of gender violence and human rights abuses, as well as labor violations in the very sector at issue. Moreover, timber harvesting operations, like this one, raise foreseeable environmental and worker safety concerns that BR and OPIC should have readily anticipated and mitigated. OPIC's due diligence rules, which were not followed in this case, were designed to avoid precisely the type of harm that occurred as a result of this risky investment.

Complainants have made numerous efforts to directly address these issues with OPIC, BR and BR's former parent entities: Pamoja Capital and the McCall MacBain Foundation. In November 2013, OPIC, which had previously dismissed Complainants' concerns, expressed

² See Annex 2, Accountability Counsel and Green Advocates International, *Fueling Human Rights Disasters: An examination of the U.S. Overseas Private Investment Corporation's Investment in Buchanan Renewables* (Jan. 22, 2014).

interest in privately exploring remedy for harm caused by the project.³ However, after numerous attempts to engage over a period of two months, Complainants are lodging this public Complaint because private dialogue with OPIC did not result in a commitment from OPIC to engage in a process for discussing remedy.

OPIC has a strong interest in ensuring that its funds do not cause lasting damage in Liberia. Furthermore, OPIC has a duty under the United Nations Guiding Principles on Business and Human Rights to protect against business-related human rights abuses and provide access to remedy for victims.⁴ Complainants therefore urge you, as President and CEO of OPIC, to commit to a formal process for addressing harm cause by BR's operations. Throughout this process, Complainants ask that they be consulted and involved in any dialogue about the project impacts and proposed remedies.⁵

Complainants also call on you to launch an independent investigation of OPIC's role in the serious impacts of BR's activities in Liberia. The investigation should provide recommendations to further OPIC's institutional learning and prevent the perpetuation of such abuses through OPIC's financing of future projects. Given the demonstrated U.S. interest in increasing OPIC's financing of African energy projects through the Power Africa initiative and Electrify Africa Act, it is critical that OPIC take this opportunity to learn from its failures in this case and ensure that appropriate measures are taken to prevent similar future OPIC-financed projects from harming the vulnerable communities they are designed to help.

We look forward to your prompt response.

Sincerely,

See attached signature pages

Gabriel Browne, Jr., Representative of the farmers

James Glay, Representative of the farmers

Marthaline Gongar, Representative of the farmers

Sam Yeadieh, Representative of the workers

Charles Holt, Representative of the workers

Mama Kaykay, Representative of the workers

George Weaymie, Representative of the charcoal producers

Richard T. A. Dorbor, Representative of the charcoal producers

³ Complainants are aware that OPIC no longer has a contractual relationship with BR, making this Complaint ineligible under the current rules governing the OPIC Office of Accountability. In an attempt to ascertain whether a complaint regarding BR's activities in Liberia would be eligible under these rules, Accountability Counsel contacted OPIC and was told that a Freedom of Information Act (FOIA) request would need to be filed to get information about OPIC's loans to BR. The FOIA response documented cancellation of one loan to BR (for the power plant project) and repayment of the other two.

⁴ See Letter from Dan Baer, Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State to the United Nations Working Group on Business and Human Rights (Dec. 10, 2012), available at: <http://www.humanrights.gov/2012/12/10/u-s-government-on-business-and-human-rights-letter-to-the-un-working-group/>; see also U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *U.S. Government Approach on Business and Human Rights* (Jun. 2013), available at: <http://www.humanrights.gov/wp-content/uploads/2013/06/USG-Approach-on-Business-and-Human-Rights-updatedJune2013.pdf>.

⁵ In Section VII of Annex 2, Complainants provide further details about requested remedies and next steps.

Sarah Monopoloh, Representative of the charcoal producers

cc: Senator Edward Markey
Senator Barbara Boxer
Senator Dick Durbin
Senator Christopher Coons
Senator Tom Udall
Senator Christopher Murphy
Congresswoman Barbara Lee
Congressman Ed Royce
Congressman Ted Poe
Congressman Brad Sherman
Congresswoman Nita Lowey
Congressman Sam Farr
Mr. Edmund Rice, Senior Professional Staff Member, House Committee on Foreign Affairs
Mr. Brent Woolfork, Senior Professional Staff Member, House Committee on Foreign Affairs
Ms. Jacqueline Quinones, Senior Professional Staff Member, House Committee on Foreign Affairs
Ms. Sonata Coulter, Senior Economic Officer, U.S. Embassy Monrovia
Mr. Jason S. Pielemeier, Business and Human Rights Section, Bureau of Democracy, Human Rights and Labor, U.S. Department of State
Mr. Alan Krill, Business and Human Rights Section, Bureau of Democracy, Human Rights and Labor, U.S. Department of State
Mr. John McCall MacBain, McCall MacBain Foundation and Pamoja Capital
Mr. Donald Johnston, McCall MacBain Foundation and Pamoja Capital
Mr. Don Durand, Buchanan Renewables Fuel Group Liberia, B.V.
Mr. Thomas W. Mitchell, Partner, Van Campen & Partners N.V.
Mr. Robert Voskuilen, Manager Energy and Infrastructure Funds, FMO
Mr. René de Sevau, Marketing & Communications Manager, FMO
Mr. Janos Bonta, Senior Investment Officer Energy, FMO
Ms. Åsa Pettersson, Vattenfall
Ms. Michelle von Gyllenpalm, Vattenfall
Mr. Lars-Olle Larsson, Swedfund
Mr. Fredrik Wijkander, Swedfund
Ms. Keiko Honda, Executive Vice President, Multilateral Investment Guarantee Agency
Ms. Mallory Saleson, Senior Communications Officer, Multilateral Investment Guarantee Agency
Ms. Meg Taylor, Vice President, Compliance Advisor / Ombudsman
Mr. John Morton, Chief of Staff, OPIC
Dr. Keith Kozloff, Director, Office of Accountability, OPIC

We, as representatives of the farmers from Grand Bassa County affected by the Buchanan Renewables Project in Liberia, hereby sign this complaint to the Overseas Private Investment Corporation on behalf of the affected farmers.

Name: Gabriel Brown

Signature: Gabriel Browne Jr.

Name: James Glay James Glay

Signature: J.H. Glay

Name: Marthaline Gongar

Signature: Marthaline Gongar

We, as representatives of the workers affected by the Buchanan Renewables Project in Liberia, hereby sign this complaint to the Overseas Private Investment Corporation on behalf of the affected workers.

Name: Sam Yeadieh

Signature: Sam Yeadieh

Name: Charles Holt

Signature: Charles Holt

Name: Mama Kaykay

Signature: ~~Mama Kaykay~~ mama kaykay

We, as representatives of the charcoal producers affected by the Buchanan Renewables Project in Liberia, hereby sign this complaint to the Overseas Private Investment Corporation on behalf of the affected charcoal producers.

Name: George Weaymie

Signature: 

Name: Richard T.A. Dorbor

Signature: 

Name: Sarah Monopoloh

Signature Sarah Monopoloh