

A SUMMARY REPORT OF THE MEETING BETWEEN CSOS AND THE EACOP DEVELOPER



The SRJS and CSCO partners in addition to the EACOP team including the EACOP project director, Mr. Maxim Marchenko (standing) during the CSO-oil companies meeting

FEBRUARY 13, 2020

PROTEA HOTEL, KAMPALA

1. Introduction

On Thursday February 13, 2020, civil society organisations working in the oil and gas sector and the developers of the East African Crude Oil Pipeline (EACOP) met at Protea Hotel in Kampala.

The objective of the meeting was to discuss the progress of the EACOP project, how CSOs' comments on the EACOP ESIA were addressed and CSOs' concerns on the EACOP project.

The following groups participated in the meeting:

- The EACOP project team including the Project director, Mr. Maxim Marchenko, the land acquisition lead, Mr. Robert Lwanga and others;
- Oil companies officials from Total E&P (U) B.V. and Tullow Oil;
- Government representatives from the Petroleum Authority of Uganda (PAU) and Uganda National Oil Company (UNOC);
- Forty-five (45) CSOs from the national and landscape level that belong to the Civil Society Coalition on Oil and Gas (CSCO) including the CSCO chairperson, co-ordinator and others and;
- The Shared Resources, Joint Solutions (SRJS) partners who were represented AFIEGO; AFIEGO is also a CSCO member.

2. Proceedings

2.1. Introduction of the agenda by CSCO

CSCO opened the meeting with a few remarks.

He noted that it was nearly four months since CSOs had submitted their comments on the EACOP ESIA report during public hearings that were held in October 2019 by NEMA and PAU. He said that CSOs needed to be updated on how their comments were addressed. CSCO also observed that a number of issues had emerged and were affecting the EACOP-affected communities. The participants noted that the emerging issues needed to be discussed and solutions found.

Thereafter, the agenda for the meeting was introduced by the CSCO co-ordinator, Mr. James Muhindo, as being:

- Present to CSOs the EACOP Uganda ESIA public hearing materials;
- Inform CSOs how their comments were taken into consideration;
- Provide clarifications on the emerging issues raised by CSOs on the EACOP project and;
- Hold an open discussion.



CSCO's Mr. Muhindo who helped to facilitate the meeting

2.2. Discussion of the status of the EACOP

The EACOP Projector Director, Mr. Marchenko, gave a status update of the EACOP project. He said the following:

2.2.1. Legal framework

Four agreements need to be signed to enable development of the EACOP. They include:

- (i) The Inter-governmental Agreement;
- (ii) The Host Government Agreement (HGA);
- (iii) The Shareholding Agreement and;
- (iv) The Tariff and Transport Agreement.

The Inter-governmental Agreement was signed by the presidents of Uganda and Tanzania in 2017. However, Uganda and Tanzania have been haggling over the HGA since 2017.

The HGA has to be signed before the EACOP project developers, who include Total E&P, CNOOC, Tullow Oil, UNOC and the Tanzanian government, can commence negotiations to sign the Shareholding in addition to the Tariff and Transport agreements.

In addition, all the above four agreements have to be in place before the project developers can approach banks for financing and before they can start acquiring land.

2.2.2. Land acquisitions

The following updates were shared by Mr. Marchenko:

- The EACOP pipeline route in Uganda was gazetted in November 2019.
- Five thousand (5,000) people in Uganda have been affected by the EACOP.
- The above people's property was assessed and valued.
- Fourteen valuation reports have been produced.

- The 5,000 project-affected persons (PAPs) cannot be compensated however until all the four agreements mentioned in section 2.2.1 are signed.
- This is despite the fact that the PAPs have been stopped from putting up new developments on their land, including graves, growing perennial crops and others.

2.2.3. EACOP ESIA status

Mr. Marchenko informed the SRJS and CSCO members that some of the comments they made during the public hearings had been addressed. A revised report was submitted to NEMA. Below is how the comments were addressed.

No.	Comment by CSOs	How it was addressed by EACOP team
1.	The ESIA was carried out based on old 1995 National Environment Act (NEA). The developers are not mandated to respect the 2019 NEA while implementing the ESIA. This will hurt environmental conservation and community livelihoods as the old law lacks provisions on mitigation hierarchy, enforcement of social conditions under the ESIA and others.	The developer commits to respecting the 2019 NEA. However, the law is yet to be made enforceable as no regulations have been put in place.
2.	The EACOP developers are yet to incorporate the EACOP company. Total E&P Midstream B.V. (TEAM) paid for the ESIA and is making commitments on behalf of the EACOP developers. Will these commitments be binding on the EACOP company when it is incorporated?	Total will be part and parcel of the company that will be formed by the EACOP project developers. The commitments being made by TEMA will be binding on the EACOP company.
3.	The project developers under-valued the amount of carbon emissions that will be generated under the EACOP project.	The EACOP project team revised the ESIA to address the under-valuation. Appendix G3 contains the revised emissions. However, the EACOP team did not take into account the 33 million tons of carbon that will be produced per year when the oil that is transported by the EACOP is burnt. The team at the meeting noted that the industry best practice is not to take the above into account. The EACOP team therefore did not consider that the EACOP will produce emissions that are the “size of Denmark”.
4.	The project developer did not attach the mitigation plans to the ESIA. The developers only listed the mitigation plans.	The mitigation plans will be put in place if the ESIA is approved.
5.	The open-cut method is the less preferred method for river and wetland crossings. The developer should adopt the Horizontal Directional Drilling (HDD) method.	The open-cut method was the least cost option and will allow for maintenance during the dry seasons.

6.	The developers failed to show how district local governments will be involved in the ESIA enforcement.	The districts' role is pointed out in the RAP.
7.	Adequate information on the chemicals that will be used during the EACOP operations and the environmental, health and other challenges they pose was not provided.	A list of chemicals to be used has been added under Appendix N.
8.	The report lacked disaggregated data showing the number of women who will be affected by the project.	An appendix has been added to show the number of women who will be affected.

2.2.4. Updates on Tanzanian EACOP ESIA

Mr. Marchenko informed the meeting about the following:

- An ESIA for the Tanzanian section of the EACOP was undertaken.
- It was submitted to the Tanzanian government and was approved.
- However, no public hearings on the Tanzanian ESIA were held.
- This is because the Tanzanian legal framework does not provide for public hearings.
- Instead, the EACOP team, which is currently being led by TEAM, conducted stakeholder consultations through several outreaches.



Mr. James Lwanga (R) and Mr. Marchenko from the EACOP project team discussed how CSOs' comments on the EACOP ESIA had been addressed.

2.3. Open discussion

Thereafter, an open discussion in which CSOs asked the EACOP project developers questions was had.

The following were some of the questions or comments that were asked or made respectively:

- (i) Stopping PAPs from using their land to set up new developments and to grow perennial crops contravenes their social and economic rights. You can be sued for such a contravention. Will the compensation you pay the PAPs take into account the above contraventions so that you award the PAPs for the losses you will have accorded them through placing a cut-off date that limited how they could use their land?
- (ii) You valued communities' property and stopped sharing information as regards the way forward with them. Communities are stuck and do not know what to expect next as regards the EACOP.
- (iii) Your description of the PAPs is wanting. You describe the PAPs as if they were homogenous. PAPs consist of women, children, youth, the elderly and others who suffer various impacts when land is acquired. There is need to identify the various categories of PAPs and cater to their needs.
- (iv) In your ESIA report, you said that you will monitor for pollution of ground water among others. Who will play an oversight role over your monitoring activities? Does the Ugandan government have the capacity to monitor you?
- (v) The EACOP project is going to lead to the destruction of biomass in the 30-metre right of way. An Ecosystem Valuation needs to be undertaken so that Ugandans can understand what they are losing vis-à-vis what they are gaining from the EACOP.



CSO members including AFIEGO's Ms. Diana Nabiruma and CSCO's Mr. Henry Bazira while asking questions

The developers gave the following replies:

- A cut-off date was placed on the PAPs' land to stop speculative activities. Should the PAPs need to conduct urgent developments such as constructing graves to bury their dead, they can hold discussions with the EACOP grievance handling teams in their communities to

address this challenge. *(This position is however still against Article 26 of the 1995 Uganda Constitution that says that land can only be acquired after payment of prompt, fair and adequate compensation).*

- The EACOP project developers have put in place provisions such as ensuring that couples have joint accounts and that women sign off on land transfer forms. However, the EACOP team cannot force men to share compensation monies with their wives after the money is withdrawn from the bank.
- PAU, NEMA and other agencies will play an oversight role as regards oil spill management. The agencies are acquiring technology to enable them access real time data on oil spills.
- Mr. Marchenko also told the CSOs at the meeting that they were aware that a CSO petition calling on banks not to finance the EACOP had been shared. He asked the CSOs why Uganda should be denied an opportunity to exploit its oil while other countries exploit theirs.

The meeting was closed after further discussion of the above.