

# Investigation of Civil Disturbance in the ArcelorMittal Concession Area

## The Report



**The Independent Ad-hoc Committee**

March 10, 2014

## Acknowledgement

The Independent Ad-Hoc Committee to investigate the occurrence of disturbances in the Arcelor Mittal Concession area – Nimba County is indebted to all of those who contributed to this report. We wish to extend in particular, our gratitude to the President of the Republic of Liberia, Her Excellency Madam Ellen Johnson Sirleaf, for selecting us to conduct this exercise. We would also like to thank the Minister of Justice, Hon. Benedict Sannoh for his availability and support as we performed this task.

Our thanks and appreciation is further extended to all Government officials, County Officials, citizens of those towns within the conflict area; in particular, Zolowee, Gbapa, Makinto, Sehgeh and Sikempah, the officials of Arcelor Mittal Liberia and members of some Civil Society Organizations (CSOs).

**Dr. Eugene Shannon**

Chairperson

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## Acroynms

AML	ArcelorMittal Liberia
CSDF	County Social Development Fund
CSOs	Civil Society Organizations
DSO	Direct Shipped Ore
ERU	Emergency Response Unit
GEMAP	Governance Economic Management Assistance Program
GOL	Government of Liberia
LAMCO	Liberia Swedish Mining Corporation
LNP	Liberia National Police
MDA	Mineral Development Agreement
MFDP	Ministry of Finance and Development Planning
MIA	Ministry of Internal Affairs
MLME	Ministry of Land, Mines and Energy
MOJ	Ministry of Justice
NBC	National Bureau of Concession
NTGL	National Transitional Government of Liberia
PSU	Police Support Unit
TPYPD	Tokadeh Progressive Youth for Progress and Development

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# 1. Executive Summary

In October 2014, the Ministry of Justice in consultation with the Office of the President established an Independent Ad-hoc Committee to investigate the occurrence of civil disturbance in the Arcelor-Mittal Liberia (AML) concession area on July 3 and 4, 2014. The committee was tasked to investigate and delve into the root causes of the conflict involving stakeholders from the Government, Arcelor-Mittal and citizens. The Committee's report is expected to arrive at recommendations and solutions that will bring peace and stability to the AML concession area in Yekepa, Nimba County.

This report documents more than three months of investigations that details the events of July 3rd and 4th, and the role of various stakeholders in contributing to perennial conflicts linked to the terms and conditions of the AML Mineral Development Agreement (MDA). The Committee conducted these investigations understanding the implications of its findings and recommendation on quelling conflicts and ensuring that the MDA impacts the livelihood of local communities. The Committee interviewed local and national officials, community dwellers, security personnel, staff of AML and legislators. Those interviewed were candid in detailing the events that caused the disturbance and provided useful recommendations that should bring finality to the conflict. We visited communities in the concession areas and saw first hand the quality of life and how local communities lived. The impact of the County Social Development Fund (CSDF) was reviewed and citizens were forthright about their expectations.

Despite the impact of the AML in creating jobs, increasing revenues and contributing to infrastructural development, several contentious issues have arisen. Citizens close to the concession area have several concerns about the implementation of the MDA and the benefits that should accrue to them. The following articles of the MDA: Article IX – Land and Facilities; Article X – Health Care, Safety & Security; Article XI – Education & Skill Training; Article XII – Employment & Secondment; Article XIV – Community Resources; and Article XXVII – Incidental Right, highlighted issues that were counteracted by all the actors.

The disturbance in Nimba heightened the level of mistrust amongst key actors including the AML, communities and Government and accentuates some of the problems that have characterized concessions in Liberia. The Committee found evidence that all parties had genuine concerns related to the operations of the concession, but the lack of effective channels of communication and redress undermined opportunities to address contentious issues. The findings and recommendations of this Report convey numerous challenges in the management of AML concession and specify reforms that should lead to effective operations. The recommendations are meant to improve management and enhance the relationship between the AML and citizens, and citizens and their government.

## *Key Findings*

1. That the Government and AML failed to detect the early warning signs of the threat of violence and to take appropriate actions to mitigate the risks;
2. That citizens from Zolowee, Mehkinto, Sehgeh and Sehkimpa, Gbapa, Sanniquellie and other areas in Nimba participated in the demonstration and looting of ArcelorMittal facilities;
3. That the County Police Detachment and AML security forces did not have adequate capacity (manpower and logistics) to deal with the disturbance;
4. That the police and demonstrators were initially engaged in peaceful interactions; but when the police learned of looting and AML workers being held hostage at the Tokadeh Mines, they tried to intervene, but were obstructed by stone throwing demonstrators. In response, the police released tear gas and the interaction turned violent.
5. That Honorable Prince O. S. Tokpa's decision to go to the main crisis zone (Yekepa) unescorted by security forces, placed him on the wrong side of the incident. Though a representative of his people, the Committee believes that Hon. Tokpah's action created an impression that he was in support of the unauthorized demonstration undertaken by the citizens. However, we consider the reasons provided by the police for his arrest and prolonged detention to be unacceptable because there was sufficient information to determine his status.
6. That the AML is honoring its obligation with regards to the County Social Development Fund by making regular and timely payments to the Government of Liberia. However, the Government has delayed disbursement of funds to the county, and the management framework for the Fund is not facilitating efficient and effective use of the resources;
7. That the Committee finds that the allocation of 20% of the Social Development Fund to the affected communities is critical to the welfare and the sustainability of the Concession; but the necessary significance has not been given to this arrangement in both disbursement and management of the fund;
8. That the Government and AML have not done enough to increase citizens and local officials' knowledge of relevant provisions of the MDA, a situation that has caused misplaced expectations and unwarranted conflict.

9. That AML's policy of outsourcing its internal security results into low compensation and job security, thereby undermining security personnels' loyalty and stake in the company.

10. That the Government's current security arrangement for the protection of the AML investment is inadequate.

11. That compensation for land and crops lost related to AML activities is not properly executed: the process is slow; and lacks clear procedures;

12. That lump sum payment to claimants for land and crop loss without proper financial guidance leads to the unsustainable use of funds by recipients;

13. That the perception held by some citizens that Nimbaians should be given preference in the employment decisions of AML is not consistent with the MDA.

14. That the disparity between the concession areas and communities in close proximity to the concession with respect to the quality of social services is a potential source for conflict.

### *Recommendations*

1. That AML should give due consideration to Nimbaians, especially those from the affected areas, in making employment decisions without compromising Liberian Labor laws and the company's employment standards.

2. That the capacity of the local police be strengthened in key areas such as: surveillance, logistics and manpower;

3. That citizens should seek peaceful means to resolving their grievances rather than reverting to violence;

4. That Legislators and local officials should improve their engagement and consultation with citizens in the management of the MDA;



5. That the Government should revise the management mechanisms for the Social Development Fund program (CSDF), ensuring speedy disbursement of funds and more effective use of the resources. The Committee recommends the creation of a County Development Trust Fund under the signature of the Minister of Finance, the Minister of Internal Affairs, and the Chairperson of the County Legislative Caucus. Upon the finalization of the County Council for use of the funds, the appropriate sum should be transferred from the Trust Fund to an operating account under the signature of the County Superintendent and the Assistant Superintendent for Fiscal Affairs, with the consent of the Minister of Internal Affairs. In the management of the CSDF, the Government should prioritize the disbursement of the 20%, which is allocated to the affected communities.
6. That the AML should review its policy to outsource their security service, making sure that compensation and other benefits for contracted security personnel are on par with those of full time employees, and that the recruitment of citizens in the proximate areas promote stronger partnership with local communities.
7. That the Government of Liberia should specifically allocate a percent of the revenues accrued from the concession to the local security budget so as to strengthen their capacity to respond effectively in time of crisis.
8. That the Government and AML delegate the task of resolving the land and crops settlement problems to a task force which may comprise of the Land Commission, Ministry of Land, Mines and Energy, National Bureau of Concessions, Local Officials, Civil Society with technical support from a private firm to fast track this process.
9. That structured payment options, which spread disbursements over a number of years, should be considered in the making of significant settlements to citizens for land and crops loss.
10. That the Government of Liberia and AML should jointly determine the cost of the damage associated with the disturbance and move towards an agreeable settlement.

## 2. Background

### 2.1 Overview of the Mineral Development Agreement

Liberia is richly endowed with natural resources. Amongst those resources, iron ore plays a pivotal role in the economic development of the country. Since the 1950s, when the Government of Liberia began to sign Mineral Development Agreements (MDAs) that allowed foreign companies to exploit iron ore deposits found in several areas, the livelihood of local communities has improved. However, many communities have also experienced displacement and environmental degradation including deforestation, water pollution and erosion.

The iron ore deposit in Yekepa, Nimba County, was granted to the Liberia American-Swedish Minerals Company (“LAMCO”) in the 1960s, and it established a vibrant mining operation. The benefits accrued from LAMCO’s exploitation of iron ore in Yekepa have led to much discussion regarding the quality of the terms and conditions of MDAs consummated with foreign companies. In post-conflict Liberia, the natural resource sector remains a key engine of economic growth and the concession held by LAMCO has been reactivated through an MDA with ArcelorMittal.

The Government of Liberia (GOL) first entered into a Mineral Development Agreement (MDA) with Mittal Steel Holdings N.V on September 23, 2003. The National Transitional Government of Liberia (NTGL) agreed to transfer exclusive rights to explore, develop, produce and market iron ore in the concession area formerly granted to LAMCO. However, when President Ellen Johnson Sirleaf assumed office on January 16, 2006, she pledged that her Government would support the international community’s call for a review of NTGL contracts and concessions under the Governance Economic Management Assistance Program (GEMAP). In May 2006, the Government and its international partners finalized a Guiding Framework for the Review of NTGL Contracts and Concessions. The MDA signed with Mittal Steel Holdings N.V was one of the concessions reviewed. The GOL at the time indicated that the terms and conditions of the contract did not provide maximum anticipated benefits to the people of Liberia for the exploitation of its mineral resources. After several months of renegotiation, the successor company to Mittal Steel Holding N.V, ArcelorMittal, which emerged as the result of the merger between Mittal Steel and Arcelor, agreed with the GOL to an amended MDA on April 27, 2007.

The amended MDA with ArcelorMittal, according to the GOL, provided improved terms that led to gains in infrastructure ownership, transfer pricing, the debt to equity ratio and withholding taxes (vide Figure I).

<sup>1</sup> Kaul, Raja., Heuty, Antoine, with Norman Alvina: Getting a Better Deal from the Extractive Sector: Concessions Renegotiation in Liberia 2006-2008: New York: Revenue Watch Institute, 2009. Retrieved from [www.revenuewatch.org](http://www.revenuewatch.org)

<sup>2</sup> <http://corporate.arcelormittal.com/who-we-are/our-history>

The exploitation of iron ore deposits situated in Yekepa, Nimba County, which began in 1960 through an agreement with LAMCO has left an enduring impact on the lives of citizens in close proximity to the concession area. Meeting the expectations of local citizens determined how the government accentuated several provisions of the contract. Many provisions of the contract articulate varying impact of concession activities on the livelihood of communities adjacent to the concession area.

For the purpose of this investigation, we have selected several provisions,

which are significant and aligned to many of the concerns raised by stakeholders including citizens, local and national officials and AML

1. Article IX – Land and Facilities
2. Article X – Health Care, Safety & Security
3. Article XI – Education & Skill Training
4. Article XII – Employment & Secondment
5. Article XIV – Community Resources
7. Article V – Environment Protection & Management

- **Royalty calculation:** FOB Buchanan (port) instead of FOB Yekepa (mine head);
- **Income taxation:** removal of the tax holiday under the 2005 MDA;
- **Import duties:** imposition of a seven year limit on the 50% reduction in import taxes on gasoline and diesel and the removal of the exemption of ECOWAS Fees;
- **Corporate governance:** the Amended MDA gives the government representation on the Liberian concession company's board equivalent to the Government's equity ownership, requires ArcelorMittal to conduct all activities with its affiliates on an arm's-length basis, and provides a guarantee from ArcelorMittal's parent company on the adequacy of its Liberian company's start-up capitalization and its ability to meet its payment and environmental obligations;
- **Upfront payment** to the Government of \$15 million;
- **Sovereignty:** under the Amended MDA Liberian law instead of UK law applies to the Agreement and stabilization is limited to laws related to taxes and duties;
- **Social benefits:** under the Amended MDA there are specific targets for the Liberianization of the work force, an increase in scholarship funds from \$50,000 to \$200,000 per year to provide overseas training for Liberians, and a commitment from the company that its security forces will comply with law and the Voluntary Principles on Security and Human Rights; and,
- **Environmental protections:** ArcelorMittal now required to conduct annual environmental audit and assessment.

Figure 1

## 2.2 The Incident

On the morning of July 3, 2014, beginning at about 6:00 AM, a group of citizens under the banner of the Tokadeh Progressive Youths for Peace and Development (TPYPD) with the support of some elders of the town of Zolowee assembled and barricaded the junction outside the town, one mile south of AML/security agency's facility. Their assemblage was to demonstrate against what they believed was unfair treatment against them and their communities by the management of AML. This incident was preceded by several threats of demonstration as well as meetings attended by different citizen groups, local officials, legislators and staff of AML to understand the basis for the affected communities' dis-

<sup>3</sup> Ibid

contentment and take steps to resolve these issues.

The Nimba County administration, security forces of the GOL, and the private security firm contracted by AML took steps to deescalate the tension and restore calm, but their efforts failed. By about midday, the protest escalated into violent actions with some demonstrators marching on the facilities of AML and one of its contractors, AFCON. The violence that ensued threatened the safety of AML staff and resulted into the theft and destruction of assets estimated at several million US Dollars.

When GOL security re-enforcement attempted to move into the crisis areas and restore peace and security, their movement was obstructed by protestors through the destruction of a bridge on the outskirts of Sanniquellie, the digging of trenches along the major roads leading to the sites, and creation of road blocks using heavy logs and other tools. Security officers also reported the discharge of firearms by some demonstrators, an attack that was not responded to by an equal force. Moreover, the delayed response of the security officers, due in part to the resistance of the demonstrators, facilitated the escalation of the violence and the gravity of the human and material losses.

The magnitude of the destruction, repeated and incessant threats from members of the affected communities, and the potential impact of such incidents on our national economy and security, drew the Government's attention to this problem. Consequently, the President of Liberia mandated the Minister of Justice to set up this special Independent Committee to investigate and provide suitable recommendations that would help bring finality to the perennial conflicts that exist between AML and the communities.

## **2.3 Committee's Formulation and Mandate**

As the result of several meetings held after the disturbance in the ArcelorMittal concession area with aggrieved citizens and AML by officials of Government including the President of Liberia, the Ministry of Justice in consultation with the Office of the President established a seven-member Independent Ad-hoc Committee to investigate the disturbance which occurred on July 3 and 4, 2014. The Committee was tasked "to delve into the root causes of conflict involving all stakeholders - Government - concessionaires - citizens – with the view to arriving at a solution that will bring peace and stability to the area." The mandate of the Committee covers the following:

1. Identification of parties in the crisis;
2. State the context of relationship(s) between and amongst the various parties;
3. Explain in detail the background and facts leading to dispute amongst the parties;
4. Identify the legal and factual issues involved in the matter;
5. Highlight any prior conflict surrounding the same issue and determine if there were attempts to resolve the conflict.;
6. Outline actions by Government such as the police, prosecution, Ministry of Land, Mines and Energy, the Court to address this matter since its inception to date;
7. Provide finding(s) and recommendation(s) for the way forward.

### 3. The Strategy

The Committee was constituted in October 2014 and commenced its work in December 2014. After several days of consultation and review of its mandate and terms of reference, the committee agreed to conduct a number of weekly meetings and resolved to a framework for the investigation.

The Committee then adopted and deployed a framework for its investigation based upon the following steps:

1. Planning and identification of tasks and methods to be applied for the investigation;
2. Desk study of the MDA and other reports related to natural resource exploitation;
3. Interviews of relevant parties;
4. Field visits to various locations in Nimba County including Sanniquellie, AML Yekepa, Tokadeh mining site, and towns in close proximity to the AML concession area including - Gbapa, Makinto, Seikempa and Sehgeh;
5. Field visit to Buchanan, Grand Bassa County, where AML has major operations including the shipment of its Direct Shipped Ore (DSO);
6. Analysis of information, data collected and discussions held with relevant parties; and
7. Evaluation and compilation of the Report.

In order for the Committee to effectively proceed according to its framework, it needed the cooperation of relevant parties. The Ministry of Justice facilitated access to security agencies that were engaged in quelling the riot; while the Ministry of Internal Affairs also arranged engagement with local officials in Nimba and Grand Bassa counties. Other agencies of Government including the Ministry of Land,

Mines and Energy (MLME), National Bureau of Concessions (NBC) and Land Commission cooperated. AML also cooperated with the investigation and allowed the Committee access to its operations in Nimba and Grand Bassa counties. The Nimba Legislative Caucus was also engaged.

The volatile nature and circumstances of the incident led the Committee to institute an intelligence support component to its investigation, which utilized the expertise of members with law enforcement experience. This component of the Committee's work focused on ensuring the safety of the Committee during field visits and gathering information that citizens were not readily prepared to make available because of simmering tension and fear of arrest by the government. Information gathered through the intelligence was validated during interactions with relevant parties.

## 4. Assessment

### 4.1 The Disturbance

On July 3, 2014, a group of citizens under the aegis of the Tokadeh Progressive Youths for Peace and Development (TPYPD) with the support of some elders of the town of Zolowee assembled and barricaded entry points to the Tokadeh Mine, railroad and offices of AML. The group indicated that they were protesting against the failure of the government and AML to effectively implement some aspects of the Mineral Development Agreement (MDA), including the County Social Development Fund (CSDF), the Ganta-Yekepa Highway and other issues which were discussed in a tripartite meeting held between government officials, advocacy groups from the county and representatives of AML.



During the course of the day, the number of demonstrators increased and became more defiant. The demonstrators refused to listen to local officials and looting and destruction of AML's assets ensued. The lack of effective police presence in Nimba did not help as citizens from the various communities easily evaded the police and joined the disturbance. Police had to be brought to the AML concession area from Grand Gedeh and the regional hub in Gbarnga, Bong County to quell the disturbance. The citizens' action led to the following:

- Loss of two days of production at the Tokadeh Mines;
- Significant damage to major equipment, vehicles and offices;
- Large-scale looting of construction materials for expansion of mining activities;
- Damages to public infrastructure including bridges and the railway; and
- Nearly 300 employees remained locked-up with no access to food or water for over 24 hours, protecting themselves from the rioters and looters;

According to ArcelorMittal, damages caused by the disturbance amounted to approximately US\$10 million, which hindered the expansion of mining activities in Phase II of the AML program. The disturbance led to the arrest of Representative Prince O. S. Tokpah on July 4th by the Liberia National Police. The Representative arrest provoked angry response from the Nimba Legislative Caucus.



### **The Citizens (Zolowee, Mehkinto, Sehgeh and Sehkimpa and Gbapa)**

The chiefs, elders and citizens of Zowolee met with the committee on December 28, 2014. Some acknowledged their participation in the demonstration of July 3, 2014. They indicated that their actions were meant to be peaceful, but the involvement of some outsiders and use of tear gas by the

police escalated the crisis, which led to the destruction of AML facilities at Tokadeh. A representative of the youths was vocal and averred that they would continue to obstruct the operations of AML if their demands for improved conditions for communities close to AML concession area were not met. The citizens of Zolowee also stated what they considered unjust detention of citizens from their town. They stated that looting at the Tokadeh mining site was committed by some contractors of AML and citizens from other towns, which took advantage of their peaceful protest in Zolowee.

Citizens of Gbapa, Mehkinto, Sehgeh and Sehkipah met with the committee in Gbapa on December 29, 2014. Speakers from all of these towns indicated that their citizens did not participate in the disturbance. However, they expressed deep concerns about the arrests of citizens from their towns and seizure of single barrel guns meant for hunting. They also told the committee that they were dissatisfied with the disbursement of social benefits under the MDA and wanted AML to complete payments due them for their crops and land.

The citizens in all the towns mentioned above, indicated that they were surprised that the police entered their premises and took away their goods and other personal belongings claiming they were looted items from AML Tokadeh facilities. They reported that the police failed to document what were taken from their homes and as a result they were unable to recover their goods and personal belongings.

### **The Police:**

The Committee met with both the national and county-based police at different times during the investigation.





**Local Police:** The Commander of the police detachment in Nimba County reported that he received a call at 6:00am from the County Attorney informing him that some residents of Zolowee, Gbapa, and Sehkimpa were blocking entry into the Tokadeh mines and AML administrative sites in Yekepa. According to the local police commander, the Nimba detachment did not have sufficient officers to effectively deal with the unrest. Therefore, the police adopted a mediatory approach to deescalate crisis maintain calm. As the day progressed, the police claimed that more people joined the blockade from other local communities and from as far as Ganta and Sanniquellie. He averred that some of the citizens were armed with cutlasses, power saws and other weapons and wore chalk that masked their faces. The police also informed the Committee that during their interaction with the citizens, the Superintendent and Development Superintendent were not available, so the County Attorney intervened to speak with the citizens. He was booed and threatened and had to flee.

The police claimed that while they were engaged with one group of demonstrators at the barricade, by about 1:00 pm another group of demonstrators started to loot and vandalize the Tokadeh Mines. The police reported that subsequently violence erupted, trenches were dug, and the bridge connecting Sanniquellie and the road to Yekepa was set ablaze. The local commander having determined that the crisis was beyond their control sought assistance from the National Police. However, the Commander informed the Committee that the employment policy of AML and one of its contractors – AFCON was at the root of some of the conflict in the county. He indicated that AML contractor AFCON often laid off workers for theft and other violations and that have left many citizens that lost their jobs dissatisfied.

**National Police:** The Director of Police informed the Committee in his statement that on July 3 the Liberia National Police (LNP) received calls from AML and their local commander that some local residents from (Zolowee, Gbapa, Mehkinto, Sehgeh and Sehkimpa) were blocking the entrance to AML Tokadeh Mines. On this information he dispatched a contingent of Emergency Response Unit (ERU) and Police Support Unit (PSU) officers from Tappita, Nimba, County; Zwedru, Grand Gedeh County and the regional security hub in Gbarnga, Bong County. The Director mentioned that it took some time to mobilize men and logistics for effective response to the crisis. He further claimed that by the time re-enforcement arrived on the scene, the demonstration had escalated to the point where they were shot at and their movement significantly impeded.

The LNP however reported that, in spite of these challenges, they were able to assess the situation and restore calm. Their intervention led to the release of more than 300 AML workers held hostage, removal of roadblocks; extinguishment of bridge fire; securing of the mines, and arrest and detention of some rioters. He also told the Committee that his men arrested an individual who was inciting citizens and who turned out to be a representative of District # 2 of Nimba County. He said the arrested

representative was hooded and found in the midst of angry citizens.

**The Local Officials:** The Committee met with the Superintendent of Nimba County on December 27, 2014. He reported that in March of 2014, the President of Liberia requested that he and other officials deal with the sour relationship that existed between ArcelorMittal and citizens in close proximity to the concession area. He then proceeded to hold meetings with both parties to deal with several contentious issues. He indicated that some youths were particularly aggressive in the presentation of their concerns, appeared to be unfamiliar with the MDA and their rights under the law to demonstrate and they wanted immediate action.

Subsequently, the youths on July 1, 2014 wrote the County Attorney and Superintendent, requesting permit to carry out a demonstration against AML operations in the county. The county officials denied the youths permit to demonstrate on grounds that the notice provided was too short to prepare an appropriate response to maintain the peace. He stated that experience showed that these demonstrations often led to violence. However, the youths insisted that they would demonstrate and on July 3 carried out their threat. The Superintendent said he did not have the opportunity to engage with the demonstrators on July 3 because he and the Development Superintendent, County Inspector had to escort a USAID team to visit projects in Yarwein Mehnsonnoh District. He mentioned that during the day he was out of phone contact and as such could not make a substantial intervention to quell the demonstration. However, when he returned to Sanniquellie on the evening of July 3, the situation had deteriorated and security forces were leading efforts to restore law and order. He said he could not visit the affected areas because citizens had dug trenches and impeded access to the areas. On the morning of July 4, he took on to the local radio station request citizens to be calm, return to their communities and stopping looting and reverting to violent actions.

The Superintendent said the disturbance could have been avoided if the police had intervened on time, but the distance of the regional hub in Gbarnga limited the police timely intervention.

**ArcelorMittal:** AML representatives met with the Committee in Yekepa, Nimba County and Buchanan, Grand Bassa County. The representatives informed the Committee that the conflict centered on misunderstanding of the MDA, ineffective utilization of social contributions and delayed payment of resettlement compensation for land and crops lost.

They reported that at about 6:00 am on July 3, they received information that some citizens had gathered and were obstructing access to the Tokadeh Mines in protest to issues raised above. The AML then informed local and national authorities about the incident and some officers were dispatched,

but they were not sufficient to control the demonstrators who were well organized. They claimed that there appeared to be two groups of demonstrators – one at the barricade outside of Zolowee and the other positioned outside of the Tokadeh Mines. According to them, at about 11:00 am the demonstrators turned violent and started to throw stones and other objects. Subsequently, the protesters positioned outside of the mines attacked the Tokadeh Mines and started to loot and vandalize the facilities. The AML when asked about the involvement of some of their employees and contractors in the disturbance, stated that they had no information that staffs were involved.

**The Legislative Caucus:** the Committee met with some members of the Nimba Legislative Caucus including the Chairperson Senator Thomas Grupee, Representatives - Jeremiah K. Koung, Prince O. S. Tokpah, Samuel G. Kogar, Ricks Y. Toweh, R. Matenokay Tingban, Worlea Saywah Dunah and Garrison Yealue. During the meeting the Chairperson informed the Committee that they regretted the disturbance and damages it caused, but indicated that the level of disrespect shown Representative Prince Tokpah by the Liberia National Police shocked them. The Chairperson indicated that contrary to information that Representative Tokpah had come to insight the communities, he was sent by the Caucus together with Representative Larry Younquoi to speak to the community. They indicated that despite the identification of the representative by the Superintendent and other officers, the police ignored these individuals and resorted to humiliating the Representative.

During said meeting, Representative Tokpah informed the Committee that contrary to assertions that he was present in Nimba on July 3, 2014 and incited the citizens, he attended legislative session in Monrovia and arrived in Nimba on the morning of July 4, 2014. “How could I have incited citizens when the Superintendent, County Attorney and myself went on local stations to calm the situation,” he said.



## Analysis of the Facts

The Committee's analysis of the July 3 and 4, 2014 disturbance is based on available information generated through interviews, photos and video evidences, and field assessments.

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1. We estimate that more than 300 individuals including youths, men, women, elders and chiefs mainly from Zolowee and surrounding towns initiated the demonstration. From all accounts, the demonstration started peacefully on July 3, but then degenerated into violence after efforts to peacefully resolve the standoff failed. The management of AML notified the Government and local officials promptly. The Government responded immediately by sending officers from the ERU and PSU. Negotiation initiated by AML representatives, ERU/PSU officers and local officials failed and led to major concerns about the safety and security of expatriates who were being held hostage. The failure of negotiations led to the escalation of the conflict and violence ensued. In response, the Police released teargas to restore order and gain access to the mines to release the hostages.

Despite the immediate response of the Police, The Committee's analysis of the July 3 and 4, 2014 disturbance is based on available information generated through interviews, photos and video evidences, and field assessments.

2. We estimate that more than 300 individuals including youths, men, women, elders and chiefs mainly from Zolowee and surrounding towns initiated the demonstration. From all accounts, the demonstration started peacefully on July 3, but then degenerated into violence after efforts to peacefully resolve the standoff failed. The management of AML notified the Government and local officials promptly. The Government responded immediately by sending officers from the ERU and PSU. Negotiation initiated by AML representatives, ERU/PSU officers and local officials failed and led to major concerns about the safety and security of expatriates who were being held hostage. The failure of negotiations led to the escalation of the conflict and violence ensued. In response, the Police released teargas to restore order and gain access to the mines to release the hostages.

Despite the immediate response of the Police, on July 3, they lacked sufficient manpower and logistics to adequately deal with the situation. This provided a window of opportunity for citizens from other parts of the county to join the violence and loot the AML facilities. However, following the arrival of police reinforcements, the police succeeded in containing the violence on July 4th, thereby ending the disturbance.

3. We believe that Honorable Prince O. S. Tokpa decision to go to the main crisis zone (Yekepa) unescorted by security forces placed him on the wrong side of the incident. Though a representative of his people, the Committee believes that Hon. Tokpah created an impression that he was in support of the unauthorized demonstration undertaken by the citizens. However, we consider the reasons provided by the police for his arrest and prolonged detention to be an unacceptable excuse because there was sufficient information to determine his status.

4. We cannot confirm the exact cost of the damages related to the destruction AML facilities as estimated by AML, because the committee could not validate the amount.

5. The large-scale looting of AML facilities disrupted the expansion of mining activities in Phase II of the AML program.

## 4.2 Compliance with the Social Development Fund Benefits

In post conflict Liberia, MDAs have obligated concessionaires to make financial contributions to the development agenda of county(s) in which they operate. This approach by the Government has allowed counties and communities the space to improve development outcomes. Article XIV of the MDA between AML and the Government requires that the company pays an annual social contribution of \$3m US dollars to support development projects in three counties – Nimba, Grand Bassa and Bong. Nimba receives 50%; Grand Bassa 33.3%; and Bong 16.7%. The MDA required the establishment of a dedicated committee to disburse and allocate the annual contributions made by AML.

**The Citizens** - Communities cited the delayed payment and limited impact of the CSDF as one of the major reasons for their demonstration. They indicated that despite being in close proximity to the concession area, their communities have not been prioritised in projects implemented under the CSDF. Chiefs and youths from communities such as Zolowee, Makinto and Gbapa indicated that the county has failed to provide them benefits commensurate with the adverse impacts of the concession on their livelihood. They also complained about their level of participation and the lack of transparency and accountability in the utilization of the funds. The communities stressed that as affected communities they are supposed to receive 20% of the CSDF annually, but this has not been the case since AML started to make payments to Nimba.

**The Local Officials:** The leadership of Nimba at the time of the investigation indicated that some of them were recent appointees, and though they were concerned about the impact of the CSDF, had limited information on the past usage of funds. However, the Superintendent indicated that the Government is in arrears to the county and has not disbursed the funds for the last three years. He indicated that local officials' hands are tied because of this situation and projects agreed at county council sittings have been delayed. "The delays by the Government in channelling social benefits to communities have contributed to conflict between the affected communities and AML," the Superintendent averred.

**The National Officials:** The Minister of Lands, Mines and Energy said the crisis in Nimba represents an age-old problem: "minerals are exploited, but the quality of life of the people does not change." He further said that this incident foreshadows what we can expect in the future if people do not see and experience what they want as concessions expand. He said the two underlining issues were the management of the social development funds and the settlement of claims for land and mineral rights. He noted that AML has met its obligations by paying the required amounts into the government's account, but the execution of the CSDF seems to be handled by the county Legislature and the Minister of Finance instead of the Dedicated Funds Committee (DFC) structure as require by the MDA.

**ArcelorMittal:** AML informed the Committee that it has consistently made payments to the Government of Liberia in consistent with its obligation in the MDA. However, the company stated that it was concerned that failure to effectively utilize the CSDF is adversely impacting their relations with communities close to the concession and citizens of Nimba. AML indicated that since the dissolution of the Dedicated Funds Committee (DFC) they have played a peripheral role in the disbursement of funds or selection of projects. The AML said they want the CSDF managed effectively and communities close to its operations prioritized.

**Legislators:** The Committee met with nine of the eleven members of the Nimba County Legislative Caucus Senators Thomas Grupee (Chairperson) and Prince Y. Johnson as well as Representatives Jeremiah K. Koung, Prince O. S. Tokpah, Samuel G. Kogar, Ricks Y. Toweh, R. Matenokay Tingban, Worlea Saywah Dunah and Garrison Yealue. The consensus view of the member of the caucus is that the poor management of the CSDF is major contributing factor to tension between AML and citizens. They indicated that the government has delayed payment to the county in excess of US\$5 million and suggested that ideally, the CSDF should be managed through a trust fund.



## Analysis of the Facts

There is a consensus among citizens, local officials, legislators and some central government officials that the poor management of the Nimba County Social Development Fund is the most significant driver of both the conflict between Nimbaians and the AML management and the resulting July 3 and 4, 2014 disturbance. The Committee accepts this assertion.

We estimate that over the life of the Concession, Nimba County will receive US\$37.5m, Bong County US\$12.7m and Grand Bassa County US\$24.7m, for a total of US\$75m, representing the most valuable direct financial benefit to

the affected communities. From 2006 to 2015, US\$28m has been paid by AML as CSDF benefit for Nimba County; but the impact of these funds on the livelihood and development outcomes of the county has not been felt. Currently, the Government is in arrears to Nimba County for US\$3.95m. AML has paid US\$12.5m and the Government has disbursed US\$8.5m to Nimba county. The Committee has determined that AML has done its part by making accurate and regular annual payments to the Government of Liberia. The Government of Liberia, through its local and central executives as well as legislative authorities has not ensured that these funds are

managed with transparency, effectiveness and efficiency.

We believe that the citizens have a legitimate reason to be disappointed and disturbed when the operation of the Concession outpaces the benefits to them. But we consider the use of violence, as was carried out against the Concession on July 3 and 4, 2014 to be a wrong course of action in resolving these concerns. The Com-

mittee view the CSDF as a local tax that is paid to the counties for the use of the land and other resources by AML. Therefore, the fund should be managed in a decentralized manner, minimizing central government control and encouraging strong local initiative and participation in its planning and use. Therefore, the control of the funds by the Ministries of Finance and Internal Affairs should be reduced.

### 4.3 Security Arrangements for the AML Concession

The security arrangements for the protection of lives and properties in the AML Concession area were seriously bridged on July 3, 2014, and thus exposed the Concession to significant future risk. In this section, we seek to understand the key factors that influenced the security arrangements, what led to the bridge of security, and what should be done to prevent reoccurrence of such an undesirable situation.

The MDA speaks to the role of the Government and AML in the security framework as follows: “The CONCESSIONAIRE shall have the right in keeping with the provisions of the Laws to direct or under contract with other persons, establish and maintain its own security force for the purpose of maintaining law, order and security...” Article X, Section 3; and “The Government of Liberia hereby warrants and defends the CONCESSIONAIRE’S title to possession and peaceful enjoyment of all rights granted to it by this Agreement and all of its property in the Republic against expropriation, confiscation, condemnation, wrongful possession, and to the extent possible, destruction, disruption, or interference by any person” (emphasis ours), Article XIX, Section 8.

**The Citizens:** In discussions and interviews, citizens expressed dissatisfaction with the manner in which the security forces handled the crisis. They claimed that police prematurely discharged teargas; a situation, which they believe, led to the escalation of tension and violence. Citizens also informed the Committee of the confiscation of their legally acquired and owned properties (single barrel guns,



gasoline etc.), after the riot, actions which they claim has undermined their trust in the government's security forces.

They also stated that the security component of the concession which AML outsourced to Security Expert Guard Agency of Liberia (SEGAL) is a strategy adopted by AML to offer disproportionately low compensation and benefits to locals, some of whom work for the security firm.

**The Local Officials:** Local officials expressed dissatisfaction with the numerical strength and weak logistical capacity of the local security forces to handle crisis in the county. They also expressed concerns that the capacity of the Government's security arrangements was not adequate to meet the external security needs of the Concession.

**The Local Police:** The local police complained that AML management is unwilling to assist them in bolstering their logistical capacity to adequately protect the Concession. They also indicated their dislike to the approach of AML reporting incidents to their bosses in Monrovia before contacting them.

**The National Police:** The national police informed the Committee that they are dissatisfied with the AML's security arrangement, in that they are not involved with key decisions such as the vetting of the contractor and training of security personnel. They stated that AML management refused to honor request for financial and logistical support, including a request for US\$100,000 to strengthen the police's capacity to adequately protect the Concession.

**ArcelorMittal:** AML senior management and security advisors expressed satisfaction with the workings of the arrangement under which they outsource the concession protection services to a private security firm. However, they spoke of plans to improve the benefits for security officers to levels comparable with their full time staff. They stated that the security contract is closely monitored for quality assurance with clear benchmarks that ensure that security workers are not treated any different from regular employees of the company. The AML staff also expressed satisfaction with the performance of the Government in doing its part to maintain law and order in the concession area. However, they believe that the July 3, 2014 riot was well planned and both the Government and the company failed to detect the incident.



## Analysis of the Facts

The Committee identified three key factors that drive security at AML:

- The level of stakeholders' appreciation of the MDA and its implementation;
- The internal security arrangement that is managed by AML; and
- The external security arrangement that is the responsibility of the Government of Liberia.

The level of stakeholders' appreciation of the MDA and its implementation is a function of clear documentation and communication of the roles, responsibilities and obligations of each party; and the judicious and timely demonstration of commitment to the terms and conditions of the MDA. This means that AML and the Government of Liberia must take steps to manage citizens' expectations of the partnership and ensure that promises are kept. When citizens' expectations vary significantly from what they are entitled to or when the delivery of benefits falls far below commitments, dissatisfaction increases and the security of the Concession is undermined. When dissatisfaction persists, hatred may set in; thus increasing the cost for main-

taining security or resulting into a security breakdown because citizens feel so aggrieved that they go to great lengths to express their frustrations. In the case of the July 3 and 4 disturbance, the Committee believes that citizens' dissatisfaction with implementation of the MDA led to the demonstration.

AML outsources the protection of its facilities to a private firm called SEGAL. The management feels that this is a more cost effective strategy. However, the Committee found that this strategy has undermined the effectiveness of the security of the concession area. If the security arrangement is weak and porous, it will encourage workers and citizens in the affected areas to capitalize

on its limitation. To prevent this situation, the internal security force must be motivated, competent and logistically strong.

Some citizens in the affected communities consider the outsourcing of the security service as a strategy to place them at a disadvantage to other workers of AML, since the local residents are largely security personnel because of their limited training and education. The Committee believes that compensation disparities between AML's employees and the personnel of the security agency should be minimized, to avoid morale issues among the security staff and tie their future to that of the Concession. When this is done and the capacity of the internal security is strengthened, we feel that the plant security will be in a stronger position to deter demonstrations, and when they occur, minimize their adverse impact on lives and properties within the Concession area.

The Government's national security arrangements provide an umbrella of protection for the Concession and are therefore critical to securing the Concession area from outside aggression and ensuring that other institutions and individuals that do business with AML in Liberia have an enabling environment to carry out their work. The committee believes that the Government's security arrangements are currently inadequate to provide the level of protection that is needed for an investment of this magnitude. Specific reference is made to the weak logistical capacity of the local police, the overpowering of the local

police by the rioters, and the delayed arrival of police reinforcements.

To strengthen the Government's security arrangements for the protection of the Concession, we believe that the Government should adopt a decentralized budgeting support framework. Specifically, the Government of Liberia should allocate a percentage of the revenue generated from the operation of the Concession to enhance the capacity of the security forces that protect this important investment. This will enhance fiscal decentralization, under which local areas that generate higher revenues for central governments usually have bigger local budgets and better services, including public safety.

The National Director of Police acknowledges the challenges with the security arrangements and has informed the committee of his plans to address the situation. However, his proposal for AML to pay to the Police the sum of US\$100,000 is considered by the Committee to be inappropriate as it is not provided for in the MDA, neither is it in keeping with our Public Financial Management Laws. Moreover, AML could feel pressured to honor such requests against their will for fear that a denial or delay could cause the Government's security forces to renege on their obligations under the Agreement. The Government needs to take steps to discourage its officials and institutions from seeking direct financial support from investors to carry out Government operations.

## 4.4 Compliance with other Provisions of the MDA

The MDA obligates AML to interact with local communities and other relevant stakeholders through the following provisions: Land and Facilities; Healthcare, Safety and Security; Education and Skill Training; Employment and Secondment; Community Resources.

**Land** - The MDA preserves the rights of private landowners in Article IX. It states in Section 2 that, “In the event that occupation of private land within the Concession Areas will be required for or incidental to the Operations, the CONCESSIONAIRE shall endeavor, by direct agreement with the owner(s) to enter upon and utilize such private land.” It also requires that if, “the CONCESSIONAIRE reasonably requires private land outside the Concession Area for the Operations, the Concessionaire will endeavor to enter upon and utilize such land by direct agreement with the owner.”

**Education and Skill Training** - Article XI of the MDA states that “the Concessionaire provide on a continuing basis training for Liberian citizens, in order to prepare them for skilled, technical, administrative and managerial positions.” The Concessionaire is also to ensure the resuscitation of vocational technical training institutes in its concession area. The MDA also wants the Concessionaire to be “providing an aggregate amount of at least Two Hundred Thousand Dollars (US\$200,000) per year to fund new scholarships for qualified Liberian citizens to pursue advanced studies abroad. The MDA also requires that AML “provide financial assistance of Fifty Thousand Dollars (US\$50,000) per year towards the creation and operation of a Mining and Geology Institute at the University of Liberia...” It states that such an Institute shall be located near the Yekepa area.

**Healthcare** - The MDA requires in Article X Section 1 that “the CONCESSIONAIRE shall install, maintain and use appropriate and modern health and safety facilities and shall train its employees in accordance with generally accepted health and safety procedures and practices.” It also maintains that, “the CONCESSIONAIRE shall provide in the Concession Area free medical treatment and attention at acceptable standard to all of its employees and Government officials working in connection with the CONCESSIONAIRE’s operation along with their spouses and immediate dependents...”

**Employment** - The MDA states in Article XII that the “Concessionaire shall not import unskilled labor into the Republic and should employ qualified Liberian citizens for skilled, technical, administrative and managerial positions in accordance with an agreed schedule in the MDA.

## The Citizens:

**Land** - Local communities indicated that AML has agreed to pay them adequate compensation for their land; but they realized that the involvement of local officials has undermined their interaction with the company. Several community members stated that their families have lived on and farmed land that AML wants to acquire, but because they do not have the appropriate deeds they are being refused compensation. For example, citizens in Zolowee indicated that some families in Gbapa were being compensated utilizing probated deeds while others were being denied payment for only possessing tribal certificates. However, they mentioned that this issue is being discussed with local officials and AML, and they expect a resolution soon.

**Education and Skill Training** - The citizens indicated that they wanted AML to provide scholarships and training for youths so that they become qualified for employment with the company. The Youths also informed the Committee that AML was slow in resuscitating vocational training institutions and local youth in areas close to the concession area were not prioritized scholarships. The citizens called for scholarships program to be made more transparent and their communities prioritized for a certain number of scholarships.

**Healthcare** - the citizens indicated that AML needed to provide then access to medical services within the concession area or build health facilities within their communities. Citizens in Sanniquellie were concerned about the noise and vibration created by the closeness of the G. W. Harley Hospital to the railway and want the hospital relocated. They said that pavement of the road between Ganta and Yekepa is long overdue and needed to be constructed as soon as possible.

**Employment** - The Citizens told the Committee that they want citizens from Nimba prioritized for jobs. They claimed that AML is focused on hiring people as short-term contractors and that this strategy of sub-contracting most of its activities raises questions about long-term job security for citizens. The citizens indicated that this practice undermines the commitment and weakens the long-term relationship between citizens and AML.

## Local and National officials

**Land** - The local officials noted that to legally own land in Liberia one must have a land deed. The Superintendent noted that we have to follow the law. He furthered that many of these families have

lived in these communities for decades and to use only the legal basis as justification to determine compensation would be inconsiderate, given the existing realities. The County Inspector indicated that AML and local officials have engaged the Land Commission and Ministry of Lands, Mines and Energy to address the question of land ownership. He noted that an arrangement has been reached with AML for those with verifiable tribal certificates. The County Attorney then indicated that an estimated 80% of Nimba citizens claim ownership to land through tribal certificates. He wants the Government to allow landowners to engage AML directly as required by the MDA with limited interference from local and national officials. The officials also told the Committee one of the challenges they face with AML is the bureaucratic bottlenecks in the making of payments to communities for land acquisition and other resettlement benefits. “After an agreement is reached to make payments to communities, ArcelorMittal takes too long to make these payments,” noted the Superintendent.

The Minister of Lands, Mines and Energy Patrick Sendolo also spoke of the importance of resolving the land question amicably. Minister Sendolo asserted that the manner in which ArcelorMittal handled the payment for mineral and land claims, and payment of benefits to claimants without legitimate claims is a cause for concern and needs to be reviewed and resolved.

**Health and Road** - the Superintendent was concerned that citizens are obligating AML to projects that are not in the MDA. He used the demand for AML to relocate the G. W. Harley Hospital in Sanniquellie and the reconstruction and paving of the road from Ganta to Yekepa as example. He stated that he had repeatedly told citizens that AML had agreed to construct the road from Ganta to Yekepa, but they had to be patient as the process leading to the commencement of the road construction is ongoing.

**Employment and Training** - the Superintendent said ideally he would want Nimba citizens prioritized; but the investment in Nimba is national, and other Liberian citizens should also have the opportunity to gain employment from the company since Nimbaians also work in other parts of the country.

**Legislators** - All the legislators that the Committee interacted with spoke of the importance of employment for local people as a catalyst for peaceful co-existence. Senator Prince Johnson said that a multi-billion company could not operate in a county without a Nimbaian at the top managerial level. He also noted that employment of youths and ex-combatants, especially in the security area, will help to deal with simmering tension related to high unemployment in the county. The Senator also informed the Committee that citizens of Grand Bassa pressured AML to dismiss some Nimbaians employed in Buchanan. He said despite his intervention officials from Grand Bassa failed to respond to this case, which he said could provoke conflict between the two counties.

## ArcelorMittal

**Land** - Officials of the AML indicated their commitment to the terms and conditions of the MDA and were prepared to ensure just compensation for land acquired from individuals and communities. The company indicated that it finds it risky in making payments to holders of tribal certificates, as it is not a recognized legal title to land. However, like local officials, AML said they had reviewed the situation and are prepared to consider tribal certificates once the Government sanctions the transaction. On the issue of delays in making payments, the company officials noted that payments had to be verified amidst all the controversies so that they did not make payments to the wrong claimant(s): “like any entity, there are procedures and controls and we have to fulfill these requirements before funds are released.” However, AML officials told the Committee that they have paid in excess of US\$6m to communities for land and crops and are prepared to make additional payments.

**Education and Training** - the company indicated that they have met most of their obligations related to scholarships and payments for geological education and were committed to vocational training. However, they noted that reconstruction of vocational training centers would take time and citizens needed to be patient. They furthered that many of their Liberian staff have been sent abroad for training and certainly want to train more Liberians so that they can gain employment with the company. AML maintained that they have targeted university students from Nimba for scholarships and have supported both the University of Liberia geology program and the Nimba Community College. The Human Resource Director of AML told the Committee that the company is concerned about its engagement with communities and usually holds meetings to discuss plans to engage and ensure that citizens’ concerns are addressed, and training remains a key priority.

**Employment** - the company indicated that a substantial number of its employees and contractors were from Nimba County. According to AML Human Resource Manager, the company has a total of 1,280 employees with 673 working in Nimba county while 607 in Grand Bassa and Montserrado counties. Of the 673 employees who work in Nimba County, 301 or 45% of them are Nimbaians. The company asserted that it has outsourced much of its operations including, security, construction, catering and other services. However, these contractors are required to recruit staff and compensate them in accordance with guidelines agreed by AML. The company in response to Committee queries of using contractors as a cost cutting measure indicated that its actions are business decisions and is in no way meant to undermine their relationship with the local communities.

**Healthcare** - the company noted that it provides medical services to its employees as required by the

## Analysis of the Facts

1. The AML and the communities that are adjacent to its operations need to forge a mutually beneficial partnership. That partnership requires that both parties respect key aspects of the MDA and work in concert with the Government and civil society actors to deal with violations and problems as they arise. The Government has a responsibility to protect the interest of its citizens, while at the same time ensuring that companies are protected from citizens' actions that undermine investments. Citizens also have the responsibility to engage harmoniously with companies and value the intervention of public officials who are tasked to work with these companies and communities. To ensure that all parties live and work amicably, it is critical that concerns of all sides are addressed and roles and responsibilities delineated.
2. Land - The acquisition of private land by the AML has been a contentious issue because several individuals and families that have lived and worked in the concession areas for decades do not have probated land deeds. Many have tribal certificates, which the AML is presently not honoring. Those that have deeds are few and the refusal to pay those with tribal certificates has led to resentment. While the citizens claim some delays in payments for their land, the company feels that there is the need to take appropriate steps to verify titles before making payments.
3. The Committee believes that there is a need for clear guidelines for timely verification and settlement of claims. Also, to deal effectively with the land crisis in AML and other concession areas, key Government agencies such as the Land Commission, Ministries of Internal Affairs and Lands, Mines and Energy, National Bureau of Concession together with an independent stakeholder to review claims and make just payments to individuals and family.
4. Education and Skill Training - Skills training that prepare citizens obtain the requisite expertise and gain employment is essential for AML to meet the relevant labor and management provisions of the MDA. The management of scholarship programs has come under scrutiny. Therefore, AML and local authorities need to take appropriate steps to enhance trust, improve the selection mechanisms and provide more opportunity for citizens in the affected communities.
5. HealthCare – The communities complain about poor health facilities in their area and indicated that the AML should allow them access to their healthcare facilities. The Community believes that this is the responsibility of the Government of Liberia and not the AML. However, if the citizens consider this as a priority, then they should allocate a portion of their CSDF to improve their healthcare facilities. Additionally, they could arrange with the AML for referral of critical



cases that their facilities may be unable to handle.

6. Employment – not plenty, temporary, managerial - The Citizens complained that AML has not employed enough of them, many of the jobs are temporary and Nimbaians are not fairly represented in senior management. Regarding the insufficiency of employed Nimbaians, AML informed the Committee that 301 of its 673 employees in Nimba are Nimbaians. If this information is correct, then the problem may be

due to limited information as well as low level of employment opportunities in Nimba. The Committee believes that the company's strategy of sub-contracting most of its activities raises questions about long-term job security for those hired by the sub-contractors. On the issue of the unfair representation of Nimbaians in senior management is a misrepresentation of the MDA, which provides opportunities for any competent Liberians irrespective of county of origin.

## 5. Key Findings

**After carefully analyzing the facts surrounding the incident, the Committee established the following:**

1. That the Government and AML failed to detect the early warning signs of the threat of violence and to take appropriate actions to mitigate the risks;
2. That citizens from Zolowee, Gbapa, Makinto, Sehgeh, Seikempah, Sanniquellie and other areas in Nimba participated in the demonstration and looting of ArcelorMittal facilities;
3. That the County Police Detachment and AML security forces did not have adequate capacity (manpower and logistics) to deal with the disturbance;
4. That the police and demonstrators were initially engaged in peaceful interactions; but when they learned of looting and AML workers being held hostage at the Tokadeh Mines, they tried to intervene, but were obstructed by stone throwing demonstrators. In response, the police released teargas and the interaction turned violent.
5. That Honorable Prince O. S. Tokpa decision to go to the main crisis zone (Yekepa) unescorted by security forces placed him on the wrong side of the incident. Though a representative of

his people, the Committee believes that Hon. Tokpah's action created an impression that he was in support of the unauthorized demonstration undertaken by the citizens. However, we consider the reasons provided by the police for his arrest and prolonged detention to be an unacceptable excuse because there was sufficient information to determine his status.

6. That the company is honoring its obligation with regards to the County Social Development Fund by making regular and timely payments to the Government of Liberia. However, the Government has delayed disbursement of funds to the county, and the management framework for the Fund is not facilitating efficient and effective use of the resources;

7. That the Committee finds that the allocation of 20% of the Social Development Fund to the affected communities is critical to the welfare and the sustainability of the Concession; but the necessary significance has not been given to this arrangement in both disbursement and management of the fund;

8. That the Government and AML have not done enough to increase citizens and local officials' knowledge of relevant provisions of the MDA, a situation that has caused misplaced expectations and unwarranted conflict.

9. That AML's policy of outsourcing its internal security results into low compensation and job security, thereby undermining security personnels' loyalty and stake in the company.

10. That the Government's current security arrangement for the protection of this investment is not adequate.

11. That compensation for land and crops lost is not properly executed: the process is slow; and lacks clear procedures;

12. That lump sum payment to claimants for land and crop loss without proper financial guidance leads to the unsustainable use of funds by recipients;

13. That the perception held by some citizens that Nimbaians should be given preference in the employment decisions of AML is not consistent with the MDA.

14. That the disparity between the concession areas and communities in close proximity to the concession with respect to the quality of social services is a potential source for conflict.

## 6. Recommendations

1. That AML should give due consideration to Nimbaians, especially those from the affected areas, in making employment decisions without compromising Liberian Labor laws and the company's employment standards.
2. That the capacity of the local police be strengthened in key areas such as: surveillance, logistics and manpower;
3. That citizens should seek peaceful means to resolving their grievances rather than reverting to violence;
4. That Legislators and local officials should improve their engagement and consultation with citizens in the management of the MDA;
5. That the Government should revise the management mechanisms for the Social Development Fund program (CSDF), ensuring speedy disbursement of funds and more effective use of the resources. The Committee recommends the creation of a County Development Trust Fund under the signature of the Minister of Finance, the Minister of Internal Affairs, and the Chairperson of the County Legislative Caucus. Upon the finalization of the County Council for use of the funds, the appropriate sum should be transferred from the Trust Fund to an operating account under the signature of the County Superintendent and the Assistant Superintendent for Fiscal Affairs, with the consent of the Minister of Internal Affairs. In the management of the CSDF, the Government should prioritize the disbursement of the 20%, which is allocated to the affected communities. That the AML should review its policy to outsource their security service, making sure that compensation and other benefits for contracted security personnel are on par with those of full time employees, and that the recruitment of citizens in the proximate areas promote stronger partnership with local communities.
6. That the Government of Liberia should specifically allocate a percent of the revenues accrued from the concession to the local security budget so as to strengthen their capacity to respond effectively in time of crisis.
7. That the Government and AML delegate the task of resolving the land and crops settlement problems to a task force which may comprise of the Land Commission, Ministry of Land, Mines and Energy, National Bureau of Concessions, Local Officials, Civil Society with technical support

from a private firm to fast track this process.

8. That structured payment options, which spread disbursements over a number of years, should be considered in the making of significant settlements to citizens for land and crops loss.

9. That the Government of Liberia and AML should jointly determine the cost of the damage and move towards an agreeable settlement.

## 7. Conclusions

The July 3, 2014 civil disturbance in the ArcelorMittal Concession area was an unfortunate and avoidable incident that should be treated as a seminal moment for reinforcing the partnership between citizens, the Government of Liberia and companies in the execution of concession agreements. The Independent Ad-Hoc Committee appointed to Investigate this incident exercised due care in gathering information, analyzing evidence, and advancing recommendations that could have implications for the sustainability of the ArcelorMittal concession and similar partnerships across Liberia.

The incident is rooted in citizens' anger, festered over time by delays and failures to deliver benefits promised under the MDA, lack of effective communication between the parties, as well as poor management of expectations. The weak capacity of the security forces meant that they could not pick up early warning signs of the magnitude of the planned unauthorized demonstration, and they could not contain it promptly. The committee's work focused primarily on getting a good understanding of the factors that led to the conflict and formulating options for a sustainable partnership.

A number of key findings and recommendations have been advanced. Among the findings is the Government's delay in making social development funds payments to the County and the poor management of the funds. To this finding, the Committee has recommended the creation of a trust fund into which AML will make social development funds payments, and improvements in the management of the funds that prioritizes the affected communities.

We are humbled by our preferment by the President of Liberia; and feel confident that when these recommendations are implemented they will reverse the course and place the AML concession on the path to becoming a mutually beneficial partnership, which is the reason for its creation.

## 8. Annexes

### List of individuals interviewed

Name	Position/Organizations
Chris Massaquoi	Director, Liberia National Police
Gregory Coleman	Assistant Director, Operations, Liberia National Police
Morris T. Teamah	Nimba Commander, Liberia National Police
Vonn Zuaguele	Superintendent, Nimba County
Reginald Mehn	County Inspector, Nimba County
Hector Quoigoah	County Attorney, Nimba County
G. T. Harris Wowoah	Deputy County Attorney, Nimba County
Patrick Sendolo	Minister, Lands, Mines and Energy
Ciata Bishop	Executive Director, National Bureau of Concession (NBC)
Lemuel Reeves	Director, Bureau of Immigration and Naturalization
Betty Lamin-Blamo	Solicitor General, Ministry of Justice
Ronnie Addy	Staff, ArcelorMittal - Buchanan
Gerald Smith	Staff, ArcelorMittal - Buchanan
Dennis Foulds	Staff, ArcelorMittal - Buchanan
Jerry Kai	Staff, ArcelorMittal - Buchanan
Varney Kiazolu	Staff, ArcelorMittal - Yekepa
Andrew Gbomie	Staff, ArcelorMittal - Yekepa
Prince Y. Johnson	Senator, Nimba County
Thomas S. Grupee	Senator, Nimba County
Ricks Y. Toweh	Representative, Nimba County
Jeremiah Koung	Representative, Nimba County
Prince O. S. Tokpah	Representative, Nimba County
Garrison Yealue	Representative, Nimba County
Worlea Syawah Dunah	Representative, Nimba County
R. Matenokay Tingban	Representative, Nimba County
Samuel G. Kogar	Representative, Nimba County
Citizens of Zolowee	Nimba
Citizens of Mehkinto	Nimba
Citizens of Sengeh	Nimba
Citizens of Sehkimpa	Nimba
Citizens of Gpapa	Nimba

## Independent Ad-hoc Committee Members

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**Dr. Eugene H. Shannon**  
Chairperson

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**Dr. Ruth Gibson Caesar**  
Member

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**J. Tiah Nagbe**  
Member

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**Attorney Tarlo N. Wehyee**  
Member

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**Gbawou C. Kowou, IV**  
Member

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**Thomas Doe Nah**  
Member



## **The Independent Ad-hoc Committee**

