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SOUTH AFRICAN FORESTRY COMPANY LAND CLAIMS

1. INTRODUCTION

The South African Forestry Company Limited (SAFCOL) has the mandate of ensuring the sustainable management of forests and other assets within the SAFCOL Group, to enhance the value of the SAFCOL Group, and to play a catalytic role in the realisation of the states afforestation, rural development and economic transformation goals. Its mandate is determined by the Management of State Forests Act (1992). The company's main focus is on the management of state-owned plantations. The company operates through the following subsidiaries: Komatiland Forests (Pty) Ltd (KLF), Industrias Florestais de Manica, SA (IFLOMA), Mountains to Oceans Forestry (Pty) Ltd, Kamhlabane Timber (Pty) Ltd, and Temba Timber (Pty) Ltd.¹ However, SAFCOL's ability to carry out its mandate is being hampered by land restitution claims within the borders of the SAFCOL plantations. The brief looks at the challenges faced by SAFCOL with regards to the land claims, which results in conflict with community claimants, as well as the future role of SAFCOL in the forestry industry.

2. LAND CLAIMS²

Unresolved land claims are one of the key strategic risks of SAFCOL. It is SAFCOL's vision to be the preferred partner of choice for successful land claimants, thus their inclusion in the social compacts signed between communities and the main operating entity, KLF. In the 2011/12 financial year, an effort was made to facilitate the movement of claims from the research to the gazetting stage, as only 18 of the 29 claims have since been gazetted. Not much progress was achieved with regards to the settlement of claims affecting 61 per cent of the state land managed by KLF. Only one claim has been settled – which is on the Shannon plantation, owned by SAFCOL. The slow progress in settling SAFCOL claims is attributed to overlapping land rights, conflicting legislation and the lack of an approved settlement model with respect to state forest land operated by SAFCOL. Of the 156 074 hectares of land managed by Komatiland, in excess of 89 4444 hectares are under land claims, while 12 832 hectares of a total 14 816 hectares on properties owned by SAFCOL are under land claims. These claims affect the plantations in Mpumalanga, Limpopo and KwaZulu-Natal.

Through SAFCOL's land-claims management division, SAFCOL has engaged various stakeholders in an effort to expedite the resolution of claims over state-forest land which it operates on. The following initiatives have been undertaken:

- Participating in the Forestry Task Team: the task team consists of relevant government departments and representatives from commercial-forestry companies.

¹ SAFCOL Annual Report (2012)

² SAFCOL Annual Report (2012). This section comes directly from this article.



Meetings are chaired by the Department of Rural Development and Land Reform, and are aimed at finalising forestry claims.

- Engagement with claimants through SAFCOL's Joint Community Forums (JCFs), facilitated by the Socio-Economic Development division within SAFCOL.
- Initiation of operational-specific meetings with the Regional Land Claims Commission (RLCCs) and other relevant stakeholders. These meetings are aimed at focusing on specific claims and finding ways of unbundling the bottlenecks. Deliverables of the meetings are captured in the land-claims project.
- Provision of resources to RLCCs: although there is no cooperation agreement signed, SAFCOL is currently offering mapping resources to RLCCs, in an effort to fast-track the resolution of claims.
- Participation in the inter-ministerial task-team meeting, which was resuscitated with the aim of bringing relevant parties together, and for finding a settlement model suitable for the Group's land claims.

2.1 Challenges

The main challenge to the settlement of claims on state-forest land, is the fact that SAFCOL operates its business on land owned by the state and does not have the delegated mandate in the resolution of land claims. Parties to the settlement are the Department of Rural Development and Land Reform, the Land Claims Commissioner, claimant communities, the Department of Agriculture, Forestry and Fisheries (the landlord), and the Department of Public Works.

Other challenges include the following:

- Slow progress is causing frustration to claimants, who are in turn starting to unlawfully occupy SAFCOL-managed land, and are thus impacting on productive land.
- Community disputes; these have been cited as the major cause of delays in the finalisation of registered claims. Most disputes relate to boundaries, legitimacy of the members of the community as claimants, and overlapping land rights, with respect to the rights of claimants versus those of traditional leaders.
- The lack of an agreed settlement model for the settlement of claims on state forest land managed by SAFCOL.
- Lack of regular communication, particularly with claimants regarding the status of their claims, which leads to problems such as threats by claimants to operations, and illegal occupation.
- The new Green Paper on land reform has not been finalised. Much is anticipated on the policy direction that the Green Paper will provide, especially with respect to state land.
- 17 out of 31 claims are marred with lots of community disputes that are further causing delays in the finalisation of claims.³

³ Magwentshu (2013)



- No formal agreement or commitment by the Regional Land Claims Commission for the prioritisation of SAFCOL claims.⁴
- Post settlement of a land claim, DAFF and/or SAFCOL has to negotiate a lease rental that would be paid to the successful land claimants, which will have financial consequences.⁵

2.2 Social Development

Due to the nature of SAFCOL's work, it is situated in rural and impoverished communities with little economic prospects. Thus the entity tries to play a role in these communities economic and social transformation. The entity's Socio-economic development department has been on the forefront of effecting this transformation within the communities within which SAFCOL operates. This division has also assisted in bridging the communication gap between frustrated land claimants and SAFCOL.

Since the implementation of social compacts, the entity's relationship with its communities has improved. The partnership between the communities and the Group ensures that real, critical needs are being addressed – to reduce poverty, improve living conditions and develop skills in rural communities adjacent to or within the entity's area of operations. During the 2012 financial year, 11 social compacts were signed. SAFCOL partners with both the private and public sector in its efforts to promote development and alleviate poverty in rural communities, and continues to explore new relationships to do this. The entity has also managed to create a total of 325 jobs in the 2012 financial year through its Enterprise Development Department. This has been done through its beekeeping cooperative project, timber-frame housing initiative, biomass project, charcoal manufacturing and enterprise development contracting. The entity also trained an additional 218 learners in scarce and critical skills during the same period. The entity has maintained its level 2 B-BBEE rating, promoting transformation in its procurement processes.

Towards its goal of rural development, skills development has been highlighted. By the end of March 2012, SAFCOL supported 47 internal and 16 external bursars, provided 1 325 internal learners and 759 external learners with training, supported 21 learnerships, 10 interns, 340 learners in the community Adult Basic Education and Training course, and 10 artisans. In this way SAFCOL is transforming the lives of the inhabitants in the communities within and surrounding its plantations.

2.3 Way Forward

SAFCOL continues to proactively engage the relevant role-players, in an attempt to expedite the resolution of claims where its operations are based. Through the Socio-Economic Development division, SAFCOL has continued to engage with land claimants to clarify issues relating to land claims on SAFCOL-managed land, and to ensure that SAFCOL is positioned

⁴ Ibid

⁵ Ibid



as a preferred partner of choice to successful land claimants. Working with the key stakeholder, SAFCOL will take the lead in the development of a settlement model.

3. CONCLUSION

The South African Forestry Company Limited (SAFCOL) has the mandate of ensuring the sustainable management of forests and other assets within the SAFCOL Group, to enhance the value of the SAFCOL Group, and to play a catalytic role in the realisation of the states afforestation, rural development and economic transformation goals. However, SAFCOL's ability to meet this mandate is being hampered by land claims which are progressing slowly, causing frustration and conflict between land claimants and SAFCOL, as well as the lack of an agreed settlement model for the settlement of claims on state forest land managed by SAFCOL. SAFCOL is doing whatever it can to assist the speedy resolution of land claims on SAFCOL managed land, resolve conflict by keeping claimants informed on the status of their land claims and pursuing its rural development mandate. However, due to the fact that SAFCOL does not own the land it manages, it can only assist in the process to resolve land claims.

4. KEY ISSUES FOR CONSIDERATION BY PARLIAMENT

SAFCOL is including land claimants on the Joint Community Forum and Social Compacts.

To what extent are land claimants satisfied with this arrangement and has it resolved conflict over land claims?

In November 2012, SAFCOL management recommended to the Board that in settling SAFCOL claims, the Board should consider the utilisation of either "the lease-back model" where communities only receive lease rentals for the use of land, and/or "the strategic partnership model" where communities partners with SAFCOL on the business and also received lease rentals.. The Strategic partnership model has a potential for inclusive community engagement and is mostly preferred.⁶

Could more detail be provided on the above models? At what stage is the approval process?

SAFCOL is currently offering mapping resources to RLCCs, in an effort to fast-track the resolution of claims although there is no cooperation agreement signed.

Will it not be beneficial to SAFCOL and the Regional Land Claims Commission to sign a cooperation agreement?

Going forward SAFCOL sees growth prospects in the promotion of timber-frame housing and forestry expansion.

⁶ Magwentshu (2012)



How successful has the timber-frame housing initiative been? Will there be enough supply if successful? How many jobs could potentially be supported by this industry?

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