



## FOREST GOVERNANCE STRATEGY GROUP

### DRAFT MINUTES OF THE MEETING OF THE SECOND BRAINSTORMING SESSION

Madhya Pradesh Bhawan, New Delhi

June 29, 2015

#### *Background:*

The second meeting of the Forest Governance Strategy Group ( FGSG) was conducted on June 29, 2015 to not only broad base the discussions on forest governance in India with a larger representation from a cross-section of forest sector experts but also to discuss the immediate activities and chart the future course of action of FGSG including its existence and rationale. *The list of participants has been annexed as Annexure 1.*

The meeting was being facilitated by Mr. Sanjay Upadhyay from the Enviro Legal Defence Firm and began with a round of introductions by the participants.

#### **1. Mr. Sanjay Upadhyay, Advocate, Supreme Court of India and Managing Partner, Enviro Legal Defence Firm, New Delhi**

Mr. Upadhyay started with a brief discussion on what has been accomplished by the forest governance learning group (FGLG) in the past. He stated that FGLG was a ten year program run globally with 7 African countries and 3 Asian countries including India. Some of the former members from FGLG decided to take the learning and outcomes of FGLG forward and evolve it into a strategic think tank for effective implementation, and it is titled as the Forest Governance Strategy Group (FGSG). FGSG, in Mr. Upadhyay's opinion may be looked at as a national platform for thinking and implementing strategies for forest governance in India. He stated that though Expert Group on international negotiations on forestry and wildlife existed before in MoEFCC, but the discussions did not evolve into anything long term or effective and ended with the tenure of the then Secretary, MoEF. He differentiated between forest sector experts rather than forestry expert, since in his opinion, it's the forest sector which is the more encompassing term and has an impact on forestry per se. FGSG, in Mr. Upadhyay's view, is the melting point of all these experts of the forest sector to provide tenable solutions to the issues and challenges involving forest governance in the country.

The objectives of the group, in Mr. Upadhyay's opinion are clear: to constitute a think tank to strengthen forest governance in India and South Asia, hoping that the strength of the group is enhanced by constant communication of gaps within the system. He shared the news from Ministry of Environment, Forests and Climate Change which is considering leasing of forest lands to private sector. It has been a debate in the country for a long time but now the government inclines towards leasing so it could be important theme for the group to respond.



Other highlights of Mr. Upadhyay's address include:

- Group should emerge as a strength on forestry sector in the country
- Rationale for creation of FGSG: Attempts in the past to create groups on forestry but there has been no group linking voices on forestry sector. This has led to a need for such a group.
- Build a national think tank on forest experts-knowledge exchange, potential solutions, and dissemination of information.

**Presentation by Mr. Upadhyay on what has been done in the past followed by the way forward -**

1. Mr. Upadhyay highlighted the four basic themes that the group should focus on and further stated that sub-themes may be added to these larger themes.
  - a. Forest and People
  - b. Law, Policy and Regulatory Mechanisms
  - c. Climate, REDD+ and PES
  - d. Markets and Private Sector: Agroforestry and Forest based Enterprises: known that forest land is going to be leased to private sector: bamboo and its emphasis by the present government
2. Mr. Upadhyay stressed upon developing a vision roadmap including membership and collaboration wherein he spoke about expectation of members and expectations of group from members (time, resources, proposals). He stated that the FGSG as it looks today, is based on membership of erstwhile FGLG members and ELDF. These are experts known and visible and "governance –connected".

Mr. Upadhyay reiterated that it was time to define clear commitments of deliverables and stick to timelines.

Thereafter, Mr. Upadhyay launched the FGSG website & made the platform open to further discussion. He stated that as of now, ELDF is the secretariat of FGSG, but this can rotate as well. The facilitating unit can move around with consensus since there are members from valuable institutions.



### 3. Open House for discussion

#### STRUCTURE OF FGSG

##### Dr. Promode Kant:

- Since there is no legal structure to FGSG, we can tweak the themes as we move forward.
- Task and chair should maintain the activity at different levels. For eg: web meeting, web training, etc. This would be our outreach and make ourselves known.
- He suggested FGSG should begin with a chair to the meeting to add some formality. This would be rotated over a certain period. Dr. Irshad Khan was nominated as the chair for the meeting by Dr. Kant.
- ELDF would continue to be the facilitating unit and convenor to FGSG work.
- Themes seem fine-we can add/subtract as we go forward: asked if we have any intention of giving it a legal structure such as a society etc. SU clarified that no intention as of now but can be done if the group feels the need for it. SU also clarified that as of now both the secretariat and coordination is with ELDF but that can also be made on a rotational basis. What is more important is how we offer strength to the forest sector.

Mr. Upadhyay responded to this by stating that convenor ship should rotate among the institutions to gain more attention and new emerging ideas are encouraged and brought to the fore through rotating leadership.

**Mr. A. N. Prasad** said that one area that really needs emphasis is forest administration and management. This may fall under institutions but a special focus is needed on this as there is dearth of technology for forest governance.

- Mr. Upadhyay said that this probably gets covered under ‘institutions on forests’ (theme 2). He also spoke about a meeting with Dr. Rekha Pai, the Inspector General Forests on revisiting India’s Forest Policy and solicited opinion on whether the group can be involved in it.
- **Mr. Samar Basu Mullick** spoke about ensuring that the group is not a casual one where people meet once in a while and then forget about it-he stressed on the need for a stable group with a structure (not necessary a legal structure) but one with a secretariat. He said that the decision has to be made on whether it will be a stable conglomerate or a strict legal structure.
- This idea was supported by **Dr. Irshad Khan and Dr. Promode Kant**: they also stressed on the need for ensuring that the group has a chair and ensuring that the group does not die down or is taken lightly. They both suggested continuous activity on a bi-monthly basis through web based interactions.



- **Mr. Arun Kr Bansal**

Mr. Bansal opined that the structure should not be allowed to be bogged down by the purpose of the group. He stated that at times one gets entangled in the system which ends up becoming the obstacle. He stressed on not focusing too much on the structure otherwise the structure becomes the focus of the group rather than the work of the group.

- **Dr. Kant** suggested the name of Dr. Khan as the first chairperson. Dr. Khan suggested that ELDF and Mr. Sanjay Upadhyay should continue to be the convenor and the chair since it is his effort. The group accepted the Chairmanship of Dr. Irshad Khan.

## ISSUES TO FOCUS UPON

### Mr. Irshad Khan

- The focus should be narrow since everything has to be responded to under the ambit of governance.
- To this, Mr. Upadhyay said that some of the group members, to his knowledge, would be invited by the government to be part of the leasing of forest land. For forest enterprises, the focus on bamboo and the fact that government is taking so much interest is another way forward.

**Mr. A.N. Prasad** stressed on the CAMPA Bill 2015 and as per him, this should also be considered under one of the themes of the group. He elaborated on the massive amount of money involved in this scheme and in his opinion, assessing the capacity of MoEF or Forest Department to spend such a large amount of money is important. The matter of spending this CAMPA money cannot be dealt in isolation.

**Mr. Prasad** then spoke about how each person and department has their own perspective and that it's not just about control, it's about whether the forest department has the capacity to manage such a huge sum of money.

**Mr. Bansal** shared his views on CAMPA that about 8 to 9 states are most crucial in this context and unless we know how they plan to use their funds, the fund utilization cannot and should not be planned for state such as Odisha, MP, Chhattisgarh among others. He said sensitizing the states about CAMPA funding and appropriate utilization is important.

**Dr. Khan** suggested that CAMPA should be a subtheme under Theme II, that is Law, Policy, and Regulatory mechanisms.

**Mr. Upadhyay** also spoke about no one is questioning the CAMPA itself as a model for utilization of diverted forests. Before we talk about judiciary or executive supremacy in using of CAMPA. Every state is talking about their share in CAMPA. But what should be focus on this group is to look at the merits of CAMPA as a model itself. Just because it has been created by SC, it should not make the group complacent about it.



**Mr. A.N. Prasad** mentioned that he was the one who proposed the idea of NPV in the first place. However, now the whole model is defective which is why this needs to be a subject of debate.

**Dr. Promode Kant** spoke about REDD+, zero draft, Green India Mission and how REDD+ needs to go beyond where it presently stands. We should focus on the transfer of funds and equitable benefit sharing arrangement to ensure flow of funds to communities for their contribution in maintaining the carbon stocks in forests and their conservation activities. The group can come up with robust and equitable institutional mechanism to ensure communities receive their share of benefits from the international carbon markets.

### **APPROACH & AUDIENCE OF FGSG**

**Mr. Farhad Vania** spoke about the purpose of the group. However, he also stated that there is a need to go back and first see where are the future resources of the forest in India. The most pertinent question as per him was in whose hands are India's forests? What is the health on India's forests? What has been the long term ecological monitoring of India's forests?

He stressed that a prioritization exercise is a must for FGSG group to define our limited activities and immediate goals. This would be crucial to avoid ourselves from becoming a group that commits more and delivers nothing.

Another pertinent exercise is to define the audience of FGSG's work. It was unanimously decided that government is group's priority audience. It is also essential to know whether we want to help only the government or entities beyond. For the government to accept FGSG as a reliable forest sector think tank, we must know the issues which the government is interested to discuss with us. Further, we must decide whether we want to push an existing idea in the system or create a new idea altogether and lobby it within the government.

**Mr. Upadhyay** added that the actors in the Parliament and law-makers should be approached in a strategic manner. A different strategy is needed to reach out and influence other actors we may want to influence as a group.

**Dr. Saigal** emphasized on the fact that we should see what we want to achieve. We should avoid picking up extremely ambitious tasks at the beginning. Taking small steps and achieving intermediate goals would be the appropriate way to slowly establish ourselves for the higher ambitions.

He also suggested that the group must meditate as to why certain projects become institutionalized and some just fizzle away. For instance, Bamboo Mission, Tree Cooperatives, agroforestry, etc. are some of the projects which have huge potential yet did not become the part of the institutional thinking.

Moreover, the group may want to identify certain modern myths related to forest use and sustainability such as in several rules using wood for construction was banned and concrete/cement was promoted. But this now needs to change and he/his group are working with government departments to effectuate that change.



**Mr. Bansal** agreed and said small steps that can have big impact. He suggested the group should identify 2 to 3 small activities with a focused approach so it can have an impact. He agreed the group should consider working on policies, regulations, and standards on green rating of building or perhaps appliances.

**Mr. Upadhyay** said that policy for lawyers doesn't make much sense since there is a huge disconnect between law and policy in India. The policies are formulated after the laws and are not implemented generally. This includes the National Environmental policy of 2006 which was drafted after Environmental Protection Act (EPA) and its policy principles do not get reflected in the operational instruments. There is an immediate need for the integration of the two instruments. Further, the upcoming NEMA which is going to replace the NGT and the environmental laws under Modi Administration can be critiqued by FGSG about its implications on forest sector.

**Mr. Promode Kant** cautioned the group to be neutral in its critique with forest laws and activities. He stated that the group should avoid pre-existing biases to influence their work. It would be in the best interest of FGSG to not form any ideological position. Our statements should be devoid of ideological positions but based on a thorough study of all the matters. Also, he added that it might not be true that the forest lands are under threat under the current government administration.

**Mr. Sanjay Kumar** said we see forestry in isolation and do not look at the impact of other sectors on forests. He clarified that the leasing of forest land idea was introduced by NDA in 2003 which involved leasing of unused forest areas for greening purposes only. Main question is: how do we integrate the changing priorities of the government on forestry with those which are consistent? He suggested a study by Jairam Ramesh on the subject which is lying ideal and we could take it forward.

**Mr. Sanjay Basu Mullick** added Jharkhand Government has signed more than 100 MoUs for giving land and the most popular land in this context is forest land. The District Commissioners of West Singhbhum and Latehar are asking forest dwelling communities, other forest dependent communities and Gram Sabhas to give in writing that they have no claims left under FRA.

**Mr. Upadhyay** added that we need to push up the importance given to forests in the GDP growth.

**Dr. Promode Kant** reiterated that these fears pertaining to forest administration under current government are exaggerated and are non-existent as a matter of policy. The current government is deeply committed to conservation. They are not into making laws but conserving environment. With regard to coal, he said that all scams relating to coal by previous government were ignored. He stressed that this group must be totally neutral rather than be aligned to any political ideology.

**Mr. Sanjay Upadhyay** said that we have to be led by evidence. For instance between coal and CAMPA, which until the matter was brought before court was considered to be well managed. However, we need to welcome all views as a group around forestry and we must build our vision on evidence, facts, and results rather than being reactive.



**Mr. Jayesh Bhatia** stated that the group must have a vision as a group where we believe that forest has an important role to play in the country.

**Mr. Vania** informed the group that the first step in public domain would determine where the group would be in future. We need to see who is listening and how do we make sure that they FGSG would be heard. The latter is like lobbying.

**Mr. Sanjay Upadhyay** added that there are chiefly 3 actors in forestry discussion: first is judiciary which is playing a huge role. However, it is not being utilized to its best by the system. Most cases in SC are now only about clearances, NPV, and CAMPA. Second is the legislature or Parliament to which we are still not connected. Third is the forest department. We as a group have an arm to handle all 3 at the same time.

To proceed in a systematic manner on reaching out to each of the three, **Dr. Irshad Khan**, the chair of the second meeting suggested that the group must come up with a roadmap.

#### **NEXT STEPS**

**Mr. Sanjay Upadhyay** summed up the 4 take away and immediate future research activity from the discussion, by following “Respect all & Suspect all” approach.

- CAMPA
- Forest policy – scrutiny of it
- NTFP- Bamboo is revisited
- Institutional questions

**Mr. Chetan Agarwal** shared inputs *via* phone to the group discussion and suggested an important topic for future inquiry should be “definition of forest” based on Supreme Court of India’s order and new definition which MOEF is drafting.

**Dr. Irshad Khan** agreed to initiate a discussion on new forest policy and draft a small concept note to be circulated in the group.

**ELDF along with Dr. Saigal** would lead on private sector participation in forestry and forest leasing in absence of any takers. Mr. A. N. Prasad spoke about leasing of forest land for mining and interpretation of 2.3 of FCA for permitting of 1000 hectare diversion for mining purposes.

**Mr. A.K. Bansal** would lead the discussion on Bamboo, National Bamboo mboard, and the interest by shipping industry bamboo policy.

#### **DEADLINES FOR PAPERS**

**Dr. Saigal** preferred a broader approach for his paper and will talk about national level work that is going on, and institutional experiences from the projects Forest-plus has managed. The paper will also highlight



the benefits and challenges, learning from the project, and how the project can benefit from the inputs of FGSG going forward.

**Mr. Sanjay Basu Mullick** will submit his paper by August 2015.

**Dr. Kant** his paper will discuss the role of REDD+ in India's INDC. Our government has asked time till September 2015 for INDC submission for climate change negotiation. REDD+ has not really been debated or mentioned yet. He was waiting for the INDC's release. His paper will elaborate on how REDD+ is panning out in India, and what is the status and credibility/feasibility of Zero draft (critical analysis of this Zero draft). A part of paper would be dedicated to providing solutions as to how REDD+ can be implemented in different parts of the country. Forest Department does not play a solo role but a critically enmeshed role with other departments in REDD+ implementation. The paper would explore gaps and opportunities for integrated departmental work to make REDD+ successful. He will submit his paper by JULY 31<sup>st</sup> 2015.

**Dr. Surya Kumari's** group worked on creation of toolkit for measuring and community benefit-sharing during the past FGLG tenure. She will submit her paper on PFM's role in India by July 15<sup>th</sup> 2015.

**Dr Irshad** has already submitted his paper. My. Upadhyay will share it with Naysa for circulating to the FGSG group for their comments.

Mr. Upadhyay will follow up with **Mr. Patnaik** on his contribution on land tenure and forestry interface and seek a final submission date.

## RESOURCES FOR THE GROUP

**Dr. Promode Kant** suggested MDP programs may be conducted by FGSG to generate funds or get funds from organization like GIZ.

**Mr. Vania** cautioned that when a group raises funds from an organization then the group has to accommodate the organizational agenda as well into their objectives and deliverable. With regard to MDP, it needs a lot of working on before it can materialize. He suggested that FGSG proposal can be submitted before World Forestry Congress in Durban this year if any of the group member is joining it.

**Dr. Saigal** suggested that meetings on specific topics could be funded by organizations working on those specific themes in future.

## How to take the new ideas forward?

- CAMPA Bill discussion: Mr. Ashwini Kumar is heading the Parliamentary committee on it so we can influence it from our action plan led by Mr. A.N. Prasad.
- Forest Policy discussion: new procedures and substance need to be defined
- Private participation in Forest Management: (no takers yet) leasing of degraded lands to private sector. ELDF will address part of it from its work on SPFMI.



**Concluding Remarks by Dr. Khan** who facilitated the second meeting and the group discussion. He stressed that such meetings have to be a continuous process and we have to plan for next meeting in August.

**The group agreed to reconvene on 21<sup>st</sup> August 2015.**

**Ms. Naysa Ahuja** thanked the forest experts for their time and valuable contribution to define the structure and goals of the group. She thanked her ELDF team and facilitators at MP Bhawan. She urged the group to visit the [www.fgsgindia.org/](http://www.fgsgindia.org/) website and share their comments to improve the content. She sought suggestions from the group to make the communication more interactive. Naysa would be sending the minutes of the meeting, revised FGSG concept note as well as regular updates from any of the group members for inputs and comments of rest of the group.



## ANNEXURE 1



### FGSG India meeting

June 29, 2015

Madhya Pradesh Bhavan, Lokpriya Gopinath Bordolai Marg, Chanakyapuri,  
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