



SECURING LANDS, SUSTAINING LIVES

## PALMED OFF

AN INVESTIGATION INTO THREE  
INDUSTRIAL PALM OIL AND RUBBER  
PROJECTS IN CAMEROON AND THE  
REPUBLIC OF CONGO

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SERIES



# CONTENTS

<b>ACKNOWLEDGEMENTS</b>	<b>2</b>
<b>LIST OF ACRONYMS</b>	<b>3</b>
<b>KEY FINDINGS</b>	<b>4</b>
<b>1. INTRODUCTION</b>	<b>7</b>
<b>2. RESEARCH METHODS</b>	<b>13</b>
<b>3. LAND AND FOREST LAWS IN CENTRAL AFRICA: PROTECTING PEOPLE AND NATURE?</b>	<b>17</b>
<b>4. CASE STUDIES</b>	<b>23</b>
<b>4.1 SUDCAM, CAMEROON</b>	<b>24</b>
Land allocation process	25
Absence of FPIC and inadequate consultation of communities	27
Respect of customary land rights	28
Inadequate compensation	29
Relationship between local communities and the company	30
Environmental impacts	30
Conversion timber	32
<b>4.2 GREENFIL/AZUR, CAMEROON</b>	<b>33</b>
Questions over the legality and status of the concession	34
Illegal logging	35
Inadequate information and consultation of communities	36
Customary land rights undermined	36
Links to a company with a dubious human rights record	38
The Ebo forest and its great apes under threat	38
<b>4.3 ATAMA, REPUBLIC OF CONGO</b>	<b>39</b>
Forest conversion: agro-industry or forest enterprise?	40
Illegalities in Atama's timber operations	43
The price of land: a good deal for the company	44
The land allocation process: how was Atama carved out of the map of Congo?	44
Atama's impacts on forest communities	47
<b>5. CONCLUSION AND RECOMMENDATIONS</b>	<b>51</b>
Recommendations to Congo Basin Governments	52
Recommendations to civil society	54
Recommendations to companies	55
Recommendations to RSPO and other relevant initiatives	55
Recommendations to donor countries and international organisations	56
Recommendations for future research	57
<b>REFERENCES</b>	<b>58</b>
<b>ANNEX</b>	<b>60</b>

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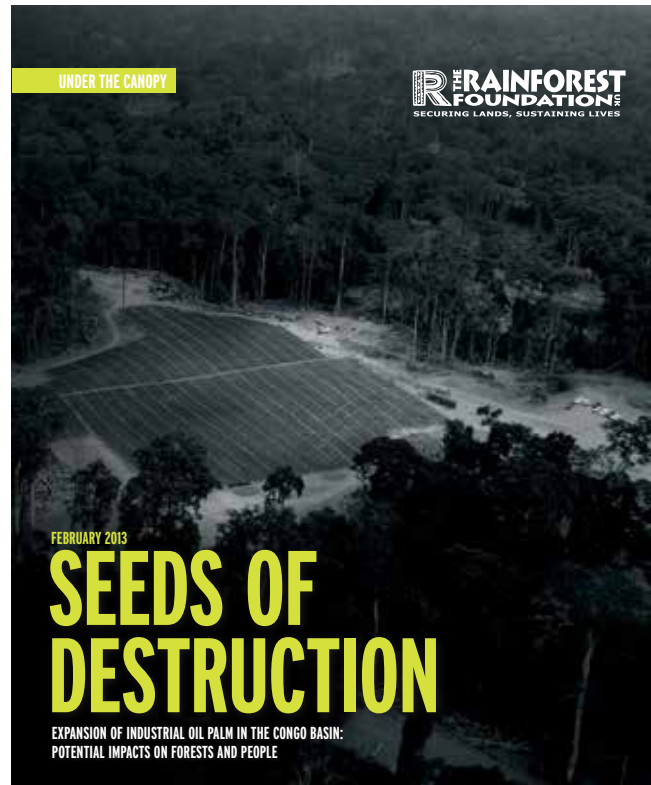
## LIST OF ACRONYMS

<b>CAFI</b>	Central African Forest Initiative
<b>CARPE</b>	Central African Regional Program for the Environment (US government)
<b>ESIA</b>	Environmental and Social Impact Assessment
<b>ESMP</b>	Environmental and Social Management Plan
<b>FCPF</b>	Forest Carbon Partnership Facility
<b>FPIC</b>	Free, Prior and Informed Consent
<b>FSC</b>	Forest Stewardship Council
<b>HCV</b>	High Conservation Value
<b>HCSA</b>	High Carbon Stock Approach
<b>MINDCAF</b>	Ministry of State Property, Service and Land Tenure (Cameroon)
<b>MINEPAT</b>	Ministry of the Economy, Planning and Regional Development (Cameroon)
<b>MINFOF</b>	Ministry of Forests (Cameroon)
<b>REDD+</b>	Reducing emissions from deforestation and forest degradation, and fostering conservation, sustainable management of forests, and enhancement of forest carbon stocks
<b>RSPO</b>	Roundtable on Sustainable Palm Oil
<b>SPPH</b>	<i>Société de Productions de Palmeraies et d'Hévéa</i> (Palms and rubber production company)
<b>TRIDOM</b>	<i>Tri-National Dja-Odzala-Minkébé</i> (conservation landscape)
<b>UNDRIP</b>	United Nations Declaration on the Rights of Indigenous Peoples
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organisation
<b>VPA-FLEGT</b>	Voluntary Partnership Agreement (under the European Union's action plan on) Forest Law Enforcement, Governance and Trade
<b>WCS</b>	Wildlife Conservation Society
<b>WRI</b>	World Resources Institute
<b>XAF</b>	Central African Francs



## KEY FINDINGS

**IN 2013, THE RAINFOREST FOUNDATION UK (RFUK) PUBLISHED THE REPORT *SEEDS OF DESTRUCTION*, WHICH WARNED ABOUT THE LIKELY IMPACTS OF INDUSTRIAL PALM OIL EXPANSION IN THE CONGO BASIN. SIX YEARS LATER, SOME OF THE CONCERNS WE HIGHLIGHTED HAVE BECOME A REALITY IN VARIOUS LOCATIONS ACROSS THE REGION. BASED ON FIELD STUDIES IN THREE AGRO-INDUSTRIAL PROJECTS (ONE IN THE REPUBLIC OF CONGO AND TWO IN CAMEROON), THIS STUDY CONFIRMS PRIOR INSIGHTS AND UNCOVERS NEW WORRYING TRENDS ABOUT LARGE-SCALE PALM OIL DEVELOPMENT IN THE REGION.**



- 1** While all of the plantations analysed herewith are in the early stages of development, their environmental and social impact is already becoming apparent. These include large-scale deforestation, economic and physical displacement of local communities, lack of adequate compensation, scarce and poor quality job opportunities for local people, impacts on nearby protected areas, pollution and, in some cases, social conflict.
- 2** Industrial-scale plantation concessions have been allocated over areas that are of high conservation value and home to many forest-dependent people, without national land-use plans, adequate environmental assessments, or consultation with the affected people. In no cases was Free, Prior and Informed Consent (FPIC) obtained from local people.
- 3** While potentially highly profitable for the companies concerned, these projects have so far failed to provide genuine economic benefits to local populations or indeed the national economy.
- 4** In all cases analysed here, the State has played an active role in promoting these agro-industrial projects (in some cases holding actual stakes in them), which in practical terms has served to silence local dissent and helped the companies bypass social and environmental safeguards.

**AGRO-INDUSTRIAL EXPANSION AS YET APPEARS MORE AS A STATE-SANCTIONED MECHANISM TO PLUNDER CENTRAL AFRICA'S NATURAL RESOURCES TO THE DETRIMENT OF ITS PEOPLE AND FORESTS, RATHER THAN A TRUE ENGINE OF DEVELOPMENT.**

**5**

Timber extraction from conversion of forests to palm plantations remains one of the most opaque aspects of all three cases. National laws remain vague on this aspect and in the meantime none of the projects performed inventories or provided an estimate of the volume and value of timber to be extracted. In one case (Atama, Congo), the company even extracted valuable timber and then failed to realise the palm oil investment it promised.

**6**

Two out of three of the concessions analysed in this report were given to companies with no prior experience in palm oil plantation development (Atama and Greenfil).

**7**

Our investigations show that all three plantations have breached legal requirements in one or several respects at some stage in their development.

**8**

Although with differences in degree, lack of transparency has been pervasive throughout the development of all these projects, particularly in relation to the land selection and allocation process and the fate of conversion timber.

Each case study presents unique characteristics that illustrate the various challenges concerning agro-industrial expansion in the Congo Basin. This report first features a very large concession exploited for selective logging and where the promised palm oil investment has not materialised (Atama, Republic of Congo); and two projects carried out without prior environmental assessments or consultation and which are tightly linked to powerful figures (Greenfil/Azur and Sudcam in Cameroon).

The case studies included in this report suggest that agro-industrial expansion as yet appears more as a state-sanctioned mechanism to plunder Central Africa's natural resources to the detriment of its people and forests, rather than as a true engine of development. However, the commercial palm oil industry – and agro-industrial expansion more generally – is at a relatively early stage of development in the Congo Basin, and in most cases there is still time to avoid its gravest consequences.

**OUR RECOMMENDATIONS IN THIS REPORT ARE ARTICULATED AROUND THREE MAIN AXES:**

**Realising forest peoples' rights**



**Oversight and land-use planning**



**Promoting transparency and participation in this sector**







# 1. INTRODUCTION

*Photo credit: Nanang Sujana, CIFOR*

## INTRODUCTION

Becoming “emerging” economies is a primary concern for governments in Central Africa. This ambition is frequently echoed in political speeches and guides economic decisions<sup>1</sup>. Exploiting the economic value of their land and natural resources is the cornerstone of the economic development strategies that underpin this objective. After several decades of dependence on oil and mining, interest in natural resources progressively turned first towards forests (essentially timber), and then to farming lands, notably for industrial palm oil production. It is in this context that, in 2011, a dedicated office was set up in Cameroon for companies seeking land titles; similarly, in the Republic of Congo, relaunching the palm oil industry is a stated priority of the national agricultural policy<sup>2</sup>. Recently, this trend has further expanded to include new commodities, notably rubber.

In parallel, global demand for land for industrial agriculture has markedly increased during the last decade. The 2008 food price and financial crises spurred a wave of large-scale land acquisitions (or “land grabs”) by food-importing countries seeking to reinforce food security, as well as by investors looking to shift away from highly-volatile financial markets towards relatively more secure investments in land. Sub-Saharan Africa has been the main target of this global “land rush”, which has led to increased control by the private sector over Africa’s arable land<sup>3</sup>.

Thus, in the Congo Basin the political will to foster agro-industrial expansion met a growing global demand for land. Since 2003, an estimated 1.3 million hectares (ha) of land has been allocated to foreign companies for agro-industrial projects in the Congo Basin, while several hundred thousand hectares are deemed to be under negotiation<sup>4</sup>.



Photo credit: Mokhamad Edliadi, CIFOR

<sup>1</sup> In Cameroon, the ambition is to become an emerging country by 2035. In the Democratic Republic of Congo, the objective is to achieve emerging-country status by 2030, whereas in Republic of Congo, the aim of “modernising and industrialising the country” is set for 2016. These objectives are reflected in various documents defining long-term strategies of countries.

<sup>2</sup> See: <https://pnd.plan.gov.cg/wp-content/uploads/2018/07/Parlement-PIP-24-07-18.pdf>

<sup>3</sup> Benhassi et al. (2011), Ch. 2, and Cotula et al. (2009).

<sup>4</sup> Data taken from Land Matrix (<http://www.landmatrix.org/en/>), according to best available data, actual figures could be much higher.





*Aerial view of an oil palm plantation in south-west of Cameroon*

Concessions have increased both in number and in size, without leading to sustainable benefits; observers warn of a return to the large plantation system seen during the colonial period, which was characterised by an uncontrolled exploitation of both resources and people<sup>5</sup>.

In 2013, RFUK's *Seeds of Destruction* report<sup>6</sup> brought to light the unprecedented magnitude and most worrying trends of the recent wave of land allocation for oil palm plantations such as the lack of planning and transparency, and the failure to take the rights of local communities or social and environmental impacts into account. This study builds on that report and draws on further desk and field research around three prominent agro-industrial projects: Atama in the Republic of Congo and Sudcam and Greenfil/Azur in Cameroon. Our analysis focuses on two main aspects: the land allocation and acquisition process, and the operating conditions of these projects, particularly their social and environmental impacts.

These three cases demonstrate that the expected impacts described in *Seeds of Destruction* are becoming a reality, while other unforeseen and worrying trends have also become apparent. Moreover, these case studies offer further insights into some of the conditions and root causes that have enabled such problematic projects to flourish.

After a brief description of the research methods used for this report, an analysis of the legal framework that has enabled these types of investments is presented in Chapter 3. The case studies follow in Chapter 4. The report then draws general conclusions and offers specific recommendations targeted at various stakeholders, with a view to addressing the conditions that currently make agro-industrial expansion a threat rather than an opportunity for people and forests in the Congo Basin.

<sup>5</sup> For example, see: Carrere (2013), Nguiffo and Sonkoue Watio (2015) or GRAIN (2014).

<sup>6</sup> Available at <http://www.rainforestfoundationuk.org/media.ashx/seeds-of-destructionfebruary2013.pdf>

**FIGURE 1 – THE THREE CASE STUDIES AT A GLANCE**

## ATAMA PLANTATION

### LOCATION

Sangha and Cuvette departments, Republic of Congo

### SIZE

180,000 ha for development of an overall concession of 470,000 ha



### COMPANY OWNERSHIP

49% Agro Panorama (Malaysia), 51% unknown



### DATE GRANTED

December 2010, confirmed in August 2011



### ESTIMATED REQUIRED INVESTMENT

Approximately US\$670 million



### ESTIMATED DEFORESTATION UNTIL END OF 2017

8,508 ha



## REPUBLIC OF CONGO

### CURRENT STATUS

Very little has been planted; the site has instead been used for selective logging.



## CAMEROON

### CURRENT STATUS

Clearing and planting under way.

## GREENFIL

### LOCATION

Nkam department, Littoral province, Cameroon

### SIZE

Estimated at 34,500 ha, official data unavailable



### COMPANY OWNERSHIP

Cameroon



### DATE GRANTED

Unknown



### ESTIMATED REQUIRED INVESTMENT

Over US\$120 million



### ESTIMATED DEFORESTATION UNTIL END OF 2017

1,748 ha

# SUD CAMEROUN HÉVÉA (SUDCAM)

## LOCATION

Dja et Lobo department,  
South province, Cameroon

## SIZE

58,900 ha



## COMPANY OWNERSHIP

80% Halcyon Agri (Singapore), and 20% Société de  
Productions de Palmeraies et d'Hévéa (origin unknown)



## DATE GRANTED

Provisional concession granted in 2008, definitive  
concession granted in 2013, a second provisional  
concession granted in 2015



## ESTIMATED REQUIRED INVESTMENT

Approximately US\$426 million



## ESTIMATED DEFORESTATION UNTIL END OF 2017

9,891 ha



## CAMEROON

## CURRENT STATUS

Development under way.





A black and white photograph of a man standing in a field of young plants. The man is in the center, looking towards the camera. The field is filled with rows of small plants. In the background, there are trees and a cloudy sky. A dark, semi-transparent rectangular overlay covers the middle of the image, containing the text '2. RESEARCH METHODS' in white, bold, sans-serif font. Below the overlay, several larger potted plants are visible on the ground.

## 2. RESEARCH METHODS



The findings of this report are based on three main sources. First, an extensive review was carried out of primary and secondary documentation related to the three case study projects and the context of agro-industrial expansion in the Congo Basin more generally. Second, legal analyses were undertaken, notably of the contracts signed between the companies and the States in question (where available) as well as other legal texts related to land tenure, forest governance and the rights of communities. This exercise focused on two main questions: whether the allocation procedure respected legal provisions, and whether there are any significant gaps and contradictions in current legal frameworks that may hamper the protection of forests and rights. It is important to note that most of the documents about the companies were obtained through confidential sources even when many of these should have been publicly available. Finally, field investigations were undertaken in and around the three plantations, including conducting interviews with a variety of informants in nearby towns and the capital cities of both countries included in this report.

Each field investigation team was made up of experts in forest governance and community rights, as well as representatives of indigenous communities. Fieldwork for each site took a minimum of three weeks and was carried out in late 2014 for Atama (updated in 2017 through telephone interviews and local partner investigations), and in 2015 and 2016 for Greenfil/Azur and Sudcam (updated in November 2018 through a workshop by RFUK and local partners). At the community level, research teams undertook focus groups and semi-structured interviews with a total of 357 community members in 39 villages, as detailed in the table below. Community leaders were systematically met with in every case. Interviews with key informants included local and national authorities, company representatives and civil society organisations. In total, 417 people were interviewed. Individual testimonies are anonymised in the sections opposite in order to protect the individuals concerned.

In addition, photographic evidence was gathered of several issues raised by the informers, as well as geographical coordinates of the most important sites (see case studies for details).



**TABLE 1. STAKEHOLDERS INVOLVED IN THE FIELD INVESTIGATIONS**

	Atama	Sudcam	Greenfil
<b>Communities visited</b>	5 (Epoma, Yengo-Mambili, Mohali, Ihoura, Lango)	29 (Meyomessala: Ekok, Mekomo, Zomeyou, Nye'ele, Ndibissong, Andom, Akom-Ndong, Samarie, Ebang, Edjom Bantou and Edjom Baka, Ndikom, Bitye Bantou and Bitye Baka, Mekin, Nlobesse, Minko and Mintima;  Meyomessi: Mbieleme, Messok, Essang Mvout, Essong, Mekok, Emvieng 1 Bantou and Emvieng 1 Baka, Emvieng 2, Bikoula, Ngomebae, Oding and Akom Ndong Bantou and Akom Ndong Baka;  Djourn: Melen-Bulu and Mellen Baka, Nkolafendek)	5 (Ndockfaya, Ndogdack, Ndogbanguengue, Ndogbakan, Ndcgboss)
<b>Community members interviewed</b>	143	127	87
<b>Government actors</b>	15 (Director-General at the Ministry of Agriculture, Representative of the Director-General for Environment, Adviser to the Minister of the Environment, Director, State Property Department, Executive at the Ministry for Forests Sangha and Cuvette, Delegations of the Ministries of Agriculture, Forest, Labour, Social Affairs, and Environment)	9 (administrative authorities of the Meyomessala, Meyomessi and Djourn subdivisions)	12 (local administrative authorities)
<b>Private sector representatives</b>	4 (Atama site director and workers)	3	3 (Greenfil and GISS-Conseil)
<b>NGOs and others</b>	7 (OCBE/Vert, CIREK, RENAPAC, CACO-REDD Sangha, CAGDF/OI-FLEG, WCS Brazzaville and Ouesso)	5 (Dja Faunal Reserve management team)	2
<b>Total number of interviewees</b>	<b>169</b>	<b>144</b>	<b>104</b>







# **3. LAND AND FOREST LAWS IN THE CONGO BASIN: PROTECTING PEOPLE AND NATURE?**

As the case studies in the next chapter will show, certain characteristics of the legal framework on land and forest management in Cameroon and the Republic of Congo have favoured granting concessions of large expanses of land to private companies under very favourable circumstances. At the same time, community rights and environmental sustainability have often been overlooked in the process. From our analysis of legal provisions in the three case studies, six main issues stand out.

## 1. STATE CONTROL OVER LAND

In the two countries covered by this study, land can fall within one of three categories:

- 1) Public lands, which are inalienable (roads, ports, rivers and banks, etc.);
- 2) Private lands, which fall under private property owned by individuals, the State, or other legal entities holding an official land title;
- 3) Land not falling under either of the above two categories, which is classed in Cameroon as part of the national domain, and in the Republic of Congo as part of the rural domain. Generally, it is this last category of land that accommodates large-scale land transactions.

In both countries, the State is recognised as the guardian of all lands<sup>7</sup>. While it only officially owns the lands for which it holds land titles, the State has the power to sell or lease other lands almost as it wishes. Even where other stakeholders hold land titles, the State can expropriate them by invoking the public interest (as long as prior and fair compensation is provided). Since the law does not establish criteria or conditions that the State must fulfil to be able to claim that certain land is of public interest, even officially recognised land owners are virtually defenceless against expropriation, let alone communities whose land rights are not adequately recognised.

## 2. FAILURE TO TAKE CUSTOMARY LAND RIGHTS INTO ACCOUNT

Customary land ownership is not effectively recognised in these countries (Cameroonian law does, however, recognise some customary-based occupancy rights<sup>8</sup>). Communities only benefit from certain usage rights over land and resources<sup>9</sup> and limited protections in terms of consultation and participation regarding planned developments in their traditional lands. At the same time, there is a serious lack of reliable data regarding the number of people living in forest areas and even less is known of their patterns of forest use; nor do adequate maps of their customary tenure arrangements exist. Since the law does not require that pre-existing land claims are mapped or otherwise documented before the potential site for a plantation has been identified, communities are usually involved in the process only after a project has been designed. This prevents effective application of the FPIC principle.

On the other hand, legal provisions related to compensation when projects do take place in community lands are seriously insufficient, as they do not take into account the full value that communities extract from their land and any forest on it. Relatively low population densities in rural areas and a non-intensive use of the forest can give the illusion of high land availability. However, as participatory mapping has revealed<sup>10</sup>, most forests in the Congo Basin are occupied and managed by communities using customary methods. Their use of forest land is based on living and planting spaces, which leave a visible mark on the forest, as well as on natural spaces which are home to sacred sites, and/or used for gathering, fishing and hunting activities. Spaces dedicated to such activities can be very large, especially in the case of indigenous communities; they can be distant

<sup>7</sup> In Congo, it is recognised that all lands belong to the people “represented by the State”; in Cameroon the state is the “guardian” of all lands. This system is established in the Congo by *Loi n°52/83 du 21 avril 1983 portant code domanial et foncier*, and *Loi n°25-2008 du 22 septembre 2008 portant régime agro-foncier* and in Cameroon, where it is so established by the *Ordonnance n° 74-1 du 6 juillet 1974 fixant le régime foncier*.

<sup>8</sup> See: *Ordonnance 74-1 du 6 juillet 1974 article 17 alinéa 2*.

<sup>9</sup> The Indigenous Peoples Law in the Republic of Congo is a significant exception given that it provides for these populations’ right of ownership over customary land (Title VII), as well as the prior consultation

obligation (Articles 3 and 38). Yet, to RFUK’s knowledge, there are no cases where these rights have been effectively enforced, due largely to the fact that the implementing decrees of this 2011 law have not yet been adopted. See *Loi n°5-2011 du 25 février 2011 portant promotion et protection des droits des populations autochtones*, available: <http://www.mappingforrights.org/files/Loi%20PA%20au%20Congo..pdf>

<sup>10</sup> See: [www.mappingforrights.org](http://www.mappingforrights.org)



from permanent settlements, and hence appear as “unoccupied” land. Failing to recognise this differentiated use of the forest, the law entitles communities to receive compensation only for areas which have been “transformed”, that is, living and planting spaces. This fails to take into account “untransformed” forest lands which can nonetheless provide a sizable part of local peoples’ livelihoods, as well as cultural and spiritual value. As our case studies show, compensation and benefit-sharing schemes do not make up for the loss of this forest land.

### 3. LACK OF EFFECTIVE LAND-USE PLANNING

Both countries have stated their intention to develop national land-use plans, including zoning processes to identify areas suitable for different uses, such as agro-industrial development<sup>11</sup>. However, these policy decisions are relatively recent and remain to be implemented. The consequences of this void are manifold, and include overlapping land uses, which often create conflict, and pervasive disregard of the needs of existing inhabitants. In the cases examined here, lack of land-use planning led to serious problems with the sites selected for each plantation:

- In all cases, most of the land conceded was already occupied by customary claims which were not taken into account prior to the site selection process, and only very partially after the leases were granted.
- For Atama, absence of planning meant that the largest part of the concession exists in an area deemed almost entirely unsuitable for palm oil cultivation (see case study in the following chapter).
- Sudcam gave up more than 13,000 hectares of land that had already been granted by decree, due to potential conflict with local communities, neighbouring logging concessions and, allegedly, to prevent further impacts on the Dja Faunal Reserve.

- For Atama, Greenfil/Azur and Sudcam, the plantations are at the borders of protected areas: Odzala Kokoua and Ntokou Pikounda National Parks in Congo, and the Dja Faunal Reserve and proposed Ebo National Park in Cameroon.

Interestingly, a 2016 study<sup>12</sup> identified the areas in both countries which would be financially viable and technically suitable for industrial oil palm, compliant with the Roundtable on Sustainable Palm Oil’s (RSPO) social and environmental criteria. Worryingly, none of the three plantations in this report falls in the areas deemed suitable by this assessment, as the map below shows (see Figure 2).

### 4. AMBIGUITY REGARDING THE CONDITIONS TO GRANT PERMANENT LEASES OR LAND TITLES

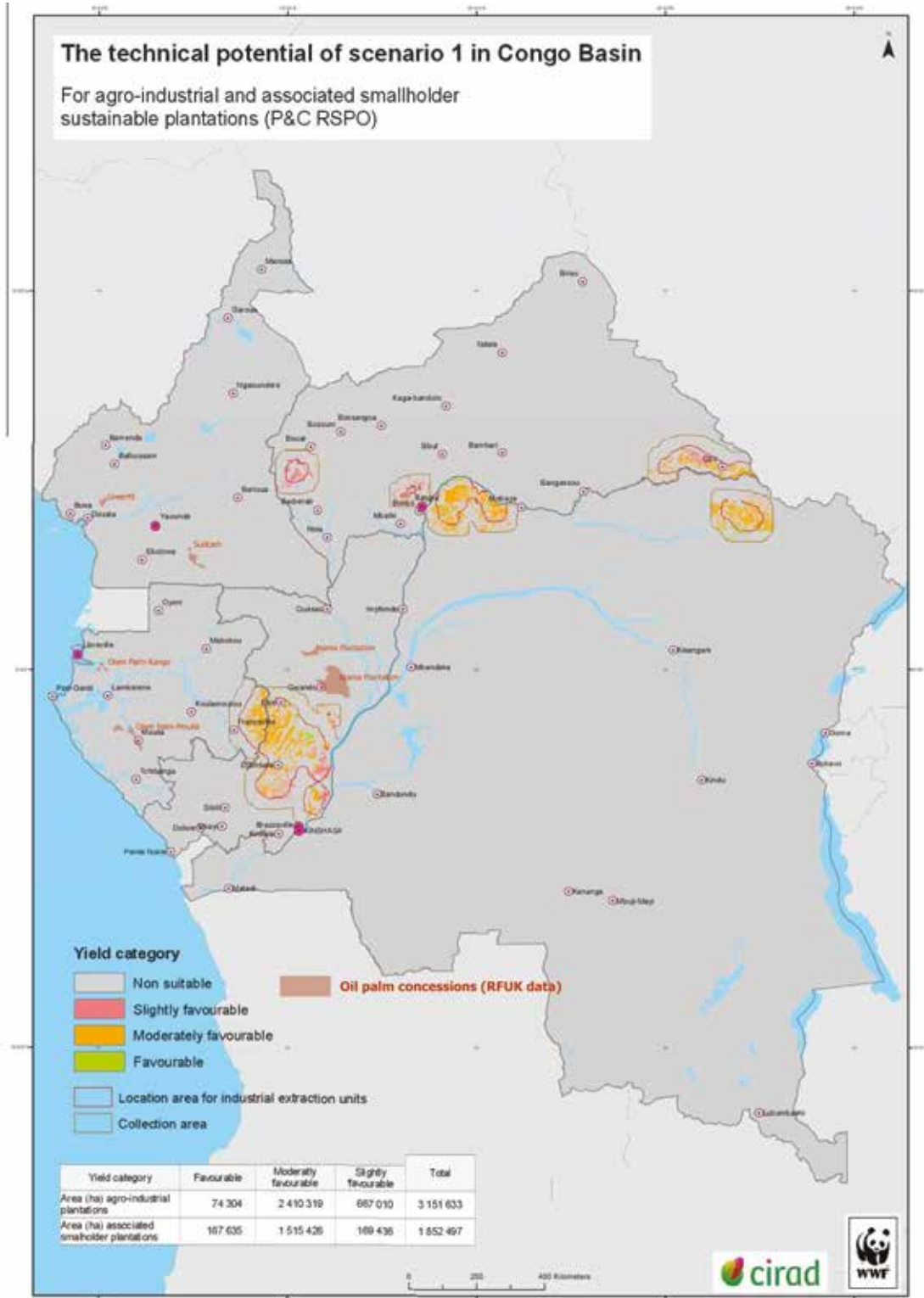
Before a company can get a permanent lease or land title, the legal framework in both countries foresees a temporary transfer of rights for a period of five years, which can be renewed for different time periods depending on the specific national laws<sup>13</sup>. The temporary concession can become either a long-term lease (for international investors) or a land title (for national investors) if the company can prove that the promised investment was made. This approach is supposed to enable the State to judge the applicant’s ability to honour its commitments, before any longer-term transfer of rights. However, there is a lack of clarity regarding the specific milestones that the company must fulfil to be able to claim a long-term or permanent lease. This enabled the Cameroonian Government to grant a permanent lease to Sudcam even when its activities fell well short of what they had promised to do during their five-year lease. In the case of Atama, the temporary lease provision was simply bypassed and the company obtained a long-term lease from the start.

<sup>11</sup> The Cameroon Government is promoting multi-sectoral land-use planning, for which the guiding text is *Loi n°2011/008 du 06 mai 2011 d’orientation pour l’aménagement et le développement durable du territoire au Cameroun*. The Republic of Congo adopted a law for the orientation of land-use planning and development in 2014 (*Loi n° 43-2014 d’orientation pour l’aménagement et le développement du territoire*, available at: [http://www.sgg.cg/imageProvider.asp?private\\_resource=2092&fn=jo\\_2014\\_42%2Epdf](http://www.sgg.cg/imageProvider.asp?private_resource=2092&fn=jo_2014_42%2Epdf)).

<sup>12</sup> See Feintrenie et al. (2016) for an overview of this work and Gazull et al (2015) for detailed country-level information.

<sup>13</sup> In Cameroon the law does not specify the maximum duration of the renewal.

**FIGURE 2 – CONGO BASIN PALM OIL SUITABILITY MAP BY THE ROUNDTABLE ON SUSTAINABLE PALM OIL (RSPO)**



The map shows the very few areas of land that are suitable for industrial palm oil development while also being compliant with RSPO's principles. It excludes things such as protected areas and nature reserves, riparian forests, lands too close to a watercourse, as well as community lands used for hunting, fuelwood and non-timber forest products collection and family farming. Worryingly, none of the three plantations studied in this report falls in areas deemed suitable for sustainable palm oil. Source: Feintrenie et al. (2016), RFUK.

## 5. LACK OF CRITERIA TO DETERMINE LAND RENT PRICES

None of these countries have mechanisms to calculate land value and therefore to establish parameters for land rent prices. As a result, in practice, ground rent is set for each transaction, with apparently no regard to the opportunity costs, not to mention social and environmental costs, in each specific location. In the cases examined here, prices per hectare were established at a spectacularly low rate, especially as compared to the average cost of land in, say, Indonesia and Malaysia<sup>14</sup>, the two main palm oil producing regions in the world. While this certainly has been an incentive to the companies involved, it is hard to argue that the national economy is getting the most from its rich and fertile forests.

## 6. UNCLEAR REGULATIONS REGARDING CONVERSION TIMBER

In the highly forested countries of the Congo Basin, large-scale industrial palm oil and rubber expansion necessarily entails high levels of deforestation. The exact rules that apply to timber ensuing from forest conversion, however, are not entirely clear in either of the two countries featured in this study. In Congo, companies need to obtain clearing permits for specific areas within their concessions. Once these have been granted, however, companies can dispose of the extracted timber as they see fit. In Cameroon, it is theoretically the State via the Forest Ministry that has the right to auction the clearing permits and then manage the timber itself. In none of these cases does the law specify how conversion timber must fulfil legal requirements in the framework of voluntary partnership agreements (VPA-FLEGT)<sup>15</sup> with the European Union.

These provisions (or lack of them) are potentially dangerous for the forest, for several reasons:

- The procedure for accessing land is simpler in all cases than the procedure to obtain regular logging concessions;
- The cost per hectare of these agro-industrial concessions is lower than the average cost of a logging concession;
- Constraints on forest operators running large logging concessions are more significant compared to those on large-scale plantation operators (even though the former are pervasively disregarded in practice).

These loopholes open the door to two potentially damaging trends. First, companies may seek to obtain agro-industrial concessions as a means to harvest valuable timber and then simply not proceed with the investment once selective logging has taken place. This has already happened in the Atama concession, adding to the estimated 12 million hectares that have been exploited and then abandoned this way globally (mostly in southeast Asia)<sup>16</sup>. It both circumvents the environmental regulations pertaining to timber production, and also means that so-called “sustainable forest management” for timber production is disincentivised in the market. Second, companies may seek to fund investment in the plantation with the income made from timber sales. Although this is common practice in the palm oil industry, this can reduce the expected amount of investment flowing to the country.

As will be seen later in this report RFUK has no knowledge of timber inventories being carried out in any of the concessions investigated. Thus, the volume and value of the timber in these large areas is unknown, and the potential loss to the national economies is substantial.

<sup>14</sup> In Malaysia and in Indonesia, the world's main palm oil producers, the average land rent is between 200 and US\$4,000 per hectare, per year (see, for example: Schoneveld, 2011).

<sup>15</sup> Under the EU Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT).

<sup>16</sup> Deininger and Byerlee (2011), p. 21.

## BOX 1: IS THERE SUCH A THING AS ‘SUSTAINABLE’ PALM OIL?

A number of voluntary schemes have been set up to address the environmental and social impacts of palm oil production. The Roundtable on Sustainable Palm Oil (RSPO), a certification scheme established in 2004 by industry interests, WWF and other environmental groups, is today referred to as the most credible mechanism in the sector and has certified around 20 per cent of global oil palm production. Its shortcomings are becoming and more apparent, however. Its voluntary nature, weak standards and lax enforcement mechanisms have prevented the RSPO from effectively mitigating the adverse environmental and human rights impacts associated with the industry.

While the RSPO can help drive greater transparency in the sector and has served as a forum for discussion, it is only a voluntary scheme. Most plantations across the world (especially new plantations) are still not certified, and only one company, Olam, has so far achieved certification in the whole of Africa. For those companies that are certified, the standards adopted are arguably too timid. For a long time the RSPO did not prevent conversion of natural tropical forests, including areas of high carbon stock (HCS), provided that these forests had previously been slightly degraded by logging. It also allowed planting on peatlands. In November 2018, RSPO introduced a set of more robust standards to address this<sup>17</sup>. While this is widely recognised as a welcome step, major loopholes remain in terms of fully stopping deforestation<sup>18</sup>. The new criteria also fail to address ‘legacy issues’, as plantations only need to be legal at time of certification, meaning they could have operated illegally in the past. A 2018 report also found that certifications mostly happen on older plantations, where deforestation has already happened<sup>19</sup>.

Enforcement is another major issue. The RSPO has repeatedly come under fire for failing to prevent land grabbing and human rights abuses in certified plantations, including cases of human trafficking, child labour and other workers’ rights abuses<sup>20</sup>. A 2015 investigation by the Environmental Investigation Agency (EIA) revealed that RSPO auditors were failing to identify these violations and, in some cases, colluding with plantations to deliberately disguise them<sup>21</sup>.

Critically, the system seems particularly ill-suited to the African context, where local communities have virtually no formal or legal rights over their traditional lands and generally lack access to justice and redress mechanisms. The case of RSPO-certified Olam in Gabon illustrates these shortcomings. The Singapore-based agribusiness giant, which is styling itself an industry leader in sustainable palm oil, has upheld higher standards of practice than the other plantation companies analysed in this report: it performed environmental and social impact assessments (ESIAs) and high conservation value assessments before launching activities; it has taken concrete steps to address the demands of local communities; and has developed a range of policies to ensure greater environmental and social sustainability within its operations. However, investigations by RFUK and other NGOs have shown that Olam’s operations in Gabon were nonetheless linked to large-scale deforestation and had undermined communities’ customary land and resource rights. These reflect the failure of the Gabonese State to take the necessary steps to protect its land and people, and illustrate that, in a very weak regulatory context, RSPO certification might well not guarantee that even some basic elements of environmental and social acceptability and sustainability have been achieved.

The danger with weak certification schemes such as the RSPO is that it may act as a shield protecting companies from scrutiny. Certifying palm oil as sustainable can also encourage greater consumption, which is precisely the root cause of the problem.

<sup>17</sup> See RSPO website: <https://rspo.org/news-and-events/announcements/adoption-of-rspo-principles-and-criteria-pandc-2018-in-15th-annual-general-assembly>

<sup>18</sup> There are also exceptions to the ‘no deforestation’ rule in the new criteria which will still allow some forests to be cleared, and plantations that have already submitted a High Conservation Value (HCV) assessment for approval will not need to identify and protect HCS forests, even if they are carrying out new land clearing after November 2018. See EIA (2018), *Double Standards Why the RSPO must adopt rather than adapt the High Carbon Stock Approach*, available at: <https://eia-international.org/wp-content/uploads/Double-Standards-briefing-FINAL.pdf>

<sup>19</sup> Carlson et al. (2018), *Effect of oil palm sustainability certification on deforestation and fire in Indonesia*. *Proceedings of the National Academy*

*of Sciences of the United States of America*, 115(1), 121–126. <http://doi.org/10.1073/pnas.1704728114>

<sup>20</sup> See Amnesty International (2016), *The great palm oil scandal: Labour abuse behind big brand names*. Available at: <https://www.amnesty.org/download/Documents/ASA2151842016ENGLISH>; and International Labour Rights Forum, Rainforest Action Network and OPPUK (2017), *The human cost of conflict palm oil revisited*. Available at: <https://www.laborrights.org/publications/human-cost-conflict-palm-oil-revisited>

<sup>21</sup> Environmental Investigation Agency (2015) *Who watches the watchmen? Auditors and the breakdown of oversight in the RSPO*. Available at: <https://eia-international.org/report/whowatches-the-watchmen>



An aerial photograph of a terraced landscape, likely a rice paddy field, showing concentric, wavy patterns of land. A large, semi-transparent green rectangular overlay covers the center of the image. The text "4. CASE STUDIES" is written in white, bold, sans-serif font across the middle of this green area.

# 4. CASE STUDIES



## 4.1 SUDCAM, CAMEROON

### SUD CAMEROUN HÉVÉA (SUDCAM)

#### LOCATION

Dja et Lobo department,  
South province, Cameroon

#### SIZE

58,900 ha



#### COMPANY OWNERSHIP

80% Halcyon Agri (Singapore) and 20% Société de Productions de Palmeraies et d'Hévéa (origin unknown)



#### DATE GRANTED

Provisional concession granted in 2008, definitive concession granted in 2013, a second provisional concession granted in 2015



#### ESTIMATED REQUIRED INVESTMENT

Approximately US\$426 million



#### ESTIMATED DEFORESTATION UNTIL END OF 2017

9,891 ha



#### CAMEROON

#### CURRENT STATUS

Development under way.

### KEY CONCERNS

1

This large-scale concession was granted without prior environmental impact studies or FPIC from local communities.

2

Communities are suffering serious consequences, including two indigenous Baka villages whose houses were destroyed and who were forced to relocate.

3

Other communities decry invasion of their traditional lands, lack of adequate compensation and limited job opportunities.

4

Large-scale deforestation and an influx of people to the project area pose direct threats to the bordering Dja Faunal Reserve, a UNESCO heritage site.

5

The question remains whether a link to Cameroon's Head of State might have enabled the company to bypass regulations and repress local opposition.



Sudcam is an agro-industrial company specialising in the development of rubber and oil palm plantations and in the manufacturing of latex and its by-products. It is a subsidiary of Singapore-based Halcyon Agri Corporation Limited (formerly GMG Global Ltd) which holds 80 per cent of its shares. The remaining 20 per cent is held by the *Société de Productions de Palmeraies et d'Hévéa* (SPPH)<sup>22</sup>, about which there is extremely sparse public information. In 2008, Sudcam was granted two provisional concessions over an area totalling 45,198 hectares in the South Region of Cameroon for the cultivation of both palm oil and rubber<sup>23</sup>. In 2013, the concessions were made permanent by decree<sup>24</sup> and Sudcam now has definitive concessions over the area<sup>25</sup>. In addition, in 2015 Sudcam obtained a three-year temporary concession spanning a further 30,408 hectares<sup>26</sup>. The area was later revised, though it is unclear by how much, and the company today claims it holds a total land concession of 58,900 hectares<sup>27</sup>.

The lack of clarity regarding the ownership of 20 per cent of the company fits with the general lack of transparency that has characterised the development of this plantation, as illustrated by the poor availability of crucial information such as the allocation decrees, the actual limits of the concession, the company's fulfilment of its obligations, and the investment in the project to date, amongst others. Due to the size of the area granted, the presence of a number of indigenous and local communities and the proximity of the concessions to the Dja Faunal Reserve – a UNESCO World Heritage Site – this development can cause major adverse effects on livelihoods and the environment. The evidence from the field shows that this is already happening.

## Land allocation process

Land-use planning in Cameroon is still a very incipient process which is yet to translate into concrete action on the ground. There are no land-use schemas at the local, regional or national levels that would allow identification of suitable lands for agro-industrial expansion in the context of public interest criteria (suitability, absence of customary claims, absence of areas of high conservation value, or others)<sup>28</sup>. This means that, in practice, the pre-selection of land is left to the applicant. Transactions are made by mutual agreement between the State and the companies, with limited or no competition. Since the national land registry only includes concessions that have already been granted, there is no information on proposed projects and their prospective location until a formal request has been submitted.

In the case of Sudcam, it is not clear how the identification of land was made, but the fact that the plantation is located only a few kilometres from President Paul Biya's Mvoméka'a mansion and security compound within his clan's ancestral lands, alongside allegations that 20 per cent of the companies' shares are "apparently owned by an influential member of the political elite"<sup>29</sup>, raises the question of whether this may have had any bearing on it. Our interviews with the local population seem to confirm this suspicion. The population in one village of the Meyomessala subdivision confirmed that there were consultations during which the inhabitants were told that a project of the Head of State was going to be installed in their village. Elsewhere, a village chief in the same subdivision was under the impression that administrative authorities had always been quick to intervene when there are strikes against the company because the President's son is a shareholder.

<sup>22</sup> See: [http://www.finanznachrichten.de/pdf/20111123\\_194322\\_5IM\\_36DEA8F585A2C77D48257951003C7961.2.pdf](http://www.finanznachrichten.de/pdf/20111123_194322_5IM_36DEA8F585A2C77D48257951003C7961.2.pdf) and <http://www.greenpeace.org/africa/en/News/news/UNESCO-fails-to-protect-Camerouns-Dja-Reserve-from-multiple-threats-including-the-Sudcam-rubber-plantation/>

<sup>23</sup> *Décret n°2008/248 du 24 juillet 2008 portant attribution en concession provisoire d'une dépendance du domaine national de 8200 ha sise au lieu-dit Niobesse, Arrondissement de Meyomessala, Département du Dja et Lobo, à la Société Sud Cameroun Hévéa S.A. and Décret n°2008/380 du 14 novembre 2008 portant attribution en concession provisoire d'une dépendance du domaine national de 36.998 ha 86a 55ca sise dans les Arrondissement de Meyomessala, Meyomessi et Djoum, Département du Dja et Lobo.*

<sup>24</sup> *Décret n°2013/089 du 19 mars 2013 portant attribution en concession définitive à la Société Sud Hévéa Cameroun S.A. de deux dépendances du domaine national sises dans les Arrondissements de Meyomessi et Djoum, Département du Dja et Lobo.*

<sup>25</sup> Sudcam has obtained two land titles: land title N° 2426 over a surface area of 8,200 hectares in Meyomessala, and land title N° 2427 over a surface area of 36,998 hectares in Meyomessala, Meyomessi and

Djoum, according to Decree N°2013/089 of 19 April 2013. See the official announcement at: [http://www.cameroonhighcommission.co.uk/docs/Les\\_temps\\_des\\_realisations\\_vol11.pdf](http://www.cameroonhighcommission.co.uk/docs/Les_temps_des_realisations_vol11.pdf), p. 38.

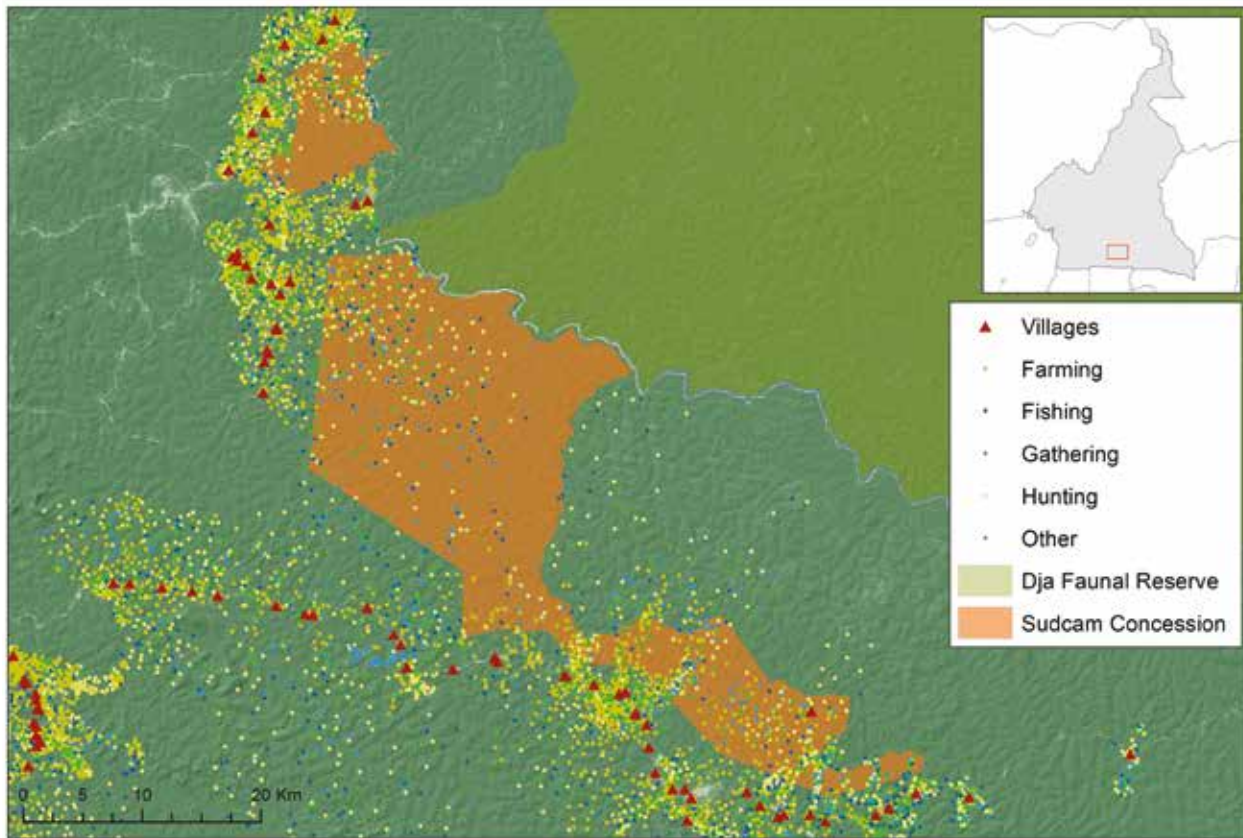
<sup>26</sup> *Décret N°2015/011 du 14 janvier 2015 portant attribution en concession provisoire à la Société Sud Hévéa Cameroun, d'une dépendance du domaine national d'une superficie de 30 408 ha 498a 06ca, sise au lieu-dit « Corridor Nkolafendek-Otong Mbong », arrondissement de Djoum, département du Dja et Lobo, Région du Sud.*

<sup>27</sup> See: Halcyon Days, Issue 19/ Q2 2018. Available at: <https://www.halcyonagri.com/publication/issue-19-q2-2018/>

<sup>28</sup> A national land-use planning process has been launched by the Cameroonian Ministry of the Economy, Planning and Regional Development (MINEPAT) following the adoption of a land management law in 2011 (*Loi n° 2011/008 d'orientation pour l'aménagement et le développement durable du territoire au Cameroun*). However, the effective implementation of this law and process is still incipient and did not inform the allocation of the Sudcam concessions in any way, to RFUK's knowledge.

<sup>29</sup> Assembe-Mvondo et al. (2015).

## FIGURE 3 - SUDCAM'S CONCESSIONS AND PARTICIPATORY MAPS



Source: RFUK/Mapping for Rights. Close to 30 communities live in the area allocated to Sudcam and rely on those lands and forests for their livelihoods. Their presence was not documented by the State or taken into account in their decision to grant the land to Sudcam. As a result, local communities decry invasion of their traditional lands and lack of adequate compensation, and at least three Baka indigenous camps were destroyed and their inhabitants forced to relocate.

What is clearly apparent is that the decision did not take into account the presence of the nearly 30 local communities that have customary rights over the area (see Figure 3), as well as other existing land uses in the form of logging and mining permits (although it appears that two of the logging permits were later rescinded). No mapping exercise was carried out before the granting of the concession in order to document the extent of customary rights in the area. Additionally, the environmental and social impact assessment (ESIA)<sup>30</sup> of the project was only conducted after the provisional concession had been granted, meaning that the decision to allocate lands to Sudcam did not adhere to

environmental regulations<sup>31</sup>. Although the 2011 ESIA recognises that the plantation will have serious impacts on local biodiversity, reduce the livelihood space for local communities and pose threats to the Dja Faunal Reserve, it justifies the choice of site in terms of the investment it will bring to the area, without any quantifiable information to back up this claim or any analysis of alternative locations (such as degraded and/or less populated lands which do not neighbour a protected area).

In addition, some aspects of the allocation process seem to be in contravention of Cameroonian law. In 2013, Sudcam was granted

<sup>30</sup> Enviro Consulting Sarl (2011).

<sup>31</sup> Loi n° 96/12 du 5 août 1996 portant loi cadre relative à la gestion de l'environnement and décret n° 2005/0577/PM du 23 février 2005 fixant les différentes catégories d'opérations dont la réalisation est soumise à une étude d'impact environnemental. Décret n° 2013/0171/PM du 14 février 2013

fixant les modalités de réalisation des études d'impacts environnementaux et sociaux was adopted in 2013, that is, after Sudcam got its two permanent concessions. This text does apply to the 2015 concession, however, for which we have not seen the corresponding ESIA.

property rights over two blocks which had been temporarily allocated in 2008, in spite of the fact that property rights are only possible for Cameroonian nationals. Moreover, property rights were granted even though the company fell well short of reaching its goal of planting 35,000 hectares of rubber by 2013<sup>32</sup>, as stated in the ESIA developed in 2011. However, the 2015 provisional concession decree relating to a third block states that, after the three-year initial concession period, Sudcam can only opt for an “emphyteutic lease” (which is reserved for non-nationals). This makes it difficult to assess compliance with the legal framework and to hold the company and the administration to account.

### **Absence of FPIC and inadequate consultation of communities**

Our research in 29 villages affected by the project shows that neither the allocation procedure to Sudcam nor the set-up of the project met international standards for consulting and obtaining FPIC from local populations<sup>33</sup>. The more limited provisions for participation recognised by Cameroonian law (where it is required that communities are informed and engaged only after the start of the land attribution process) have not been met either.

Currently, the legal framework in Cameroon provides for two ways in which communities can be informed about requests for lands, once these have been submitted. The first one is through their involvement in the environmental and social impact assessment (ESIA), which is a requirement under Cameroonian law<sup>34</sup>. ESIA's are to be conducted with the participation of affected communities through consultations and public audiences seeking to gather their views on the project<sup>35</sup>. The law also provides that ESIA's are to be included in (and hence conducted prior to) the lease application, meaning that communities are to be informed before the application is

considered<sup>36</sup>. For this, communities need to be notified of any planned consultations at least 30 days in advance of the first meeting, by receiving a programme with details of the meetings and a description of the project to be discussed<sup>37</sup>. As mentioned, many of these requirements were not met in the case of Sudcam.

The second way through which communities can be informed about a request for lands is through their participation in the Consultative Commission that is constituted on a case-by-case basis to examine and provide advice on each request for land. The Consultative Commission must include a chief and two leading figures of the community or group of communities affected by the project<sup>38</sup>. To our knowledge, no chief or community leader was associated with the Consultative Commission that examined Sudcam's initial request for lands. On the other hand, it is apparent that communities affected by Sudcam were only informed about the project after the concession was granted in 2008, as the first documented meetings with communities date from 2009.

Field research in the three subdivisions affected by the project – Meyomessala, Meyomessi and Djoum – noted that several information meetings were indeed organised in local communities in 2010 and 2011. However, in all three areas participants were mainly only village elites and their elders in council, excluding representation of all community members, especially those who are traditionally marginalised (normally women and indigenous people in this case). Interviewees in the Djoum area, for instance, noted that all meetings were held in the villages of Djoum and Nkolafendek, bringing together only traditional village authorities, government officials and representatives from the company, and that the only time the company went to the other villages was for the validation of compensation lists.

<sup>32</sup> A deforestation analysis carried out by Greenpeace points out that the company had cleared 5,930 hectares of forest by 2016. See Greenpeace (2016) available at: <http://www.greenpeace.org/africa/fr/Actualities/actualites/LUNESCO-echoue-a-protger-la-Reserve-du-Dja-au-Cameroun-de-multiples-menaces-y-compris-la-plantation-dhevea-Sudcam/>. Although large, this level of deforestation shows that Sudcam failed to deliver its promised investment and was granted property rights to the area regardless.

<sup>33</sup> Whether the full FPIC principle is legally binding in Cameroon is under discussion. But it can be argued that FPIC summarises rights that are already contained in binding legal instruments, notably the international covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, as well as the International Convention on the Elimination of All

Forms of Racial Discrimination. Cameroon is party to all of these.

<sup>34</sup> Law N°96/12 of 5 August 1996 on environmental management.

<sup>35</sup> *Décret n°2013/0171/PM du 14 février 2013 fixant les modalités de réalisation des études d'impact environnemental et social* Articles 19-20.

<sup>36</sup> It is one of the elements to be included in the attribution request and it is necessary for the request to be admissible. See Law N°96/12 on environmental management Article 17 (2), and Decree N°2013/0171/PM of 14 February 2013, Article 13.

<sup>37</sup> Decree N° 2013/01710PM Article 21.

<sup>38</sup> *Décret n° 76/166 du 27 avril 1976 fixant les modalités de gestion du domaine national* Article 12.



It was also observed that, where meetings took place, community members were not informed enough in advance: 134 of the 144 individuals surveyed asserted they were only verbally informed less than five days prior to the meetings and decried the lack of transparency on the part of some traditional authorities and representatives of the administration. International FPIC principles clearly state that information must be provided in a culturally appropriate format and communities allowed sufficient time to understand it.

Interviews with community members also revealed that the company had only provided partial information, mostly focusing on the positive aspects of the project while failing to communicate the risks associated with establishing a plantation in the area. Interviewees from two villages considered that the information provided was insufficient for them to fully understand and assess the impacts of the project. Interviewees highlighted that village meetings were merely a one-way, top-down communication exercise to inform communities of the land acquisition and installation of the project, rather than a discussion where they could freely express their opinion and give or deny their consent. In Samarie, for example, the community was informed in 2010 about a public consultation to be held in the context of the ESIA; however, individuals who spoke against the project during the meeting were threatened. Several respondents also said that the company was using deceit, intimidation, bribery and corruption to gain support among chiefs, and that at the same time it tried to legitimise its control over certain areas by claiming to have agreements with customary chiefs.

The administrative authorities and Sudcam officials interviewed said that the agreements reached were approved by the communities involved without any opposition to the project. However, the information collected in the field illustrates that the population did not know enough about the project and its potential impacts on their customary lands to be in a position to make informed decisions. They did not have sufficient time to prepare for meetings, for instance by seeking legal counsel or advice from civil society organisations prior to the meetings,

nor the possibility to freely express their views. A testimony from the Meyomessi subdivision sums up the situation in the following terms: “They just came to inform us that the government decided that a company was coming into our community... with government officials intimidating the population with their ranks and titles.”<sup>39</sup>

### Respect of customary land rights

More than 30 communities have traditionally lived in and around the area allocated to Sudcam and rely on those lands and forests for their livelihoods, mainly through farming, hunting, fishing and the collection of non-timber forest products. In spite of this, no mapping activities were organised prior to the concession being granted for the identification of community land uses or cultural sites, so that these could be taken into consideration to determine the location and limits of the concession.

As a result, the concession area overlapped three indigenous Baka communities whose camps were destroyed and whose residents were forced to relocate. Around 120 individuals, including many children, found shelter in nearby Bantu villages, where they live in dire humanitarian conditions and face grave discrimination and human rights violations. As of November 2018, neither the company nor the State had provided them with a new place to settle or any other form of compensation for having lost their forest land, livelihoods and culture<sup>40</sup>.

**“ THE CONCESSION AREA OVERLAPPED THREE INDIGENOUS BAKA VILLAGES WHOSE CAMPS WERE DESTROYED AND WHOSE RESIDENTS WERE FORCED TO RELOCATE. ”**

<sup>39</sup> Interviewee in Akom-Ndong.

<sup>40</sup> A field mission by local authorities was to take place on 27 November 2018 to identify a potential resettlement site. Baka representatives have

written to the authorities to request that they are not only given a space to re-build their settlements but also enough forest land to sustain their livelihoods, as well as being given a land title.

Other neighbouring communities have also lost significant portions of their traditional lands. A one to three kilometre “buffer zone” was reportedly set aside for community use, but this was not enshrined in any text. The local population has also expressed its inadequacy in relation to their needs (some interviewees mentioned that a 15-kilometre area would be more appropriate, for example). According to interviewees in Nkolafendek, for instance, the buffer zone is not only insufficient for their livelihood needs, but also risks being taken over by rubber trees, which can easily spread, due to the proximity of the plantation. The area taken by the company was particularly valued by the community for the fertility of its soil and abundant wildlife. In Nye’ele, interviewees reported that the area left to the community was merely an old fallow the community was no longer using.

Communities also complain that not even this limited buffer zone has always been respected. The situation is particularly difficult for Ekok village, where inhabitants report that the company has planted rubber trees as close as 800 meters from their houses; meanwhile, their farm land on the other side of the village has been flooded by the neighbouring Mekin dam<sup>41</sup>.

A unilateral decision to modify the limits of the concession by 600 hectares, affecting the communities of Samarie, Ebang, Ndjikom and Akom Ndong, is another illustration that the company’s needs have consistently prevailed over those of the communities. According to our research in 2016, Sudcam realised that the water supply within the initial concession boundaries was insufficient for its needs, and therefore requested a modification of the boundaries to include a more suitable area. Although Sudcam had to give up a similar surface area in another part of the concession so as not to increase the total surface area, for the four communities concerned this meant losing an additional 600 hectares of their lands. Communities learned about the decision at a meeting organised in Ndjikom, of which they were only notified one day in advance. In spite of complaints by the communities, including to the Governor of the South Region and the Prime Minister, Sudcam has already largely cleared and

developed the area, and also built a nursery and accommodation for workers.

### **Inadequate compensation**

The right to compensation for losses resulting from large-scale land attributions has limited recognition in Cameroonian law. Only titled lands and “developments” – understood as constructions and farmed lands – give right to compensation, whereas the loss of lands without title and the loss of forest resources and ecosystem services are not included<sup>42</sup>. Although communities lack formal titles, most of the land that Sudcam is occupying was already under customary claims and has sustained the local population for many generations.

According to company officials who spoke to our research team, the process of compensation was done according to legal requirements, and compensations were paid for loss of property or “developments” within the concession area based on technical evaluations. Supporting the company’s position, when interviewed by our research team a local official from the Ministry of State Property, Service and Land Tenure (MINDCAF) dismissed the discontent that communities have expressed with this process as part of a “culture of begging”.

The information we could gather in the field shows that the communities affected by the first concession block, in the Meyomessala subdivision<sup>43</sup>, have received some form of compensation, while those in other areas have not.

There is general discontent with compensation among the local population, who expressed dissatisfaction with the process and financial package. Communities interviewed during field research as well as during a workshop in Sangmelima in November 2018 complained that compensation amounts were arbitrarily established and often did not relate to the real loss incurred. They also decry the opacity of the process itself and reported several cases of deceptive tactics. In one case, a man who was promised XAF 4 million was reportedly asked to sign his compensation package in the middle of the night, only to realise later that a decimal had disappeared (XAF 400,000).

<sup>41</sup> This was documented during a workshop with community leaders in Sangmelima, on 13-15 November 2018.

<sup>42</sup> Decree N° 76/166 on the management of national lands.

<sup>43</sup> The one established by Decree N° 2008/248 of 24 July 2008, corresponding to 8,200 hectares.

One chief in the Meyomessala area explained that he was given XAF 300,000 (equivalent to £413) by Sudcam to “feed the village”, whereas tombs and sacred places within the concession were destroyed without any compensation. In another village, interviewees said there had been compensation but that these did not correspond to the real losses incurred. In a third village, compensations took place but there were complaints about the rates employed for determining these, which were considered outdated. In another village, the compensation process was apparently disrupted by internal disputes, and the company offered to compensate only after it started making profits, which is against the law. In four other villages of the same subdivision, the initial buffer zone reserved for community use was taken over by the project, without any compensations paid to the communities, as allegedly there were no so-called “developments” (farmed lands or constructions) within that area. In the Djoum subdivision, a village chief declared that officials of the Ministry of Agriculture had come to evaluate losses, but he was not informed of the rate that served as a basis for the evaluation. The local population was worried that their properties would not be adequately evaluated and said that if they had a choice, they would not allow the project to be installed on their lands<sup>44</sup>.

### **Relationship between local communities and the company**

Apart from invasion of traditional lands and inadequate compensation, several communities complained that employment creation has been quite limited for the local population, as only 30 per cent of the company employees are locals, while 70 per cent come from abroad or from other areas of Cameroon. The ESIA estimated the creation of 6,750 direct jobs “in the long-term” to which local people would have preferential access, including through specific policies put in place for this purpose<sup>45</sup>. However, testimonies show that employment for them has been limited, and that jobs going to the local population are often temporary and low-skilled.

The project’s contribution to the local economy and social welfare is also generally quite weak.

During a workshop in Sangmelima in November 2018, community leaders reported positive steps recently taken by the company, such as support for local teachers and the provision of healthcare vouchers. However, communities agreed that these short-term, ad-hoc efforts were generally not sufficient to ensure the long-term well-being of the local population.

As a result of these problems, the relationship between communities and the company has been mostly conflictual. In the Meyomessala area, communities have even protested against the company by blocking access to the plantation site. More recently, in November 2018, community representatives of 21 affected villages adopted a statement where they expressed their grievances and formulated concrete recommendations<sup>46</sup>.

### **Environmental impact**

Deforestation by the rubber plantation is edging closer to the UNESCO-protected Dja Faunal Reserve, causing great threats to endangered species within and outside the park. According to satellite data, as of April 2018, the plantation was only one kilometre away from intact primary forest habitat.

As noted above, contrary to Cameroonian law, the environmental and social impact assessment for this project was only undertaken once the concession had already been granted. Although the research team was able to obtain the report, none of the communities visited for this study had copies. Several communities reported having participated in meetings organised for the purpose of the ESIA, and although some meetings were organised to present the results, the actual reports were not distributed. The report itself provides general statements regarding the impact of the plantation, recognising that this development will entail large-scale deforestation and serious disruptions to local biodiversity, as well as affecting soil composition, air quality and the local microclimate, producing noise and other forms of pollution, and completely changing the landscape<sup>47</sup> – all of which could potentially apply to any rubber plantation set-up in the rainforest. However, the assessment does

<sup>44</sup> Nonetheless, the Nkolatui community in Nkolafendek had a favourable opinion of the project, which they believed will create employment for young people and the development of the village.

<sup>45</sup> Enviro Consult Sarl (2011), pp. 62 and 106.

<sup>46</sup> See: <https://www.rainforestfoundationuk.org/cameroon-communities-speak-out-about-impacts-of-large-rubber-plantation>

<sup>47</sup> Enviro Consult Sarl (2011), pp. 77 to 89.



not include vital information such as species inventories or, crucially, any identification of areas of high conservation value (HCV); nor is there a calculation of the greenhouse gas emissions expected from the project. Consequently, the mitigation measures proposed seem equally general in nature.

In terms of forest loss, according to satellite image analyses going from 2001 to 2017, the Sudcam plantation has so far cleared 9,891 hectares in its three concessions (see Annex 1 for details). In terms of threats to the Dja Faunal Reserve, fishing and hunting are likely to intensify as plantation workers move into the area. At the time of our field research, Sudcam employees were already crossing the Dja river to get food from communities on the edges of the Reserve. Forest clearing for the plantation also fragments the habitat of endangered primates and disrupts wildlife corridors used by forest elephants. Officials from the Dja Reserve confirmed in interviews that

although Sudcam had signed a convention with the Reserve, the risks could not be reduced to zero.

Use of local water resources might turn into a contentious issue in the future. Our field research showed that the company was using water from the Dja River to irrigate its nursery and that a water pump has been installed directly in the river. Further, in Meyomessala four villages were affected by the unilateral decision to expand the concession area by 600 hectares in search of more suitable water supplies, as explained previously. Sudcam claims that it is taking several measures to mitigate environmental impacts. These include “eco-friendly” techniques, such as not using fire to clear the forests and using organic fertilisers and other clean products to avoid water pollution. They also support some of the running costs of the Dja Reserve and hold awareness-raising and anti-poaching activities<sup>48</sup>. Continued engagement from civil society will be necessary to assess the effectiveness of these measures over time.

#### FIGURE 4 - DEFORESTATION IN SUDCAM'S NORTHERN BLOCK (2011 - 2017)



<sup>48</sup> The information in this paragraph was provided by a Sudcam representative to an anonymous source who shared it with RFUK.

In November 2018, largely in response to concerns over its operations in Cameroon, Halcyon Agri, the international group behind Sudcam, adopted a Sustainable Natural Rubber Supply Chain Policy to minimise environmental and social impacts across its supply chain<sup>49</sup>. While a step in the right direction, the policy is very weak on some key aspects such as transparency and oversight, as well as redress for affected communities. The company also announced the establishment of a “Sustainability Commission” for Cameroon to monitor implementation of the policy in the country. Sources also indicate that Sudcam was instructed by Halcyon Agri to temporarily cease clearing and felling until the Sustainability Council is set up, though this commitment was not formalised and its implementation remains to be monitored on the ground. These steps were taken largely in response to a field visit by conservation NGO WWF<sup>50</sup>. The available trip report and subsequent recommendations by WWF highlight some important shortcomings such as lack of FPIC, but is silent on other critical issues such as the forced displacement of Baka communities and the large-scale deforestation.

### Conversion timber

Regarding the recovery of timber from the Sudcam concession, there is insufficient information regarding the value of the timber and how any earnings should be distributed. The ESIA mentions that part of the timber will be used for construction, while the rest will be sold (after negotiation with the Forest Ministry) or, if unusable, left on the ground to rot<sup>51</sup>. However, the assessment does not include an estimate of the volume or potential value of the timber to be extracted. Furthermore, these plans seem to contradict Cameroonian law, which establishes that the concession holder does not have the right over the marketable timber as it is the State that is in charge of either selling it itself or assigning the process by public tender, on the basis of an inventory<sup>52</sup>. To our knowledge, such an inventory has not been carried out in the Sudcam plantation.

According to our interviews with local Forest Ministry officials, initial clearing operations were carried out without the necessary legal authorisation and lack of control led to some timber being stolen, although no specific volumes were mentioned. By mid-August 2016, the Ministry claimed to have regularised the situation by conceding 52 permits (“*ventes de coupe*”) covering around 25,000 hectares. Under these agreements, subcontractors are supposed to pay XAF 2,000 (around £2.75) per cubic metre extracted to the local government, 30 per cent of which is invested for local development<sup>53</sup>. Under this arrangement, communities would then get less than one euro per cubic metre of timber extracted from their traditional lands, while average domestic prices for the least valuable species hover around £110/m<sup>3</sup>, and international prices are on average much higher<sup>54</sup>.

At least 23 permits have also been granted for the 2015 concession, according to documents we could obtain. Additional studies would be needed to verify whether there is effective surveillance of the amount of timber being extracted and of the amount of money that local authorities and communities are receiving.

### IMAGE 1 - SUDCAM NURSERY



*The company has been using water from the Dja River to irrigate its nursery and a water pump has been installed directly in the river. Source: author, 2015*

<sup>49</sup> See: <https://www.halcyonagri.com/wp-content/uploads/2018/11/Sustainable-Natural-Rubber-Supply-Chain-Policy-and-Sustainability-Commission-for-Cameroon.pdf>

<sup>50</sup> Ibid.

<sup>51</sup> Enviro Consult Sarl (2011), p. 65.

<sup>52</sup> *Loi n° 94/01 du 20 janvier 1994 portant régime des forêts, de la faune et de la pêche* and *Décret n° 95/531/PM du 23 août 1995 fixant les modalités d'application du régime des forêts*.

<sup>53</sup> In accordance with the *Arrêté conjoint n°0076 MINATD/MINEFI/MINFOR du 26 juin 2012 fixant modalité de planification, d'emploi et de suivi des revenus provenant des ressources forestière et faunique destinées aux communes et aux communautés villageoises riveraines* (Article 6).

<sup>54</sup> See: Lescuyer et al (2017), p. 11 and ITTO report on timber markets from April 2016, available at: <http://www.itto.int/files/user/mis/F-MNS-Volume-1-No-9-2016.pdf>

## 4.2 GREENFIL/AZUR, CAMEROON

### GREENFIL

#### LOCATION

Nkam department,  
Littoral province,  
Cameroon

#### SIZE

Estimated at 34,500 ha,  
official data unavailable



#### COMPANY OWNERSHIP

Cameroon



#### DATE GRANTED

Unknown



#### ESTIMATED REQUIRED INVESTMENT

Over US\$120 million



#### ESTIMATED DEFORESTATION UNTIL END OF 2017

1,748 ha



#### CAMEROON

#### CURRENT STATUS

Clearing and planting underway.

### KEY CONCERNS

1

The project is mired in secrecy; the total area controlled by the company is unknown, and the legal rights the company actually holds over the area, if any, are unclear.

2

At present the project is the biggest source of oil palm-driven deforestation in the region.

3

The clearing poses great threats to the nearby proposed Ebo National Park, an important biodiversity hotspot.

4

An ESIA was conducted, with involvement of local communities, but only after project activities had begun.

5

The company initially felled timber illegally, without the necessary permits.

6

Customary land rights were not properly documented and the project area overlaps with land used by communities.





## IMAGE 2 - GREENFIL NURSERY



*An oil palm nursery in development. Greenfil began activities before public consultations were carried out. Source: CED, August 2015*

2015 ESIA (see map opposite), where it is only mentioned that a concession of 35,000 hectares has been “requested” by Greenfil for the project.

Company officials interviewed for this study claimed that this concession was granted, and that the company had thus already acquired legal rights over the area. However, this was highly contested by other stakeholders during our field research in 2016, as all interviewed members of the land consultative board – the commission that is to examine and provide a reasoned opinion on any land concession request – said that the attribution process was still ongoing. The latter is consistent with declarations by Abbo Amadou, NBG Director General, in May 2016, saying that land acquisition represented a major challenge for the project and that he “hoped to obtain support from authorities, because the access to land rights is a big problem for agricultural development in Cameroon”<sup>61</sup>.

As explained in the Sudcam case previously, under Cameroonian law, a company starting up a project can only be granted a temporary land lease not exceeding five years<sup>62</sup> and can only obtain either a permanent or long-term title if the operator has proved able to honour its commitments. However, one of the company managers we interviewed claimed that Greenfil

obtained a concession for more than five years, which would make it illegal. However, no official document confirming this claim could be obtained.

The lack of clarity as to Greenfil’s rights to the land has not prevented the company from clearing forest and launching activities such as developing a seedling nursery and building employees’ quarters. Our field research shows that these activities began even before an ESIA was carried out and a certificate of environmental conformity issued by the Environment Ministry. (The picture of Greenfil’s nursery opposite was taken in early August 2015, before public consultations under the ESIA took place later that month).

### Illegal logging

As with the other cases examined under this report, Greenfil started clearing without conducting a forest inventory, despite this being a requirement in Cameroon’s forest law. There is no doubt about the presence of tree species with commercial value within the area targeted for the project; research for this study identified many such species, and the ESIA report itself refers to up to 20 of them<sup>63</sup>.

Furthermore, under Cameroonian law, operators of agro-industrial developments have no rights over the timber with commercial value that is to be cleared to make way for planting. If the company wants to recover this timber, it can either do so by public bidding, based on the results of the inventory, or under state control (through the Ministry of Forests, MINFOF)<sup>64</sup>.

Nonetheless, the delegate from MINFOF interviewed for the research said that the relevant provisions had not been fulfilled. The clearing of over 500 hectares – as well as other activities such as building accommodation for employees and developing a nursery of more than 70,000 plants – took place without any timber recovery permit (*autorisation de récupération de bois*) having been awarded. This illegal logging eventually resulted in the seizure of timber

<sup>61</sup> See: *Jeune Afrique*, 2016, op. cit.

<sup>62</sup> The Decree N° 76/166 of 27 April 1976 on the management of national lands provides that a provisional land lease shall first be allocated, which may not exceed five years and is only renewable in exceptional cases. Only when the operator has proved able to honour its commitments during the provisional lease period shall an emptytheutic lease for up to 99 years (when the operator is a non-national) or of a final concession

(when the operator is a national) be granted. It is with this final concession that the operator becomes owner of the land.

<sup>63</sup> GISS Conseil (2015).

<sup>64</sup> See: Law N° 94/01 of 20 January 1994 on the Regime of Forestry, Wildlife and Fisheries, Article 73.1; and its implementation Decree N° 95/531/PM laying down the Procedure for Implementing the Forests System, Article 110.

from the project site in early 2015. The MINFOF delegate for the Nkam Division was removed from his post around the same time, following a ministerial decision, although it has not been confirmed whether the two events are related.

Two timber recovery permits in the project area were later delivered by MINFOF between 2015 and 2016, although it was not possible to confirm whether this had been done by tender in accordance with the law. A Forest Ministry official told RFUK that the beneficiaries were two companies based in Northern Cameroon, El-Hadji Souleymane and Miadadi, about which there is almost no public information<sup>65</sup>.

### **Inadequate information and consultation of communities**

The known maps of the project cover 11 villages that are home to an ethnically diverse population that relies mostly on agriculture and fishing, but also hunting, the collection of non-timber forest products and the small trade of basic commodities. Most of these activities are based on traditional systems of production or exploitation that require large expanses of land.

Our field investigation shows that local communities have not been adequately informed and consulted, nor their views taken into account by the authorities or the company in decisions regarding the plantation.

Our interviews confirmed that the company organised “sensitisation” meetings in all affected communities, and that more than 300 community members were indeed consulted in the context of the ESIA in late August 2015<sup>66</sup>, but this happened as project activities were already underway, which is in contravention of Cameroonian law.

According to village interviewees, the company failed to provide basic information about the project that would have allowed communities to gain a good understanding of its overall implications and to make informed decisions; only the positive aspects such as the creation of local employment and the development of infrastructure were presented. Essential information such as the project time frame,

the obligations of the company and the exact limits of the concession was withheld from communities, and no consensus was achieved on the respective areas of activity of the company and of the communities.

Lack of freedom of expression was also a concern, as communities said that had very limited scope to develop and express their views. One respondent noted that “only traditional leaders in favour of the project had the right to speak”. Not surprisingly, the overwhelming majority of the people interviewed thus said that they did not have the chance to express whether they were in favour of or against the project.

### **Customary land rights undermined**

As explained in the Sudcam chapter, legal provisions for compensation in Cameroon only take into account the areas of forest that have been “transformed” (that is, cleared for habitation or agricultural plots), disregarding the forests used for hunting, gathering, fishing and cultural purposes. Evidence in the field suggests, however, that the Greenfil project may be overlapping community lands even within this more narrow definition.

A mapping exercise was organised in the context of the ESIA, but while local communities wanted their land-use needs and activities (including agriculture, fishing and hunting) to be demarcated under this process, company officials reportedly saw it simply as a way to identify available land for planning purposes. The company’s maps therefore did not reflect local land uses, contradicting Cameroonian law provisions regarding customary land rights<sup>67</sup>. Communities’ customary rights have therefore not been taken into account when establishing the project area – the limits of which, on top of this, remain uncertain.

While at the time of the research local communities had not been properly informed (let alone consulted) on the limits of the concession, boundary pillars had nevertheless already been planted in the field, including inside the supposed buffer zone between the concession and community lands. In three villages, these pillars were placed within community farms<sup>68</sup>.

<sup>65</sup> Communication with the departmental delegate of MINFOF on 13 July 2016, and for the only reference found on the company El-Hadji Souleymane see Koffi (2005).

<sup>66</sup> Covering a large portion of the total population of the eleven villages affected by the project estimated at less than 385 inhabitants by administrative authorities.

<sup>67</sup> See: Ordonnance 74/1 du 6 juillet 1974 fixant le régime foncier, which upholds communities’ ownership and occupancy of customary lands, even in the absence of land titles.

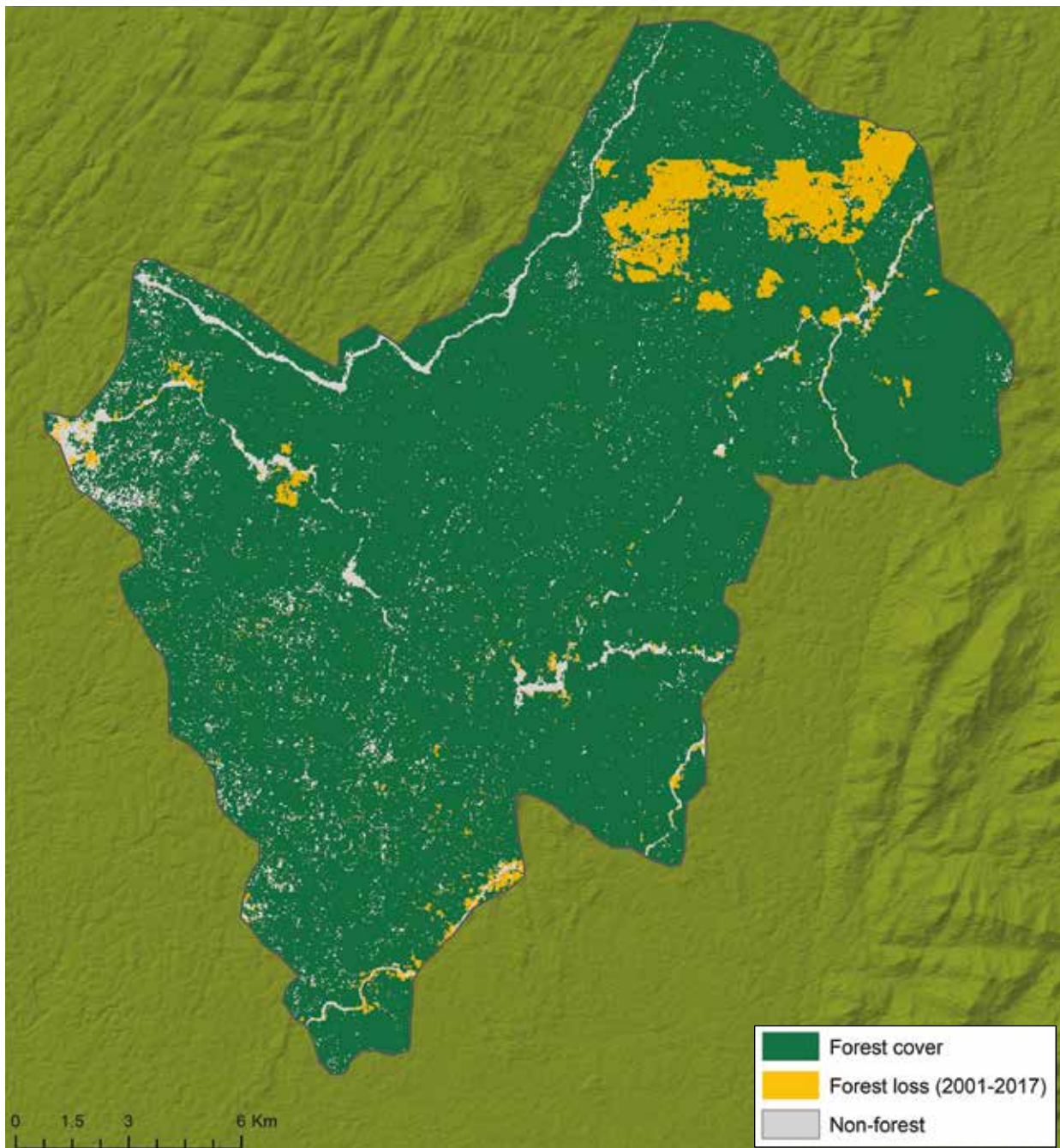
<sup>68</sup> In the villages of Ndokdagk, Ndogbakand and Ndofaya.



All community members who were interviewed objected to their location. It is unclear whether these pillars represent the definite boundaries of the concession<sup>69</sup>, which adds to the tenure uncertainty that the project has created in the area.

At the time of the field research, the project had not yet caused any destruction of property or farmland or the physical displacement of communities, and thus no compensation had been paid to communities, although continued monitoring will be necessary as the situation unfolds.

**FIGURE 6 - GREENFIL DEFORESTATION 2012-2017**



Source: RFUK

<sup>69</sup> According to 80 per cent of administrative officials interviewed, the boundary pillars planted are temporary and do not represent the definite boundaries of the concession. However, 20 per cent of MINDCAF officials

interviewed also asserted that MINDCAF cannot plant provisional pillars, and that it may well be that the pillars are definite boundaries of the concession.

## Links to a company with a dubious human rights record

Alarmingly, there are recent reports that Greenfil is receiving expert advice from Felda Ipco<sup>70</sup>, a Malaysian state-owned company that is one of the largest palm oil producers in the world. In 2015, the company was accused of human rights violations on its plantations in Malaysia, with claims that contractors were subjecting workers to abusive conditions such as confiscating passports, withholding wages and denying them protective equipment<sup>71</sup>. Although the company has denied these allegations<sup>72</sup>, it also decided to withdraw all its mills in Malaysia from the RSPO certification process<sup>73</sup>.

## The Ebo forest and its great apes under threat

According to RFUK's analysis, Greenfil had cleared 1,749 hectares of forest up to March 2017. A 2018 report by Earthsight states that the project is at present the biggest source of oil palm-driven deforestation anywhere in the region, with six football pitches-worth of dense forest currently being bulldozed each day<sup>74</sup>.

Greenfil is clearing forest very close to the 142,000-hectare Ebo forest, one of the most biodiverse places in Cameroon, which has for years been proposed for national park status, although the Cameroonian government has failed to grant official protection status to the area, without providing an official reason<sup>75</sup>. The Ebo forest is home to a wide variety of wildlife, including western gorillas, the rare Nigeria-Cameroon chimpanzee (the most endangered type of chimpanzee<sup>76</sup>) and several other primate species, including a large population of drills, as well as a wide variety of endemic plant species<sup>77</sup>.

The ESIA did recommend setting up a 182 metre buffer zone between the project area and the Dibamba river, the Ebo forest and the areas of human activity. Arguably, 182 metres is far too narrow to shield these resources from the spill-over impacts of the plantation, but even this was not respected. Our investigation teams found boundary pillars planted inside the supposed buffer zone as well as one pillar inside the proposed national park and other areas frequented by great apes<sup>78</sup>. Destruction of the forest cover in the northwestern area of the Dibamba river, where the pillars were found, will inevitably cause the loss of the flora in the diet of these animals. The ESIA report also warned that the likely influx of agricultural labourers would also result in human-wildlife conflicts and increase the risk of poaching in the area of the project<sup>79</sup>. As expected, local communities are already reporting the increased presence of strangers in the area<sup>80</sup>.

Water resources are also at risk. The project area includes the Ndogbanguengue river and several other streams used by communities for fishing and as their only supply of drinking water. It is likely that even when wastewater from the project's activities is canalised, the use of fertilisers will alter the quality of the water from these streams. While the ESIA identified that the presence of pollutants in these streams was close to zero, it did not provide details on how water quality would be preserved.

<sup>70</sup> Mbodiam (15 January 2017), "With expertise of Malaysian Felda Ipco, billionaire Nana Bouba sets out to conquer the palm oil market," *Business in Cameroon*, available at: <https://www.businessincameroon.com/agribusiness/1501-6814-cameroon-with-the-expertise-of-malaysian-felda-ipco-billionaire-nana-bouba-sets-out-to-conquer-the-palm-oil-market>

<sup>71</sup> Al-Mahmood (26 July 2015), "Palm oil migrant workers tell of abuses on Malaysian plantations," *Wall Street Journal*, available at: <https://www.wsj.com/articles/palm-oil-migrantworkers-tell-of-abuses-on-malaysian-plantations-1437933321>

<sup>72</sup> See: "FGV denies WSJ's allegations of human rights abuses on plantations" (28 July 2015), *Malay Mail Online*, available at: <https://www.malaymail.com/s/941201/fgv-denies-wsj-s-allegations-of-human-rights-abuses-on-plantations#JfER2e2WrKO5sCcO.99>

<sup>73</sup> See RSPO announcement from 6th May 2017, available at: <http://www.rspo.org/news-and-events/announcements/fgvs-withdrawal-of-rspo-principles-and-criteria-certificates>

<sup>74</sup> Earthsight (2018).

<sup>75</sup> See: Mowbray (3 April 2017), "Ebo forest great apes threatened by stalled Cameroon national park," *Mongabay*, available at: <https://news.mongabay.com/2017/04/ebo-forest-great-apes-threatened-by-stalled-cameroon-national-park/> and the respective entry in the World Protected Area Database, which cites its status as "proposed", available at: <https://www.protectedplanet.net/ebo-national-park>. A conservation worker in the area believes that the government's reluctance is due to lack of resources to run the park once it is formally approved (Anonymous personal communication, November 2017).

<sup>76</sup> See: *Pan troglodytes* ssp. *elliotti* on the IUCN Red List of endangered species, here: <http://www.iucnredlist.org/details/40014/0>

<sup>77</sup> See: Morgan et al. (2003) and Morgan et al. (2011) as well as Mowbray (2017).

<sup>78</sup> Cries, nests, tools and droppings of great apes were spotted during the study in the vicinity of the current boundary pillars, over a surface of over 48 square meters.

<sup>79</sup> GISS Conseil (2015).

<sup>80</sup> Anonymous personal communication, November 2017.

## 4.3 ATAMA, REPUBLIC OF CONGO

### ATAMA PLANTATION

#### LOCATION

Sangha and Cuvette departments, Republic of Congo

#### SIZE

180,000 ha for development of an overall concession of 470,000 ha



#### COMPANY OWNERSHIP

49% Agro Panorama (Malaysia), 51% unknown



#### DATE GRANTED

December 2010, confirmed in August 2011



#### ESTIMATED REQUIRED INVESTMENT

Approximately US\$670 million



#### ESTIMATED DEFORESTATION UNTIL END OF 2017

8,508 ha



#### REPUBLIC OF CONGO

#### CURRENT STATUS

Very little has been planted; the site has instead been used for selective logging.

### KEY CONCERNS

1

Atama carried out extensive illegal logging and pocketed the money from the conversion timber, while planting hardly any palm trees in the process.

2

Several illegalities were identified and large volumes of illegal timber were seized from the company. Despite this, the Congolese government has reaffirmed its support for the project.

3

The concession was granted on large swathes of land unsuitable for oil palm, and overlaps peatlands of high conservation value as well as pre-existing land claims by local people. These problems were not identified partly because no Environmental and Social Impact assessment was done.

4

The project, which was approved without consultation of local people, has exacerbated tenure insecurity and has to this day failed to provide significant benefits to the local population.

5

The project is mired in opacity. The exact size of the concession is unknown and the company's owners are hidden behind a vast network of shell companies. There is speculation about high-level political support enabling Atama's ability to bypass the law. It is not even known whether the company has been granted a permanent lease or not.



Upon its arrival in Congo, Atama was presented as a genuine opportunity to develop the country, as it would create more than 20,000 jobs, provide social infrastructure, and generate major income for the country through ground rent and various taxes<sup>81</sup>. However, RFUK's 2013 study *Seeds of Destruction* raised a number of concerns about the project, including:

- Despite having **no experience in oil palm production**, the company was granted the biggest industrial plantation site in Central Africa.
- The **lack of transparency over who owns the company**: whereas the Malaysian firm Wah Seong at the time had a 49 per cent stake in Atama<sup>82</sup>, the rest of the company belonged to a series of ghost companies registered in the British Virgin Islands and whose ultimate owners are unknown.
- **Huge potential impacts on the environment and local populations**: the area granted to Atama is located between Odzala Kokoua and Ntokou-Pikounda National Parks and covers part of the largest tropical peatland in the world. This area is also the ancestral land and the main source of livelihood for dozens of forest communities.
- **Dependence on logging**: A strong likelihood that timber logging would provide huge revenues and also form a significant proportion of the expected investment.

The present study sheds further light on these issues, demonstrating that many of the feared negative impacts are materialising and some are worse than expected. Most notably, the company has undertaken illegal selective logging around the concession while failing to develop the promised oil palm plantation.

### Forest conversion: agro-industry or forest enterprise?

Conservative estimates suggest that the timber potential of the 180,000 hectares was planning to plant is roughly US\$500 million<sup>83</sup>, equivalent to about 75 per cent of the company's total foreseen investment<sup>84</sup>. While RFUK's initial concern was that the company would use these earnings to reduce the amount of fresh investment required to develop the plantation, what has happened seems to be much worse: Atama has harvested timber and taken the money, without planting many oil palms at all, nor even paying taxes as required.

There have been warning signs almost since the inception of the project. The company's activities have run well behind schedule from the beginning.

Between 2013 and 2014, the company was supposed to have planted 2,000 hectares of oil palm<sup>85</sup>, whereas at the time of our field investigations in late 2014 company representatives confirmed that they had merely cleared (not planted) approximately 600 hectares. By February 2017, an official Forest Ministry visit to the plantation site found out that Atama had only cleared approximately 1,500 hectares in the Sangha concession<sup>86</sup>, while only 750 hectares had been planted<sup>87</sup>.

Meanwhile, Atama had been cutting, selling and processing valuable timber inside its concession. The company was granted a series of temporary deforestation permits in the Sangha and Cuvette areas. However, in 2016, Congo's Independent Forest Monitor declared Atama's logging activities illegal as they were happening within a

<sup>81</sup> It is worth noting that the team did not directly obtain documentation from the company on these supposed benefits of the project (e.g. opportunities, social and environmental safeguards, number of jobs etc.) However, many of these figures were published by several official and private newspapers on the occasion of the official launching ceremony of the project on May 29, 2013. See for example: <http://venturesafrica.com/malaysian-company-wah-seong-to-invest-744m-in-congo-palm-oil-project/>

<sup>82</sup> The company reduced its participation from 51 to 49 per cent in 2015. See: Aruna (17 October 2016), "Wah Seong open to exit plantation business," *Star Online*, available at: <http://www.thestar.com.my/business/business-news/2016/10/17/wah-seong-to-exit-plantation-business/#DPAevfPAAoOdCric.99>

<sup>83</sup> See RFUK (2013). This is a conservative estimate, calculating the timber potential of the 180,000 hectares identified as plantable by feasibility studies; however, the company controls the entire 470,000 hectares of concession, and some areas unsuitable for oil palm may hold valuable timber species and could be targeted by the company for selective logging.

<sup>84</sup> When Atama's Yengo-Mabili site was officially inaugurated by the Congolese President in 2013, the company estimated it would invest around XAF372 billion (or 670 million US\$670 million in 2017 exchange rates). See: "Atama Plantation va investir 570 millions d'euros dans Sangha et la Cuvette" (10 June 2013), *Journal de Brazza*, available at: <http://www.journaldebrazza.com/article.php?aid=3161>

<sup>85</sup> As stated in Atama's own website. See: [http://atamaplantation.com/site/index.php?menu\\_group=1&cat=4&page=61](http://atamaplantation.com/site/index.php?menu_group=1&cat=4&page=61)

<sup>86</sup> Ministry of Forests and Sustainable Development, communiqué n. 068/MEFDD/DGEF/DDEFS/SVRF, 17 February 2017.

<sup>87</sup> Press release by the Ministry of Forest Economy and Sustainable Development, 5th October 2017, available at : <http://www.mefdd.cg/actualites/actualite/article/agro-industrie-le-gouvernement-de-la-republique-renouvelle-son-soutien-a-la-societe-atama-plan/>

deforestation permit that had expired two years before. Despite this, Atama continued logging, even extending to areas where no deforestation permit was ever granted.<sup>88</sup>

A year later, the Ministry of Forests halted Atama's logging operations in the Sangha area, stating explicitly that "Atama Plantation has been deforesting the second 5,000 hectare block without authorisation, notably by carrying out selective logging of marketable timber"<sup>89</sup>. The communiqué also asks that Atama finishes clearing the approximately 3,500 hectares left of the first block for which a permit was granted in 2016.

Already during our field investigations in 2014, the research team saw seedlings in the plantation site that had been left for too long without planting, as well as hundreds of Atama's seedlings being shipped to the plantation of a member of the local elite (see Image 3). Recent visits to the field by RFUK's partners also confirm that the plantation is practically abandoned, apart from the logging activities taking place in the area. But it was only in 2017 that the forest administration acted on this, and then only by suspending its permit over one block without putting the project itself into question.

In spite of all this, after a meeting held between the company and high-level government representatives in October 2017, the Congolese Government announced its continued support to Atama, repeating its request that the company develops the promised oil palm plantation and fulfils its contractual obligations. Worryingly, at this meeting the company requested to be granted a permanent lease over the area, arguing that this would enable it to secure the loans it requires to continue developing the project<sup>90</sup>, in spite of the fact that the company already holds a 25 year renewable lease (see below). Granting permanent land rights over such a vast area of land to a company with such an egregious track record represents a grave threat to people and forests, and would set a very dangerous precedent. It is not known whether this request was granted.

Satellite imagery shows clearing consistent with selective logging rather than the visible clearing needed for an industrial oil palm plantation (see Figure 7). Worryingly, a significant amount of selective logging appears to have been carried out outside of the concession (see Figure 8).<sup>91</sup>

The terms of the contract between the state and Atama, as well as lack of clarity regarding conversion timber in Congolese law, facilitated this situation. As will be explained below, Atama was granted a long-term lease from the outset, without any probationary period, under a contract which granted it permission to undertake any necessary clearing operations (article 4). On the other hand, since the Forest Code in the Republic of Congo authorises the person behind the deforestation activities to freely recover the timber extracted (article 31), all the timber resulting from the land clearing would therefore belong, legally, to Atama. In spite of the enormous leeway that Atama already benefits from legally, the company's timber operations still manifest several forms of illegality.

### IMAGE 3 - SEEDLING 'DONATION'



Photo of seedlings donated to a member to the local elite (2014)

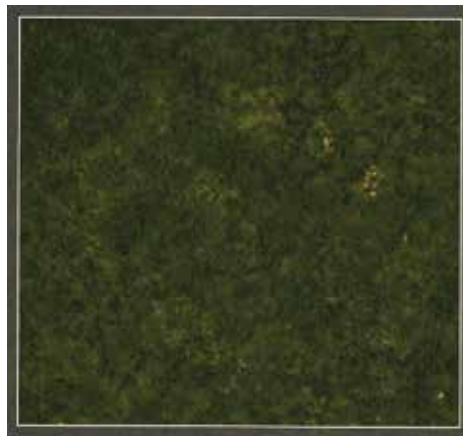
<sup>88</sup> See: CAGDF (6 February 2017), *Projet OI-APV FLEGT, Rapport N°13*, as cited in Earthsight (2018).

<sup>89</sup> *Ibid.*, RFUK translation. The French original states: "il a été constaté que la société ATAMA PLANTATION procède au déboisement du 2e bloc the 5000ha sans autorisation, notamment en y opérant des coupes sélectives de récupération de bois commercialisables".

<sup>90</sup> Press release by the Ministry of Forest Economy and Sustainable Development, *op. cit.*, 5th October 2017.

<sup>91</sup> Further investigations would be required to confirm whether this is linked to company activities or infrastructure.

## FIGURE 7 - ATAMA DEFORESTATION IN SANGHA CONCESSION



*The two satellite images, both from July 2017, show different types of forest clearing. The image on the left shows clearing consistent with oil palm development, whereas the image on the right shows clearing consistent with the early stages of selective logging. Source: Planet Labs Inc.*



### Illegalities in Atama's timber operations

In September 2017, it was revealed that Atama had exported some 14,000 cubic metres of logs illegally without paying the necessary taxes, with the complicity of a range of corrupt officials from the forestry and customs authorities. Large volumes of timber owned by Atama were seized at the port of Pointe Noire, and the company's export licence was suspended as a result<sup>92</sup>.

Soon after, Wah Seong, the Malaysian firm that had partially owned Atama since 2012, sold its stake to Agro Panorama, a shell company operating as a front for more than 250 companies<sup>93</sup>.

Extensive illegalities were also identified during our own investigations as well as repeated mission reports carried out by Congo's Independent Forest Monitor. First, Atama was granted deforestation permits without producing the impact assessments required by law<sup>94</sup>. The Independent Forest Monitor has also warned about Atama harvesting trees and clearing paths outside of the permit area<sup>95</sup> – as well as the abandonment of timber with a commercial value, significant delays in paying taxes, and the construction of a sawmill without adequate safety conditions<sup>96</sup>. Regarding the latter, the Forest Ministry dismissed the monitors' concerns at the time, alleging that Atama should not be held accountable to the same standards required as logging companies<sup>97</sup>, in spite of the fact that Atama's contract (article 9) and deforestation permits explicitly state that the company should abide by the forest law<sup>98</sup>.

Worryingly, Atama seems to have considerably under-reported the amount of timber it has been extracting and consequently not paying the taxes it owes to the Congolese state. The fact that the company's logging was not preceded by a forest inventory clarifying the volumes to be exploited makes Atama's activities very hard to monitor.

The company is responsible for declaring the volume of timber that it harvests. These volumes must match the volumes at the forest law enforcement checkpoints through which harvested timber must pass. However, according to our informants, the company seems to send most of its timber from Oyo, where there are no checkpoints, before they are sent on to Pointe Noire for export. It is also reported that a part of this timber is directly purchased on site by local elites.

In a similar vein, the research mission also allowed us to confirm Atama's inadequate marking of logs and lumber, which is contrary to Congolese law. As shown in the pictures below, none of the logs observed during our field mission contained information about their destination. In October 2012 an inspection mission by the Forest Ministry had already highlighted this and other irregularities, including under-reporting and reporting inconsistencies, and passed the corresponding infractions to Atama, something that, apparently, did not deter the company<sup>99</sup>. As late as 2017, as mentioned, the government halted Atama's logging operations in the Sangha department, where the company was carrying out selective logging without authorisation and without paying the corresponding taxes<sup>100</sup>.

<sup>92</sup> Douniama (26 September 2017), "Economie forestière : un réseau mafieux d'exportation du bois démantelé au port de Pointe-Noire," *Agence d'Information D'Afrique Centrale*, available at: <http://adiac-congo.com/content/economie-forestiere-un-reseau-mafieux-d-exportation-du-bois-demantele-au-port-de-pointe-noire>

<sup>93</sup> See: Wah Seong Corporation Berhad, Company Announcement (21 Dec 2017) <http://www.bursamalaysia.com/market/listed-companies/companyannouncements/5644653> and Earthsight (2018)

<sup>94</sup> See: Report N° 016 / REM / CAGDF / FM, Independent Monitoring - FLEG, (13 June 2013) [http://www.observation-congo.info/documents/OL\\_II\\_Rapport\\_016.pdf](http://www.observation-congo.info/documents/OL_II_Rapport_016.pdf)

<sup>95</sup> *Ibid.*

<sup>96</sup> Observation Indépendante – APV FLEGT, Report N°01/CAGDF (2014).

<sup>97</sup> The Forest Directory specifically stated, in response to the Independent Observer's report of 2014: "Pour le DF, la société ATAMA Plantation SARL, ne peut pas avoir les mêmes devoirs que les sociétés forestières. Elle est une société agricole, qui par soucis de fournir des avivés au marché local, a pensé implanter une unité de sciage pour faire de la récupération au lieu de faire périr les bois abattus. À ce titre, les observations relevées sur le terrain ne devraient pas être prises en compte" (*op. cit.*, p. 28). RFUK's translation: "in the opinion of the DF [Direction for Forests], the company

ATAMA PLANTATION SARL cannot have the same obligations as logging companies. It is an agriculture business which, looking to provide timber to the local market, thought to install a sawmill in order to recover the felled logs rather than letting them rot. In this sense, the observations coming from the field mission should not be taken into account."

<sup>98</sup> This is stated in the Article 9 of the contract and in article 9 of the 2012 Sangha permit, and article 8 for both the 2012 Cuvette and 2013 Sangha permits.

<sup>99</sup> Ministère de l'Economie Forestière et du Développement Durable, Direction Départementale de l'Economie Forestière de la Sangha (October 2012), *Rapport de mission d'inspection de chantier Atama-Plantation Sarl du 5 octobre au 8 octobre 2012 Zone 4 Epoma-Mambili UFA Ngombe département de la Sangha, Ouesso.*

<sup>100</sup> See: World Rainforest Movement (21 September 2017), "Republic of Congo: ATAMA Plantations is today a source of discontent for local communities and the entire nation," Bulletin 233, available at: <http://wrm.org.uy/articles-from-the-wrm-bulletin/section1/republic-ofcongo-atama-plantations-is-today-a-source-of-discontent-for-localcommunities-and-the-entire-nation/>

Apart from the losses the Congolese State is incurring in terms of taxes, if indeed Atama is extracting much more timber than stated and trading it without following legal procedures, these inconsistencies affect the Congolese State's credibility in legal timber supply chains. Congo was the first country in Central Africa to sign a FLEGT VPA agreement, but although it was ratified in 2013, implementation has been slow. The presence of such volumes of timber from non-conventional titles is clearly a challenge in this process, as well as other timber legality initiatives.

### The price of land: a good deal for the company

According to the terms of its contract with the Congolese State, Atama benefits from highly favourable terms including significant tax breaks, weak clauses pertaining to local development and community rights and, as explained, the ability to profit from the timber in its concession area. The extremely low ground rent imposed on the company is another of these perks.

Atama's contract sets ground rent, for the first 10 years, at XAF 2,500 (approximately £3.45) per exploited hectare<sup>101</sup>, and stipulates that rent payments should only start when the oil palms enter into production (article 17). At the end of the first period of 10 years, the government and the company undertake to agree on a new price, which may be higher "to the last known rate of inflation" (article 16). This means that, if in the future Atama exploits the full 180,000 hectares granted, the maximum land rent that the Congolese Government could charge Atama is XAF 459 million (around £632,000) per year. The price is relatively low considering the concessions represent 5.2 per cent of the country's total surface area, and when compared to the prices paid by palm oil companies in South East Asia, for instance<sup>102</sup>. However, this remains theoretical as Atama has not produced any palm oil, which would mean that the company has used the concession for seven years without paying a single franc in ground rent.

## IMAGE 4 - LOGS FROM ILLEGAL SELECTIVE LOGGING IN BLOCK 2



Source: OCDH, March 2017

### The land allocation process: how was Atama carved out of the map of Congo?

Land is undoubtedly the most precious resource and the basis of development, food security and also the cultural identity of peoples in the Congo Basin. It would thus be reasonable to expect that the granting and subsequent management of a concession of such size follows a careful procedure, as part of a national land management plan. Yet, the way that the Atama concession was allocated failed to respect legal procedures and did not follow any discernible environmental and social sustainability principles. So ill-considered was this process that large areas of the concession are not even suitable for oil palm.

### Legal irregularities and inconsistencies

The Atama case highlights several irregularities in the land concession process, as well as inconsistencies in Congolese law. The contract between the company and the State, signed in December 2010, provided express authorisation to occupy a "State-owned land reserve" (*réserve foncière de état*) of 470,000 hectares (402,637 in Cuvette and 67,363 in Sangha<sup>103</sup>). However, a presidential decree was adopted in August 2011 revising the area to be occupied to 180,000 hectares (140,000 in Cuvette and 40,000 in Sangha<sup>104</sup>). While the contract granted these rights over a 30 year period ("renewable as many times as necessary", article 50), the decree reduced the period to 25 years, also renewable (article 3).

<sup>101</sup> The contract does not specify what constitutes an exploited hectare as opposed to an unexploited one.

<sup>102</sup> In Malaysia, Atama's country of origin, and in Indonesia, the world's main palm oil producers, the average land tax is between US\$200 and US\$4,000 per hectare, per year (see for example, Schoneveld 2011).

<sup>103</sup> Article 4.2, *Contrat d'autorisation expresse d'occuper une réserve foncière de l'état, d'une superficie de 402,637 hectares situés dans la*

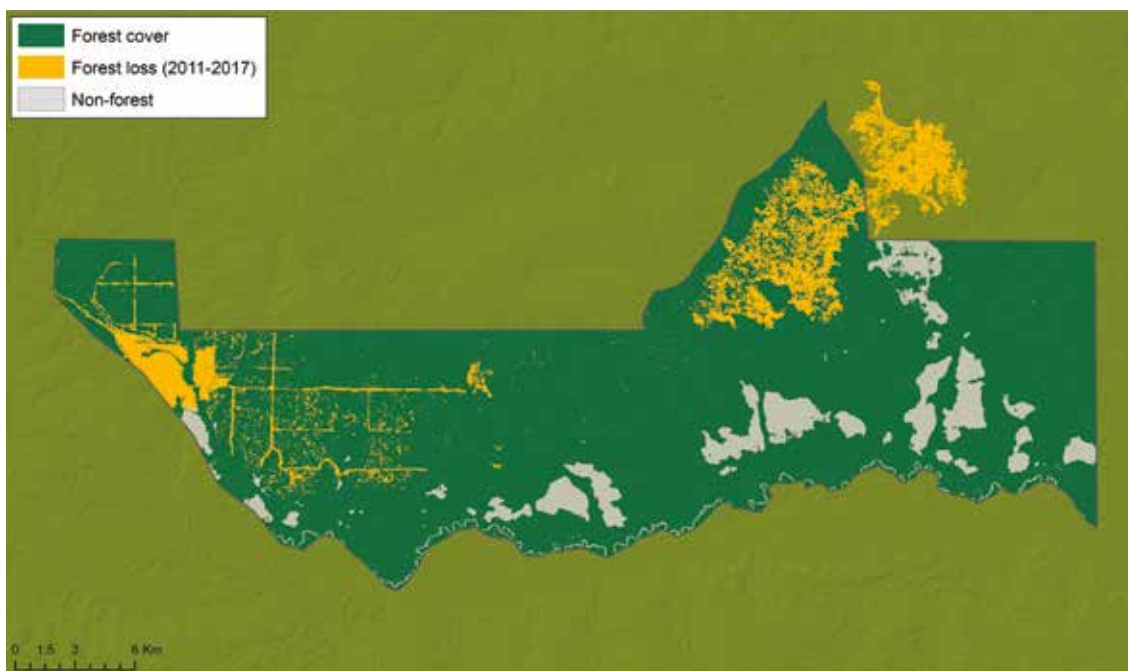
*Cuvette et 67,363 hectares dans la Sangha, en vue de la mise en œuvre des complexes agroindustriels de palmier à huile par la société Atama Plantations Sarl en République du Congo, December 2010.*

<sup>104</sup> *Décret 2011-552 du 17 août 2011 portant autorisation expresse d'occuper une réserve foncière de l'Etat dans les départements de la Cuvette et de la Sangha.*

This process reveals several irregularities:

- 1) The requirement under Congolese law<sup>105</sup> to grant a provisional authorisation which can only be extended following a “duly observed development” was not respected. All the information available confirms that no activities were carried out between December 2010 and August 2011, as all documentation of the company’s activities on the land started in 2012. Therefore, there was effectively no probationary period to enable Congo to judge the skills and capacity of its co-contractor. The fact that the plantation has not been developed to this day attests to the importance of this procedure.
- 2) The concession was granted without a prior Environmental and Social Impact Assessment (ESIA), which is in contravention of Congolese law<sup>106</sup>. Some NGO representatives in the field mentioned to RFUK that a Brazzaville firm worked on an assessment after the concession was granted, which was later rejected by the Forest authority due to its poor quality, and that, to their knowledge, no other study has been undertaken since. The company representatives we met during our field visit did not know anything about the status of the study either.
- 3) The status of “State-owned land reserve” (*reserve foncière de l’état*), which Atama was authorised to occupy, is not defined under Congolese law. It does not appear in the legal texts which are cited as the foundation of Atama’s contract and decree. As such, based on our analysis, there is no legal procedure or criteria for demarcating said reserves, or even a public map of the existing “State-owned land reserves” at the national level. Under these circumstances, this figure could become an opportunity for arbitrary land allocation at the expense of the environment and of local community rights.
- 4) A relatively minor irregularity is that while the Ministry of Finance is responsible for examining files for the issuance of authorisations to occupy public property according to current legislation, in this case it was the Ministry of Land Affairs that took charge of the procedure, as is confirmed in the preamble of the above-mentioned decree<sup>107</sup>. The reason for this is unknown, but it raises questions about the remit of each ministry in land management processes.

## FIGURE 8 - DEFORESTATION EXTENDING OUTSIDE THE BOUNDARIES OF ATAMA'S SANGHA CONCESSION



<sup>105</sup> Law N°25-2008 of 22nd September 2008 establishing the agro-land system, article 11.

<sup>106</sup> See: *Décret n° 415-2009 du 20 novembre 2009 fixant le champ d'application, les procédures de l'étude et de la notice d'impact environnemental et social.*

<sup>107</sup> See also: Client Earth (2015), p. 20.

Crucially, adding to this confusion is that the official boundaries of the concession are not publicly known. The initial agreement of 2010 covers 470,000 hectares, while a subsequent contract signed in 2011 relates to 180,000 hectares. It seems that the second figure related to the area granted specifically for planting, but it is our understanding that Atama retains rights over the entire 470,000 hectares. Official maps that RFUK was able to obtain from the Forest and Land Tenure Ministries comprise an area even larger (583,558 hectares). Other sources also differ greatly as to the size and shape of the Sangha concession<sup>108</sup>.

### Environmental sustainability

In the absence of national land-use planning, the selection of the Atama site seems to be framed by the development of the economic zone of Ollombo-Oyo, which the government aims to turn into a hub for export-based agriculture serviced by different transport links, including an airport, a river port and the national route N. 2<sup>109</sup>, and on primarily economic and political considerations. As such, and also in the absence of an ESIA, it seems that the selection of the site did not take into account environmental sustainability or suitability issues.

Whilst most of the countries in the region intend to exploit their potential in natural resources, lack of detailed knowledge of these resources poses a genuine problem. This lack of knowledge explains, in part, the transfer of land to Atama in an area considered by many researchers and experts as being unfavourable to oil palms. Almost the entire portion of Atama's concession in Cuvette (140,000 hectares) is in a flood-prone area and unsuitable for oil palm cultivation<sup>110</sup>. The company started deforestation there in 2012 but had to abandon the operation after only 23 hectares of the 5,000 hectares authorised, according to our field data. More recent satellite imagery analyses show that forest loss within that permit had reached around 57 hectares by June 2017. For a company that supposedly intended to invest hundreds of millions of

dollars, this absence of feasibility/land suitability study beforehand is startling. It may be further indication that the company never intended to make such an investment, or was possibly relying on cash flow from sales of clearance timber, which according to their reports proved to be much less valuable than they may have believed.

### The environmental importance of the forests conceded to Atama

RFUK's first report on this issue already stated the importance of the north of Congo in socio-cultural and environmental terms. This part of the country includes various HCV areas, such as the neighbouring Odzala-Kokoua and Ntokou-Pikounda National Parks, which could be affected by the company's activities and that will need to be identified and characterised in order to mitigate any impacts. In the absence of the ESIA and an Environmental and Social Management Plan (ESMP) it is impossible for us to know what measures the company should take in terms of environmental mitigation and management plans. At the time of our field research, the Wildlife Conservation Society (WCS) was conducting a follow-up inventory of the fauna in Odzala-Kokoua National Park, which includes forest elephants, gorillas and other ape species, forest buffalos and a great variety of birds. For WCS, the area allocated to Atama is a wildlife corridor (between the two parks) of several species, including elephants. It was reported to RFUK that Atama refused WCS's offer to conduct a joint inventory.

Importantly, the Cuvette concession sits on the recently documented largest tropical peatland in the world, which stores a staggering 30 per cent of all the tropical peatland carbon in the planet<sup>111</sup>. While there has not yet been any significant deforestation in this area, any in the future could have devastating effects in terms of carbon emissions, and the peatland's protection should be an international priority<sup>112</sup>. There has not yet been any deforestation in this area, but any in the future could have significant environmental ramifications. In turn, the Sangha concession

<sup>108</sup> Congo's Interactive Forest Atlas, developed by the Forest Ministry with the World Resource Institute, features a Sangha plantation of 72,970 hectares, while the Emissions Reductions Programme Document submitted to the World Bank in April 2017 mentions a concession of 56,288 hectares. The 2011 decree grants an area of 40,000 in the Sangha department, and RFUK has no knowledge of any official document that endorses any of the larger areas mentioned above.

<sup>109</sup> Cf. [http://atamaplantation.com/site/index.php?menu\\_group=1&cat=4&page=61](http://atamaplantation.com/site/index.php?menu_group=1&cat=4&page=61) and <http://www.mpzes.cg/fr-fr/Zones-Economiques-Sp%C3%A9ciales/Zones-Economiques/Oyo-Ollombo> and

<http://zes.gouv.cg/fr/zones-economiques-speciales/zones-economiques/oyo-ollombo>

<sup>110</sup> See: Gazul et al. (2015).

<sup>111</sup> Dargie et al. (2017).

<sup>112</sup> See also: *Revealed: the carbon time-bomb inside the world's largest tropical peatland*, Illegal Deforestation Monitor (1 March 2017), available at: <http://www.bad-ag.info/revealed-the-illegal-carbon-time-bomb-inside-the-worlds-largest-tropical-peatland/>



falls within the TRIDOM conservation landscape, a tri-national conservation area of crucial importance, particularly for large fauna, and in which the Sudcam plantation (see Chapter 4.1) is also located<sup>113</sup>. Both parts of the concession also overlap with what have been identified as intact forest landscapes, as can be seen in the map below.

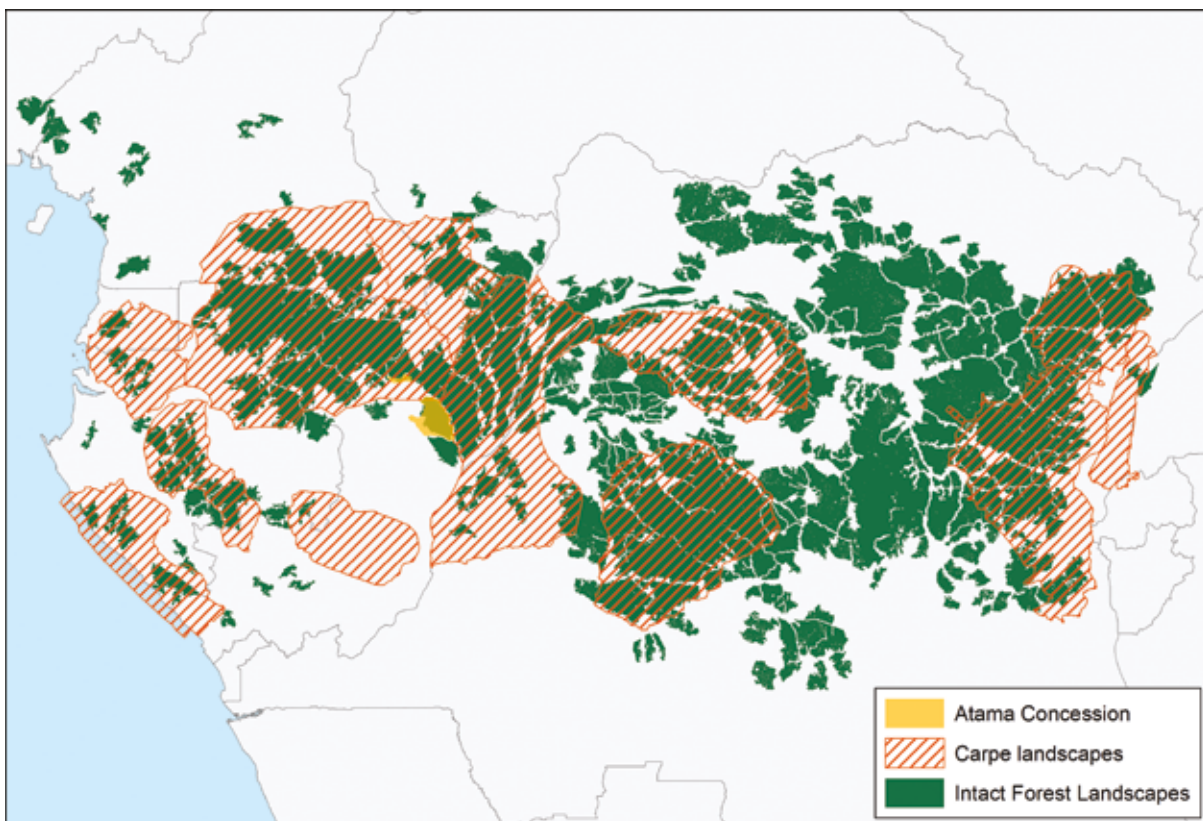
### Atama's impacts on forest communities

#### Uncertainty and conflicts over land tenure

Official documents state that 17 villages fall within the Atama concession (three in Sangha, 14 in Cuvette)<sup>114</sup>, but RFUK's mapping data suggests that the plantation may affect the land

of nearly 70 villages, whose inhabitants use their surrounding forests in a variety of ways. Local forest communities depend heavily on farming, hunting, fishing and the collection of non-timber forest products for their livelihoods, while these territories also hold their sacred and cultural sites. Congolese law recognises customary usage rights and communities' rights to forest resources, while the indigenous peoples' law of 2011 goes further in recognising indigenous peoples' ownership rights over their traditional territories<sup>115</sup>.

**FIGURE 9 - BIODIVERSITY LANDSCAPES AND THE ATAMA CONCESSION**



Source: CED, WRI and CARPE.

<sup>113</sup> For more details on this landscape see: *The forests of the Congo Basin: State of the Forest 2008*, chapter 18, available at: [http://carpe.umd.edu/Documents/2008/SOF\\_18\\_Dja.pdf](http://carpe.umd.edu/Documents/2008/SOF_18_Dja.pdf)

<sup>114</sup> *Rapport de mission de bornage de la zone du projet Atama Plantation dans le département de la Cuvette et de la Sangha, novembre 2010* [Mission report: demarcation of the Atama Plantation project area in the departments of Cuvette and Sangha, Ministry of Agriculture and Livestock, November 2010].

<sup>115</sup> Especially Law n°25-2008 of 22nd September 2008, which states, "Art. 1: sans préjudice des autres dispositions législatives et réglementaires en vigueur, la présente loi garantit la reconnaissance des droits fonciers

coutumiers... Art. 23 : outre les droits fonciers ruraux modernes, la présente loi assure la reconnaissance des droits fonciers coutumiers préexistants compatibles avec les dispositions du Code domanial.": [RFUK's translation : Art 1. without prejudice of the other legislative and regulatory provisions in force, this law guarantees the recognition of customary land rights. Art. 23. In addition to modern rural land rights, this law ensures the recognition of pre-existing customary land rights compatible with the provisions of the state-owned property code.]

In spite of this, in addition to the ESIA requirement, the livelihoods and cultural values of these villages (which can also be classed as HCV areas types 5 and 6) were not mapped or otherwise documented before the concession was granted or Atama's activities began. From the perspective of the company representatives met in the field, pre-existing land claims posed no conflict: "the land that we are occupying belonged to the State. We have not had any problems with the landowners"<sup>116</sup>. This denial of all of the communities' ownership rights is symptomatic of large land investments in the Congo Basin.

In the present case, however, it constitutes a potential trigger for a series of intra-community and extra-community disputes, or for exacerbating existing ones. Interviews with different informants (executives from the local administration, and the affected communities as well as their neighbours) found that there has been a conflict between two families over whose land on which the company's site facilities were built, with Atama having established an agreement with one over the other. There have also been reports of speculative land investments by a senior government official in the months prior to the arrival of Atama, who allegedly acquired land in the area and soon after received a sizeable amount in compensation when the concession was granted. Interviewees also mentioned that local families were progressively looking to secure their land without consultation amongst themselves<sup>117</sup>. Uncertainty about the future of the project worsens this situation, because while the site seems abandoned, the company still controls the concession.

The situation is even more concerning given that communities in the region are gradually running out of land to carry out their livelihood activities. The communities are squeezed in between forest concessions, a mining permit (exploration

permit), two protected areas and a new but growing phenomenon: plantations controlled by local elites.

### **Poor community engagement and absence of FPIC**

Based on our analyses, neither Atama's allocation procedure nor the company's installation in the area adhered to standards for consulting and obtaining FPIC from local populations, including those that are recognised by Congolese law<sup>118</sup>.

According to interviewees, between 2010 and 2012 a local government official organised awareness-raising campaigns, the explicit objective of which was to present the project as a development opportunity and a source of new employment. This cannot be considered a consultation and much less FPIC process, however, as the opinions of the concerned villages were not documented and it did not influence the negotiation or installation process in any way. None of our interviewees had any recollection of a single document shared by the company either. Importantly, an official report shows that the Atama site was demarcated on the ground in October 2010, that is, two months before the concession was even granted, and the demarcation mission did not include any kind of meeting with local communities, be it for information, consultation or data collection purposes<sup>119</sup>.

Further proof of the virtual lack of engagement of local communities is the information and understanding they have about the project (one of the key components of FPIC). In order to assess the extent of the local communities' knowledge of the project our research team performed a simple survey based on eight criteria including the surface area, the origin of the company, the date in which the concession was granted and potential impacts<sup>120</sup>. We found that knowledge of this information was sparse and piecemeal albeit slightly less so in the villages of Yengo-Mambili and Epoma already affected by the

<sup>116</sup> Interview with the site director, Yengo-Mambili.

<sup>117</sup> Our interviewees recounted two examples of these actions. First, a group of families in the department of Sangha asked the municipal authority to sign the minutes of a meeting they held to describe and proclaim their customary rights over certain area. Second, another group of families developed a hand drawn map of their own territories, which partly overlap those of neighbouring groups.

<sup>118</sup> National laws and various international instruments ratified by Congo recognise the right to consultation and information as a means to avoid the negative impacts of external projects on the populations. The relevant instruments in this context are the Congolese regulations pertaining to social and environmental impact studies, which stipulate

that investigations, meetings and public consultations on the project must be conducted as a condition for authorisation, as well as the 2011 indigenous peoples' law and international and african human rights conventions.

<sup>119</sup> See: Ministry of Agriculture and Livestock, Mission report, *op. cit.*

<sup>120</sup> The eight surveyed questions were: 1. Company name; 2. Negotiation process for the allocation of land; 3. National origin of the company; 4. Main activities of the company; 5. Project start date, 6. Surface area; 7. Expected benefits for third parties; and 8. Potential negative impacts.

project. Some striking findings include that none of the interviewees had even the faintest idea as to the surface area granted to Atama<sup>121</sup> or that the company was Malaysian; apart from their potential loss of land, communities were not aware of any other expected impact which could severely damage their quality of life, such as pollution of water sources, degradation of soil and air quality or reduction in available game due to deforestation. They possessed very few details regarding their rights, as they were not even able to mention the company's obligation to leave a 3 to 5 kilometre buffer zone (or "community development area") between the plantation and community lands<sup>122</sup>. For comparison, in a survey carried out among another three stakeholder groups, namely the central and local administration, civil society and company employees, all possessed considerably more detailed knowledge of the project.

### What are the benefits for the local population?

Atama's contract is exceptionally weak in terms of the rights of local people, stating, for example that the company cannot oppose village oil palm plantations being established in the area that has been granted to it "as long as these initiatives do not harm the company's activities" (article 4)<sup>123</sup>, and that it should "promote, wherever possible and without it hindering its management, certain social actions for neighbouring rural populations" (article 14, paragraph D)<sup>124</sup>. The "*cahier de charges*" (or annex to the contract that sets out specific terms and conditions for the company) goes a little bit further in citing that the company commits to certain socio-economic development actions, including: support to agricultural and pastoral production activities; supplying medicines to local clinics; providing supplies to local schools; maintaining roads and water sources; and leaving a community development zone of a radius of between three and five kilometres around villages (article 11).

At the time of our field visit, no support to agricultural production was reported by any of the stakeholders interviewed by the research team, nor was there any evidence that the company carried out the village mapping that would be necessary to define the "development zones". Since the palm oil project is at present virtually abandoned, it is safe to assume that this situation remains unchanged to date. The company did build a temporary clinic for its workers so that they could receive free primary health care and our field investigations did show that roads around the concession were indeed maintained. However, in the absence of a detailed socio-economic study of the area, it is hard to see how the company could fulfil these obligations in a systematic rather than sporadic way. Significantly, none of the villages visited had negotiated a specific contract, compensation or any form of benefit-sharing plan with the company.

On the employment front, the figures brandished by the company in 2012 were around 20,000 new jobs by the time the project was completed. Today, Atama is no closer to fulfilling this promise. At the time of our investigations, the number of people employed was below 200<sup>125</sup>, of which only 25 were under permanent contracts. At the end of 2017, Atama only employed 15 people, according to a company official<sup>126</sup>. According to the stakeholders interviewed, the quality of employment significantly deteriorated, with temporary workers being paid roughly XAF 3,000 per day (approximately £4.10), compared to the XAF 20,000 (£27.50) they received when the company first arrived. Several employees were interviewed whose contracts had not been renewed and were subsequently engaged on a day-to-day basis. While the company did not confirm or deny the information pertaining to the decrease in salary, it did confirm that roughly 80 per cent of its staff had temporary or short-term contracts. All of these problems led to the Atama employees going on strike in June 2014.

<sup>121</sup> Only one out of 143 people could provide an actual figure, mentioning the 5,000 ha comprised under the Sangha deforestation permit, which evidently is nowhere near the concession area as such.

<sup>122</sup> Article 11 of the "*Cahier de Charges*", which sets out the specific conditions Atama must fulfil under its contract.

<sup>123</sup> "*Toutefois, dans le périmètre ci-dessous défini, la société ne pourra pas s'opposer à des initiatives des populations rurales existantes, destinées à créer des plantations villageoises de palmier à huile dont l'huile de palme sera extrait par des moyens artisanaux dès lors que ces activités*

*ne portent pas préjudice aux activités de la société"* (Contract, article 4, paragraph 4.1).

<sup>124</sup> "*promouvoir dans la mesure du possible et sans que cela ne porte préjudice à sa gestion, à quelques actions sociales à l'endroit des populations rurales avoisinantes"* (Contract, article 14 paragraph D).

<sup>125</sup> The company did not provide a precise figure on this issue. However, it indirectly indicated that the number of current jobs revolves around 175 employees. Figures obtained from other actors are of the same order.

<sup>126</sup> Field mission by OCDH, December 2017.





A black and white photograph of a woven basket filled with mussels, resting on a sandy surface with some sticks. A large, semi-transparent green rectangular area is overlaid in the center of the basket, containing the text '5. CONCLUSIONS AND RECOMMENDATIONS' in white, bold, sans-serif font.

# 5. CONCLUSIONS AND RECOMMENDATIONS

A 2008 editorial talking about the arable “land grab” phenomenon that peaked in Sub-Saharan Africa that year foretold that:

**...MANY LOCAL COMMUNITIES WILL BE EVICTED TO MAKE WAY FOR THE FOREIGN TAKEOVER. THE GOVERNMENTS AND INVESTORS WILL ARGUE THAT JOBS WILL BE CREATED AND SOME OF THE FOOD PRODUCED WILL BE MADE AVAILABLE FOR LOCAL COMMUNITIES, BUT THIS DOES NOT DISGUISE WHAT IS ESSENTIALLY A PROCESS OF DISPOSSESSION. LANDS WILL BE TAKEN AWAY FROM SMALLHOLDERS OR FOREST DWELLERS AND CONVERTED INTO LARGE INDUSTRIAL ESTATES CONNECTED TO DISTANT MARKETS<sup>127</sup>.**

Sadly, a decade on, this is precisely the picture that current agro-industrial plantations are painting in the map of Central Africa, with the added nuance that some of those responsible for the takeover are not foreign, but local investors. The three case studies show that the governments of the two countries concerned are handing out valuable resources in a context of opacity, opportunism and disrespect for the law, to the detriment of the rainforest and the people that depend on it. It remains at best highly questionable that these projects will spur sustainable development or even compensate for their impacts on local livelihoods, while the destruction of natural resources that these projects will bring remains largely unaccounted for. However, these developments are still at an early stages, and the Congo Basin still has time to learn from the experience of Indonesia and Malaysia.

The following recommendations are guided by the overarching conviction that agricultural development should uphold rather than threaten forest peoples’ rights and livelihoods, protect the environment, and truly benefit national interests. As such, our recommendations follow the following themes: improving land governance; realising forest peoples’ rights, which includes catering to their development needs and aspirations; adopting environmental protection policies; improving transparency throughout the whole process; and setting out more specific and stringent obligations for both the companies and the state.

### **Recommendations to Congo Basin governments**

Without being exhaustive, our recommendations fall within three main themes, all of which have direct implications for the cross-cutting and fundamental objective of improving forest peoples’ rights.

#### **1. Improve land and natural resource governance**

- Develop a clear and transparent palm oil policy that is fully in line with a national land-use planning process. As part of this work, consider alternative models to industrial-scale plantations, including promotion of smallholder production.
- Agro-industrial plantations should only be granted in accordance with a participatory land-use planning process that incorporates customary land tenure and communities’ own development plans.
- Invest in research and inform the land-use planning process with appropriate data – including data about forest peoples’ customary lands and livelihood activities and detailed ecological attributes of rainforest lands – and rule out areas which are already occupied or which hold high conservation value. If necessary, require prospective investors to undertake this work before any concessions are granted, even on a temporary basis.
- Commit to enforcing FPIC of forest and indigenous communities, as the key practical means to realise their basic rights, adopting

<sup>127</sup> Branford (22 November 2008), “Food crisis leading to an unsustainable land grab,” *The Guardian*, available at: <https://www.theguardian.com/environment/2008/nov/22/food-biofuels>



necessary legislation and procedures and determining specific ways to fund this.

- Ensure that FPIC processes are led or at least audited by third parties with no vested interests in the projects, to ensure neutrality and the provision of unbiased information, including the negative impacts of the proposed development.
- Adopt specific legislation and standards to uphold the rights of indigenous peoples, particularly in accordance with international agreements and standards.
- Adopt specific commitments to ban oil palm development in areas of high conservation value (including those of cultural and socio-economic value) and explore alternatives, such as developments in degraded lands.
- Clarify the legal uncertainties concerning conversion timber and subject agro-industrial companies to the same conditions imposed on logging companies in terms of Environmental Impact Assessment requirements, taxation and added value and employment creation.
- Clarify and harmonise land laws and the land allocation procedure, including the specific role of different ministries in each step of the process.

## **2. Assess proposed agro-industrial projects based on a rigorous calculation of their real costs and benefits**

- Commit to enforcing the requirement of developing an ESIA before considering any land allocation for agro-industrial projects, and develop specific criteria and quality standards that these ESIA's need to meet, including genuine participation of civil society in the process.
- Develop and implement tools to measure and quantify the livelihood costs of industrial plantations over forest communities and compare this to expected benefits over time.
- Develop rigorous criteria to determine adequate compensation and benefit-sharing schemes based on this.
- Develop and implement tools to calculate the economic costs of environmental destruction associated with agro-industrial plantations.

- Include in these assessments a serious comparison with alternative scenarios, e.g. refusing the project all together, downscaling it, moving it elsewhere, etc.
- Adopt clear and transparent criteria relating to tax breaks, ground rent prices and other incentives that companies might benefit from, and factor in potential gains from conversion timber.
- Publish and disseminate the results of the cost-benefit analysis before making any deals with project promoters and include this information in the FPIC process.
- Ensure that civil society and, in particular, potentially affected communities have access to this information and are able to participate effectively in the decision-making process before any deals are made, in accordance with FPIC and public participation standards under international law.

## **3. Increase oversight and control over the process as a whole, from site pre-identification to daily operation**

- Undertake a thorough review of the legal compliance of existing plantations and commit to penalising or even cancelling those in breach of their obligations.
- Adopt stronger legal requirements for transparency and access to information throughout the whole process of land allocations, including the contracts signed with developers.
- Ensure, through strict enforcement, that investors prove their ability to meet contractual commitments before granting any long-term concessions (this is particularly urgent in the Atama case, as explained previously).
- Adopt specific measures to fulfil human rights obligations and require companies' adherence to international business and human rights standards.
- Establish a monitoring system that is frequent and impartial to review company's adherence to legal requirements, human rights principles, labour law, environmental regulations, conversion timber management, their own management plans, inter alia. Publish the results and adopt a credible sanction system.

- Facilitate and provide protection to independent monitoring missions from civil society, international organisations or other relevant parties.
- Adopt concrete measures to provide support to local communities throughout the process, including the pre-project FPIC, negotiating compensation and benefit sharing measures, as well as establishing and using grievance mechanisms.
- Analyse ways in which the project itself can contribute to the costs of increased monitoring.
- Support and protect local whistle-blower and devise ways to expose and denounce corruption and other forms of malpractice without endangering vulnerable stakeholders.
- Provide technical inputs including, inter alia, specific ways to implement FPIC, participatory mapping and land-use planning, legal analyses and proposed reforms.
- Promote actions to raise consumer awareness and reduce demand.
- Provide tools and facilitate exercises through which communities can visualise and calculate the value of their land and of their forest resources, as well as plan for future scenarios, in order to contribute to their informed participation during negotiations with companies.

### Recommendations to civil society

- Ensure that international campaigning on oil palm and agro-industrial development supports concrete local struggles.
- When working with local community organisations, emphasise capacity-building and awareness-raising and endeavour to provide long-term support, including legal action where relevant, taking into account the threats that communities face throughout the whole life-cycle of agro-industrial plantations.
- Assign resources to support communities in their negotiations and continued dialogue with companies.
- Promote synergies between environmental and human rights causes, ensuring that environmental protection goals, such as “zero deforestation” campaigns or conservation initiatives are in line with forest peoples’ rights and aspirations.





### Recommendations to companies

- Commit to undertaking rigorous and independent environmental and social impact assessments, human rights due diligence and FPIC processes and refuse to develop plantations in primary forests, areas of high conservation value, and customary lands without genuine FPIC.
- Adhere to international business and human rights principles and adopt a mechanism to monitor compliance, allowing for independent scrutiny.
- Adopt human rights and environmental protection principles that go beyond RSPO requirements.
- In particular, adopt a clear and transparent FPIC policy and provide FPIC training to all relevant staff. Ensure that information provided to local communities is made available in the appropriate local language and through a culturally appropriate method and that communities have sufficient time to react to consultations following their own decision-making procedures without external influence.
- Where relevant, play a more vocal and active role in pushing for increased support or engagement of the state in recognising community tenure.
- Adopt organisational policies for environmental protection in accordance with the highest international standards, and commit to the protection of areas of high conservation value and high carbon stock, according to the High Carbon Stock Approach (HCSA).
- Publish plans for social development, and for environmental management and mitigation and allow for external scrutiny of these.
- Adopt more ambitious local development and social responsibility commitments, including supporting local communities to fulfil their rights. For instance, assess the possibility of supporting communities to obtain land titles according to their customary tenure arrangements. Commit both financial resources and political capital to these kinds of initiatives.
- Implement tools to systematically measure the socioeconomic and overall welfare impact of the project on local communities and publish the results.

### Recommendations to RSPO and other relevant initiatives

- Analyse ways to promote increased State accountability in agro-industrial oil palm developments, especially where company action is not enough to ensure positive social and environmental outcomes.
- Strengthen the monitoring system, ensuring it is independent and frequent enough, covering the period before the beginning of implantation. For instance, require written proof that the FPIC process has been led by a neutral third party and/or that it is independently audited.
- Develop stricter guidance and criteria for the development of Environmental and Social Impact Assessments.
- Adopt more rigorous requirements for the identification and protection of High Carbon Stock areas.
- Adopt requirements to measure and report on the socio-economic and welfare impacts of the plantation, requiring the production of a rigorous baseline at the set up stage.
- Adopt concrete ways to support increased participation from civil society and local communities, including ensuring that relevant company information is available in local languages and not only in English, as well as adopting specific ways to include community participation during the New Planting Procedure notification consultation period.
- For the Forest Stewardship Council (FSC), enforce deforestation threshold obligations for companies working in both the forestry and agro-industrial section.



### Recommendations to donor countries and international organisations

- Increase oversight of agro-industrial expansion in the Congo Basin and publish any findings, including, for example: promoting greater scrutiny of conversion timber within FLEGT VPA processes; ensuring strict implementation of social and environmental safeguards where loans from international financial institutions are involved, or conducting rigorous analysis of agro-industrial expansion as a driver of deforestation in the context of REDD+.
- Where necessary, take serious cases to the appropriate international human rights bodies, including promoting missions by the UN Special Rapporteurs on Business and Human Rights, Human Rights and the Environment and Indigenous Peoples and submitting reports to the Human Rights Council and subsidiary bodies and the African Commission on Human and Peoples' Rights.
- For countries where agro-industrial companies are based, take action to hold these companies accountable in national courts for their wrongdoing in palm oil-producing countries.
- Increase support to initiatives aimed at improving land and natural resource governance, and in particular those aimed at promoting more secure land tenure, in accordance to land tenure indicators under the Sustainable Development Goals, the FAO Voluntary Guidelines on the Responsible Governance of Tenure and the African Union Framework and Guidelines on Land Policy in Africa.
- Provide support and protection to those exposing corruption and malpractice in the sector, including civil society and journalists. More generally, direct development assistance funds towards building the capacity of civil society organisations and enhancing participation.

- Clamp down on wrongdoing within respective jurisdictions, including banning imports from illegal timber and increasing scrutiny over financial transactions related to questionable projects.
- Target development assistance towards supporting environmentally sustainable small-holder production and other viable alternatives to the industrial-scale model prevalent today.
- For organisations and initiatives promoting REDD+ in the Congo Basin, and in particular the Central African Forest Initiative (CAFI) and the Forest Carbon Partnership Facility (FCPF), ensure that agro-industrial development is consistent with national commitments under REDD+, including by channelling financial support to this effect.
- Further analyses on the potential of small-holder production as a means to spur sustainable local development and food security, and production of concrete recommendations to promote this approach.
- Further studies on the indirect impacts of agro-industrial development including, among others, the impacts of migrant workers on local communities and environments, changes to food prices and food security, and changes in gender and health dynamics.

### Recommendations for future research

Apart from the analyses and studies recommended above, this investigation identified the following knowledge gaps:

- Based on experiences in Central Africa, analyse and quantify the risks and costs of not securing FPIC from local communities and not complying with other human rights and environmental protection principles, including attempting to operate in lands with pre-existing land claims and/or harbouring high conservation values.
- Conduct a structural analysis of transparency legislation, institutions and practice in Congo Basin countries, particularly as it relates to land allocation and business practices, and provide concrete recommendations for legal and policy reform.
- Detailed studies of likely impacts on water quality and availability aimed at protecting local communities' access to water and avoiding pollution or overexploitation of water resources.
- Adaptation of initiatives such as the high carbon stock approach to the Congo Basin context, including a thorough analysis of local populations' occupation and dependence on "degraded" lands and developing requirements to protect local peoples' land rights even in non-HSC areas.



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# ANNEX 1: DEFORESTATION ANALYSIS

RFUK carried out analysis using the Hansen Global Forest Change dataset across the three plantations for the period 2001 to 2017.

## 1. ATAMA

The Atama plantation was approved in 2011. Starting in 2012, annual forest loss in the Sangha area increased more than tenfold. Most of the deforestation in the Cuvette area is confined to the periphery, but there is some deforestation in the centre of the concession too. The deforestation in the Cuvette is likely not attributable to Atama, which is not known to be active in the area.

Atama Concession		
	Sangha Total	Cuvette Total
Total area (ha)	58,671	520,770
Forested area (ha)	53,812	454,291
Year	Forest loss (ha)	Forest loss (ha)
2001-2009 (annual average)	11	134
2010	13	741
2011	8	230
2012	164	390
2013	1056	494
2014	158	428
2015	195	147
2016	2477	284
2017	143	268
Total forest loss (ha)	4317	4191
Remaining forest area	49,495	450,100

## 2. SUDCAM

While no discernible deforestation occurred until 2012-2013, forest was cleared consistently after this. Block One (Meyomessala), where the plantation is already well developed, shows the greatest forest loss. Most of the forest in this area had been lost by 2017, with deforestation also occurring outside the concession's boundaries.

Sudcam Concession			
	Sudcam Block One	Sudcam Block Two	Sudcam Block Three
<b>Total area</b>	8,200	36,998	30,554
<b>Forested area</b>	8,168	36,845	30,333
<b>Year</b>	<b>Forest loss (ha)</b>	<b>Forest loss (ha)</b>	<b>Forest loss (ha)</b>
2001-2009 (annual average)	5	1	5
2010	3	1	6
2011	35	2	2
2012	399	13	17
2013	1157	44	37
2014	904	92	50
2015	2842	119	11
2016	446	959	151
2017	34	2315	155
<b>Total forest loss (ha)</b>	<b>5866</b>	<b>3555</b>	<b>470</b>
<b>Remaining forest area</b>	<b>2,302</b>	<b>33,290</b>	<b>29,863</b>

### 3. GREENFIL

Deforestation occurred consistently over the five years covered in the study, with over 1,000 hectares of forest lost in total. Most of it happened in the north-eastern half of the concession. Thirty-five kilometres of road were also developed within the concession over the time of the study.

<b>Greenfil Concession</b>	
<b>Total area</b>	34,404
<b>Forested area</b>	32,501
<b>Year</b>	<b>Forest loss (ha)</b>
<b>2001-2009 (annual average)</b>	10
<b>2010</b>	15
<b>2011</b>	10
<b>2012</b>	43
<b>2013</b>	40
<b>2014</b>	91
<b>2015</b>	30
<b>2016</b>	293
<b>2017</b>	1134
<b>Total forest loss (ha)</b>	<b>1748</b>
<b>Remaining forest area</b>	<b>30,753</b>



## DATA SOURCE AND METHODOLOGY

The analysis used Hansen et al. (2013) Global Forest Change (GFC) data in conjunction with Google Earth Engine to calculate forest cover for the period 2000-2017. The GFC data provides estimates of forest extent in the year 2000, as well as the gain and loss events that occurred up to 2017 (as of version 1.5). The dataset is the result of time-series analysis of Landsat imagery and has a resolution of 30 metres, with each pixel representing an area of 900m<sup>2</sup>.

The Global Forest Change dataset is composed of several datasets. The two datasets we focused on were:

- **Tree canopy cover for year 2000 (forestcover2000):** Tree cover\* in the year 2000, defined as canopy closure for all vegetation taller than five metres in height. Encoded as a percentage per output grid cell, in the range 0-100.
- **Year of gross forest cover loss event (lossyear):** Forest loss during the period 2000-2017, defined as a stand-replacement disturbance, or a change from a forest to non-forest state. Encoded as either 0 (no loss) or else a value in the range 1-17, representing loss detected primarily in the year 2001-2017.

To distinguish between areas of forest and non-forest a threshold of 70% was applied to the Forest Cover 2000 dataset. Any pixels less than 70 were defined as non-forest and pixels greater than 70 as forest.

The area of forest lost per year was calculated for each concession by aggregating and summing the pixels by year (each year indicated by a value from 0-17). Pixel numbers were then converted into area by multiplying number of pixels by pixel size.

These results are provided as an estimate. We are aware of known issues related to the Hansen GFC datasets, in particular when interpreting the version 1.5 updated data for 2011–2017 with earlier versions of the data for 2000-2012.

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