

# Exploitation and Empty Promises

## Wilmar's Nigerian land grab

FRIENDS OF THE EARTH US, ENVIRONMENTAL RIGHTS ACTION NIGERIA



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# Executive Summary



Map of Nigeria. Wilmar plantations in Cross River State are indicated by red dots.



# Executive Summary



Wilmar's Ibiae Plantation, Cross River State, Nigeria, May 2015

# Executive Summary

Although the oil palm tree is native to West Africa, where its fruit is widely used in local cultures for food, medicine, and other needs, the global expansion of this crop in recent decades has largely centered on Southeast Asia. But in the words of a recent article from the *New Scientist*, “Now the prodigal plant is coming home.”<sup>1</sup>

Nigeria is a key frontier country for palm oil expansion. Since 2010, Wilmar International has acquired thirty-thousand of hectares of land for palm oil plantations in southeastern Nigeria,<sup>2</sup> and the company plans to expand its Nigerian land bank to hundreds of thousands of hectares. Like similar land acquisitions across the globe, Wilmar’s plantations have yet to produce the promised economic benefits for local people; and like similar land acquisitions across the globe, the process has generated concern, conflict, and resistance. This report is an initial effort to open this land acquisition to international scrutiny.

This report, based on research, testimony, the company’s own studies, and the experience of campaigners and communities in Nigeria, finds that Wilmar’s operations in Cross River State have:

- › failed to meet the company’s obligations to gain the Free, Prior and Informed Consent of communities directly affected by its operations;
- › taken advantage of local power dynamics to bypass best practices in community consultation;
- › failed to produce adequate Environmental and Social Impact Assessments and to make them available to all stakeholders;
- › failed to live up to promises of infrastructure development and benefit sharing, despite these promises being a primary incentive for local stakeholders;
- › destroyed areas of High Conservation Value, including food-producing areas and water sources essential to local communities;
- › purchased a concession that encroaches on Cross River National Park and other forest reserves, leading to deforestation within these reserves and the threatening of endemic and endangered species.

These cases, along with the troubled environmental and social track record of the palm oil industry in Southeast Asia where palm oil expansion has led to widespread destruction of forests, biodiversity, and communities, and the current policy regime in Nigeria, with its emphasis on promoting large-scale agriculture investment and weak land rights for communities, suggest that palm oil expansion in Nigeria will create similar devastating impacts.

This report therefore recommends the following:

- › Wilmar should halt its Nigerian expansion plans effective immediately;
- › the Nigerian government should encourage and incentivize small-holder agricultural production and undertake a process of reforming its land tenure systems to prevent the dispossession of rural communities, in line with the

FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security;

- › financiers of and buyers from Wilmar International should be aware that the palm oil sector is rife with high environmental, social and governance risks that cannot be sufficiently addressed by voluntary codes of conduct, and should approach palm oil, if at all, as a high-risk investment requiring strict business selection criteria and enhanced due diligence;
- › the international community should support the United Nations Human Rights Commission resolution adopted in June 2014 calling for a binding treaty to prevent and redress human rights violations arising from the operations of transnational corporations.



# Introduction and background

# 1



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Oil palm fruit clusters waiting to be collected for processing. Originally a wild African palm, oil palm has returned “home” to Central Africa and the Congo Basin from Indo-Malaysia in an alarming fashion, impacting thousands of villagers, wild species and entire ecosystems.



Although the oil palm tree is native to West Africa, the global expansion of this crop in recent decades has largely centered on Southeast Asia, where palm oil plantations have been responsible for widespread devastation of forests and biodiversity, with accompanying social and cultural destruction. But in the words of a recent article from the *New Scientist*, “Now the prodigal plant is coming home.”<sup>3</sup>

“The boom in South-East Asian oil-palm cultivation has hit a stumbling block owing to a diminishing supply of new agricultural land. This, combined with economic incentives such as cheap labour, attractive land acquisition terms and low taxes, has seen foreign agribusinesses converting large tracts of land in west and central Africa to grow oil palm.”<sup>4</sup>

Nigeria, in West Africa, is the global center of origin of African oil palm (*Elaeis guineensis*), and continues to be fertile territory for palm oil cultivation.<sup>5</sup> Undertaken by smallholder farmers at a reasonable scale and with proper attention to social, environmental and labor standards, palm oil could provide an important livelihood for significant numbers of people and support local food sovereignty, as it has in the past.<sup>6</sup>

This report seeks to examine the impacts of Wilmar’s plantations on forests, biodiversity, and community livelihoods. It investigates Wilmar’s efforts in Nigeria to comply with environmental and social standards and laws, including the company’s No Deforestation, No Peat, No Exploitation policy,<sup>7</sup> announced in late 2013. Finally, it explores what Wilmar’s current practices suggest for the future of palm oil expansion in Nigeria, particularly as it impacts communities and the environment.

### 1.1 Land tenure and agriculture policy in Nigeria

The industrial-scale expansion of palm oil in Nigeria unfolds in a context of post-colonial land tenure rules, where most land in rural areas is managed according to customary land tenure regimes, but much of the land is owned *de facto* or held in trust by the government. Some 97 percent of Nigeria’s land mass is undocumented,<sup>8</sup> and the vast majority of land users have no individual or collective title to the lands they cultivate.

This situation creates widespread vulnerability and legal uncertainty, where rights-holders have little or no access to legal remedy, little power to negotiate just or adequate compensation for lost lands and livelihoods, and little ability to capture the economic benefits of development.

In addition, Nigeria became one of ten African countries that have signed on to the New Alliance for Food Security and Nutrition. Launched in 2012, the Alliance is the G8 countries’ main strategy for supporting agriculture in Africa, which focuses on mobilizing large scale foreign investment in the agricultural sector. G8 states have committed \$4.4 billion to the 10 countries of the New Alliance.<sup>9</sup>

Nigeria’s implementation of its New Alliance commitment involves the allocation of 350,000 hectares of land to eight New Alliance companies, including Wilmar,<sup>10</sup> as well as the promotion

of “staple crop processing zones” (SCPZs), where investors are “guaranteed land acquisition”, benefit from “low average wages”, and are given tax holidays<sup>11</sup> in a process designed to “make it easier to do business in Nigeria.”<sup>12</sup> Under the New Alliance, some 21 Nigerian and 14 international companies have signed letters of Intent to invest in Nigeria.<sup>13</sup> According to the New Alliance’s 2014 Progress Report, these companies have made commitments to invest \$3.8 billion, with \$611 million invested so far.<sup>14</sup> In addition, the G8 states have committed some \$455 million to Nigeria under the New Alliance.

### The New Alliance for Food Security and Nutrition

The stated goal of the New Alliance is to end hunger, but the approach it takes – increasing foreign investment in private sector initiatives – is part of a drive to secure larger agricultural markets and sources of supply in Africa for multinational corporations, which may be counter-productive to that goal.<sup>15</sup> Companies involved in the New Alliance include Monsanto, Diageo, SABMiller, Unilever, Syngenta, and PZ Wilmar, all of which have major commercial interests in Africa and enjoy close connections with Northern governments.<sup>16</sup>

A recent briefing by Action Aid expresses concerns that the focus of the New Alliance on deepening the role of corporate agribusiness in African agriculture will do more harm than good to small-scale food producers.<sup>17</sup>

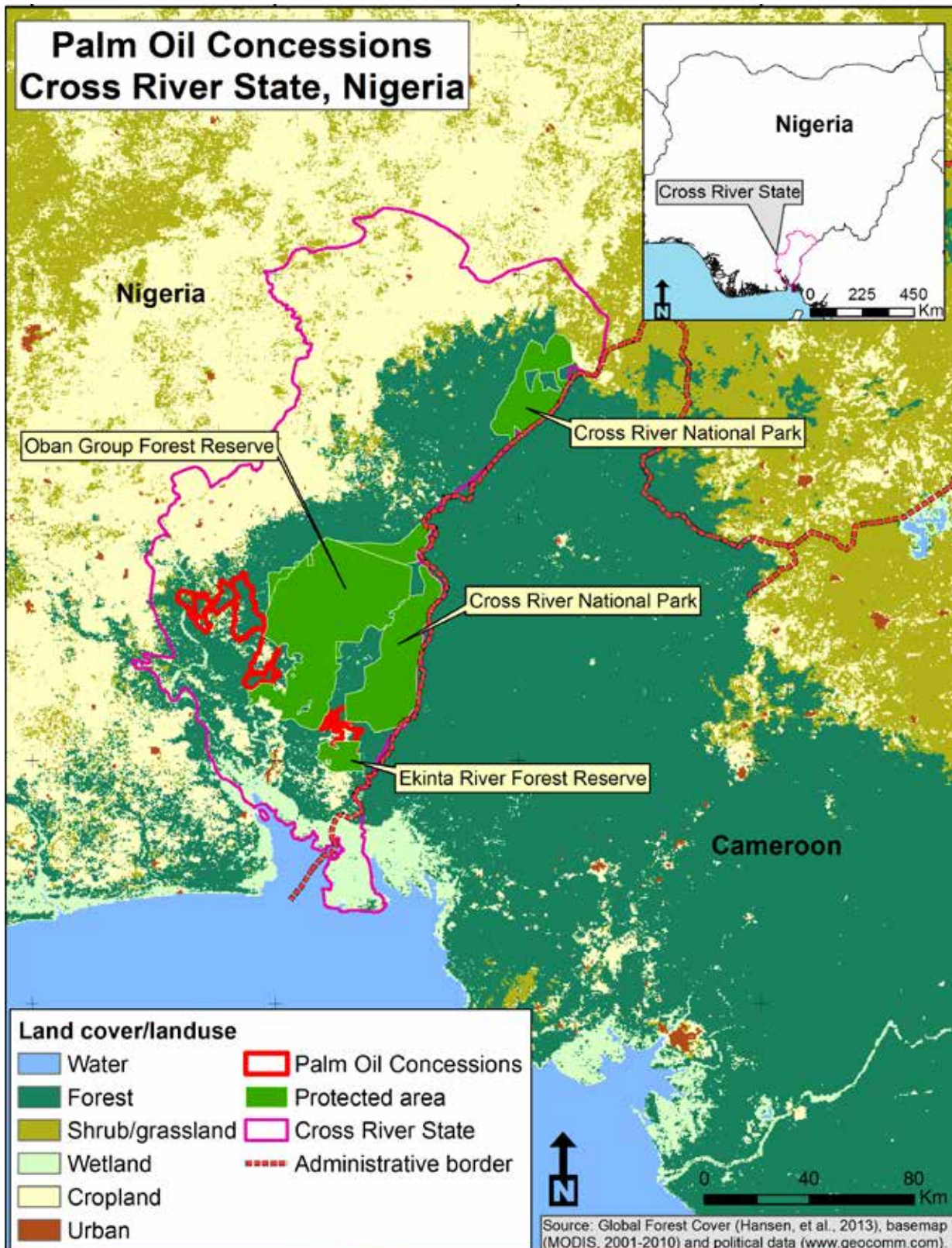
*In the words of Action Aid: “Policies enacted through the New Alliance do not suggest that small-scale food producers or women are at the centre of government land policies. Rather, New Alliance and related policy reforms are largely providing an enabling environment for big business to access natural resources. The New Alliance is increasing the risk of land grabs while undermining land rights and land tenure, endangering the right to food for many and further marginalising small-scale producers and women.”<sup>18</sup>*

# Introduction and background



Farmers protesting Wilmar's destruction of their lands, near Ibogo Village, Cross River State, May 2015.





*PZ Wilmar concessions in Cross River State showing proximity to Cross River National Park. Source: Friends of the Earth/Urness, Teaby, 2015*

# Introduction and background

## 1.2 Wilmar International and PZ Wilmar

Wilmar International<sup>21</sup> based in Singapore, is one of the world's largest palm oil plantation owners, traders, and processing companies. The company is a member of the Roundtable on Sustainable Palm Oil and claims it is committed to a responsible plantation management approach that enables the company to enhance natural biodiversity without compromising plantation yields or profitability. But the company's record shows otherwise; in 2011 and 2012, the company was named by Newsweek as the world's least sustainable company.<sup>22</sup>

Following persistent negative publicity and ongoing campaigns by environmental groups, in late 2013, Wilmar announced a No Deforestation, No Peat, No Exploitation policy.<sup>23</sup> The policy appears to be a ground-breaking commitment to eliminate all forest destruction and human rights abuse from its supply chain.

Wilmar has committed to fully implementing its No Deforestation, No Peat, No Exploitation policy by December 2015. In a significant effort to take steps to address the concerns of buyers, financiers and NGOs, the company has launched a website devoted to providing maps of its supply chains, records of its stakeholder engagement and a grievance mechanism.<sup>24</sup>

In 2011 and 2012, Wilmar purchased several plantation sites in Cross River State, Nigeria. These land purchases were part of Cross River State's efforts to court "high capacity" foreign investors<sup>25</sup> to revive its flagging plantation economy. Wilmar's new Nigerian holdings include the plantations of Biase, Ibiae, and Calaro (totaling 19,173 hectares)<sup>26</sup> all purchased from the Cross River State Privatisation Council,<sup>27</sup> as well as the Obasanjo concessions (totaling 10,791 hectares)<sup>28</sup> which Wilmar bought from former president Olusegun Obasanjo in 2012.<sup>29</sup> Together these plantations form a joint venture between Wilmar and the British food commodity firm PZ Cussons.<sup>30</sup> The joint venture, PZ Wilmar Ltd, has built a state-of-the-art palm oil refinery in Lagos State,<sup>31</sup> and plans to grow a branded product company called PZ Wilmar Food Ltd. with plans to sell its palm oil primarily to the domestic market.<sup>32</sup>

According to a November 2014 article in *Businessday*<sup>33</sup> PZ Wilmar's investment of \$165 million USD to develop the current 26,000 hectares of palm oil plantations is only the beginning. In 2014, Tunde Oyelola, vice chairman of PZ-Wilmar, announced the company's plans to "aggressively expand the nation's palm oil production to 240,000 hectares of plantations, employing over 250,000 within five to six years."<sup>34</sup>

PZ-Wilmar says its goal is "to support the development of a sustainable, profitable and self-sufficient palm oil industry in Nigeria".<sup>35</sup> The company's plan is in concert with Cross River State's active promotion of private sector investment to restore its agricultural economy,<sup>36</sup> and is strongly supported by the state's Privatisation Council, established in 2010, whose role is to facilitate foreign direct investment in the state.<sup>37</sup>

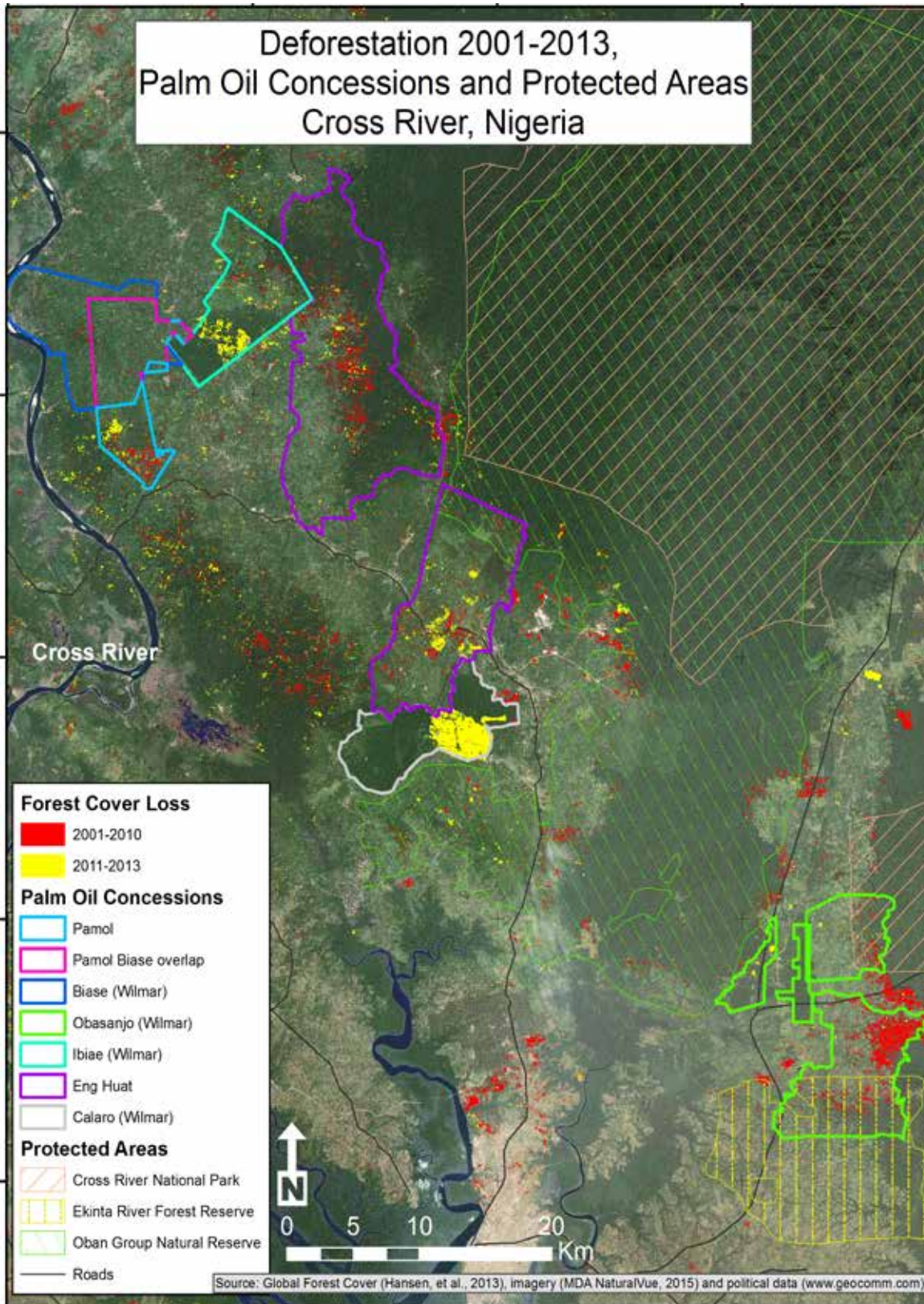
PZ-Wilmar's plantations in Nigeria also form part of the country's

commitments as part of the G8 New Alliance for Food Security and Nutrition.<sup>38</sup> Under its MOU with the Nigerian government as part of the New Alliance for Food Security and Nutrition, PZ Wilmar commits to developing 50,000 hectares of oil palm plantations and establishing palm oil processing mills in Cross River State with a total investment of \$550 million.



*"I am 22 years old, and I have worked on this land for 15 years. I grew salad, which I used to sell by the road. With the money I could finance my education. I have finished secondary school in 2005. I have been farming ever since and saving money hoping to be able to go to university. Now I do nothing, I am not working." -- Promise Egbai Epon, Ibogo Village*





Overview of all Wilmar palm oil concessions and protected areas located within the Cross River state in Nigeria, showing forest loss from 2001-2010 and 2011-2013. In the Oban Group Forest Reserve and Cross River State National Park, most forest loss is found in the areas overlapping with palm oil concessions. **Source: Friends of the Earth/Urness, Teaby. 2015<sup>20</sup>**



## A crossroads in Cross River: Conservation or plantation expansion?

# 2



“Before Wilmar came, there was natural forest, like animals and bush mango. Now it’s gone.” - Fidelis Okor Elope, Mbarakom village, May 2015



### What is a land grab?

This report uses the most widely referenced definition of what constitutes a land grab: the definition arising from the Tirana Declaration<sup>39</sup> agreed by governments, international organizations and civil society groups participating in a major conference on land regulations and rights in May 2011 through the International Land Coalition. The Tirana Declaration defines land grabs as land deals “that are one or more of the following:

1. *In violation of human rights, particularly the equal rights of women;*
2. *Not based on free, prior and informed consent of the affected land-users;*
3. *Not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered;*
4. *Not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and;*
5. *Not based on effective democratic planning, independent oversight and meaningful participation.”*

For the particular ways in which they neglect or violate recognized human rights standards, land grabs are a subset of “land deals” or “land acquisitions”. As defined by the Land Matrix,<sup>40</sup> land deals or land acquisitions more broadly:

- Entail a transfer of rights to use, control or ownership of land through sale, lease or concession;
- Cover an area of 200 hectares or more;
- Imply the potential conversion of land from smallholder production, local community use or important ecosystem service provision to commercial use.

## 2. A crossroads in Cross River: Conservation or plantation expansion?

The Oban-Korup forest block covers large parts of Cross River State and continues into Cameroon, representing more than 50 percent of Nigeria’s remaining tropical high forest. This large but rapidly diminishing forest is considered one of Africa’s most important biotic reserves.<sup>41</sup> The rain forests of Cross River State are among the world’s great biodiversity hotspots, providing habitat for such endemic species as the Preuss red colobus, drill, buffalo, chimpanzee,<sup>42</sup> as well as the Cross River Gorilla, recognized as “the most threatened ape in Africa.”<sup>43</sup> A 2014 study in *Current Biology* reveals that palm oil expansion is a

serious threat to African great apes.<sup>44</sup> Nowhere is this more true than in Cross River State, whose rich biodiversity has necessitated the creation of numerous protected areas, including the Afi Mountain Wildlife Sanctuary, the Mbe Mountains Community Forest, Ekinta Forest Reserve and Cross River National Park.

Cross River State has demonstrated interest in reconciling development imperatives with conservation through its active engagement with the Reducing Emissions from Deforestation and Forest Degradation initiative, known as REDD+, which offers economic incentives for maintaining standing forests as a climate change mitigation strategy. Cross River State participates in both the United Nations REDD Programme<sup>45</sup> and the Governors’ Forest and Climate Task Force which promotes subnational REDD+ policies.<sup>46</sup> According to the GFC’s Knowledge Database, Cross River State plans to have 1 million hectares of forest lands managed for climate change-friendly activities, including carbon, non-timber forest products, sustainable tree crops and ecotourism within ten years.<sup>47</sup>

But it is difficult to imagine how these stated conservation aims will be reconciled with Wilmar’s expansion plans, especially in light of the state’s efforts to promote large scale agricultural investment. At least ten recently acquired plantations in Cross River State are located within forest reserves, with some 57,855 hectares conflicting with protected areas.<sup>48</sup> Wilmar’s Obasanjo farms concessions, which includes the former Ibad Plantation, Oban Plantation and Kwa Falls Plantation overlaps both Cross River National Park and the Ekinta Forest Reserve. A mapping analysis conducted by Friends of the Earth in May 2015,<sup>49</sup> shows that deforestation has been occurring across all of Wilmar’s concessions in Cross River State, with a rapid acceleration starting in 2011, and an increase each year since. In total, between 2001 and 2013, 5,133 hectares, or 8 percent of the total land area within the concessions, has been deforested.<sup>50</sup> This figure likely includes the felling of old palm trees as well as natural forest.

There can be no doubt that large-scale industrial agriculture will have severe impacts on the forests and biodiversity in these reserves.<sup>51</sup> Speaking about the Obasanjo concession in January, 2013, Lars Gorschluefer, director of the Save Wildlife Conservation Fund said, “This plantation cannot be allowed to proceed the way it has been mapped out ... If this industrial plantation is allowed, it will effectively box in wildlife and ... wildlife cannot survive in an environment like this.”<sup>52</sup>

Similarly, a study published in the journal *Land Use Policy* in late 2013 argues that the rapid expansion of the agricultural frontier into forest buffer zones in Cross River State – Nigeria’s most biodiverse region – threatens to undermine both the state’s conservation initiatives and the livelihoods of local communities.<sup>53</sup>

“Already experiencing rapid degradation from an ever-expanding agricultural frontier,” writes George Schonevelde, a researcher with the Center for International Forestry Research (CIFOR), “a resurgent

## A crossroads in Cross River: Conservation or plantation expansion?

plantation economy could serve to exacerbate pressures on forest resources. Since most non-forested land in the state is heavily cultivated, if the expansion of plantation agriculture were to respect forest conservation objectives, then that could likely have dire socio-economic implications.”<sup>54</sup>

Put in more stark terms, because most land in Cross River State is either forested, in community use, or already devoted to commodity agriculture, Wilmar’s current operations, and its apparent plans to continue expanding its operations, will either destroy significant forest areas or displace significant numbers of people from their livelihoods – or potentially, both.



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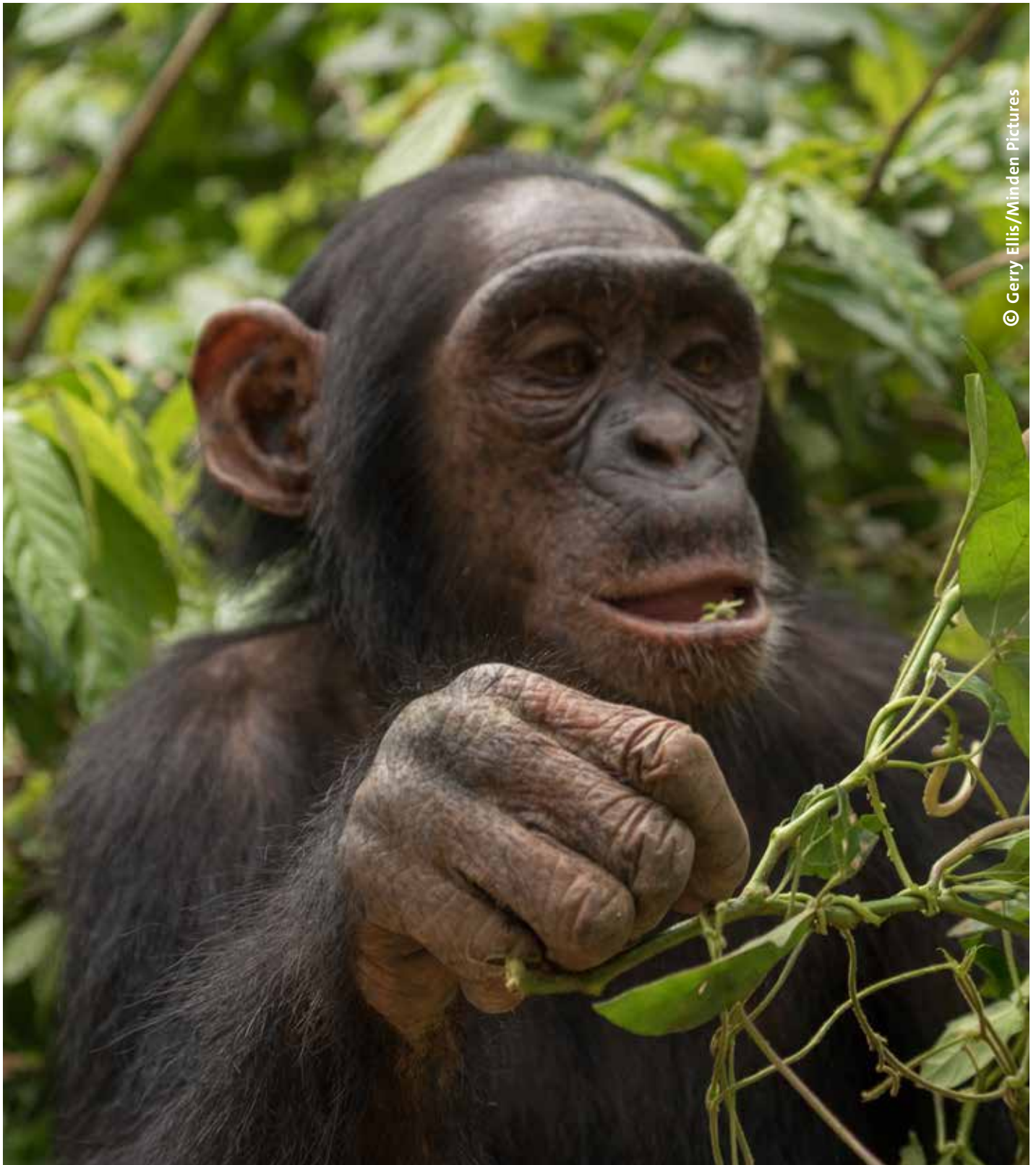
*Cauliflora, blossoming and fruiting on trunk and stems, requires canopy protection. A biodiverse range of tropical bats, beetles and flies are the most common pollinators of trees featuring cauliflora.*



© Gerry Ellis/Minden Pictures

*Strange and beautiful, termites are critical components of a healthy rainforest ecosystem. Decomposer arthropods, like termites, are unseen victims of conversion from tropical rainforests to industrial plantations.*





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*Chimpanzees (*Pan troglodytes*) have become one of the greatest victims of the rapid Central Africa palm oil plantation expansion. Despite being highly adaptive, slow birth-rates and complex social structures make chimpanzees vulnerable to the accelerating conversion of native forests to monoculture agriculture. Rapid conversion also exposes chimpanzees to bushmeat poaching where meat is illegally sold locally, and heads, hands and feet make additional revenues in the illicit Chinese trade.*



## Consultation, consent or conflict?

# 3



© Gerry Ellis/Minden Pictures

Dense tropical rain forest canopy cover ensures water retention and maintains lower ambient temperature by 3-7 degrees Celsius as compared to landscapes cleared of forest cover. A stable humid environment is one factor enabling higher forest biodiversity.



### 3. Consultation, consent, or conflict?

Estimates of the number of people who will likely be displaced and/or affected by Wilmar's expansion plans vary. Rainforest Resources Development Centre (RRDC) and Environmental Rights Action (ERA) estimate that Wilmar's Nigerian operations may negatively impact the livelihoods of 20,000 people, with about 10,000 people potentially facing eviction from their lands.<sup>55</sup> A study by CIFOR researcher George Schonevelde finds that the new plantations entail "widespread displacement of smallholder production systems," and estimates that Wilmar's plantations will impact farmland currently or previously managed by as many as 7800 households.<sup>56</sup> Further, writes Schonevelde, "There are few mechanisms through which affected households can claim redress."<sup>57</sup>

Robust public consultation is critical to ensuring the rights of affected people and preventing social conflict. The UN Declaration on the Rights of Indigenous Peoples,<sup>58</sup> the Principles and Criteria of the Roundtable on Sustainable palm Oil, and Wilmar's own policy, require robust and comprehensive consultative processes with affected communities, in particular the implementation of Free, Prior and Informed Consent (FPIC).

**Free, Prior, and Informed Consent<sup>59</sup>** is a right established within the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights instruments that guarantees that Indigenous Peoples and other local communities have the right to say yes or no to any project that will affect their lands, territories, natural resources, knowledge or culture. FPIC is an important policy mechanism to keep extractive industries, international financial institutions, and other interests from violating the rights, livelihoods, and interests of local communities. Unfortunately, it is poorly understood and poorly implemented.

FPIC implies informed, non-coercive negotiations between investors, companies or governments and indigenous peoples prior to the development and establishment of oil palm estates, timber plantations or other enterprises on their customary lands. This principle means that those who wish to use the customary lands belonging to indigenous communities must enter into negotiations with them. It is the communities who have the right to decide whether they will agree to the project or not once they have a full and accurate understanding of the implications of the project on them and their customary land. As most commonly interpreted, the right to FPIC is meant to allow for indigenous peoples to reach consensus and make decisions according to their customary systems of decision-making.

As a signatory to the United Nations Declaration on the Rights of Indigenous Peoples,<sup>60</sup> the Nigerian government is bound to uphold the right of communities to FPIC; however, this obligation would appear to be undermined by the Nigerian government's nonrecognition of customary law, including customary land rights, under the Land Use Decree Act of 1978.<sup>61</sup> This act vests all land in the state through the office of the military governor of each state, which holds the land in trust for all Nigerians. According to a review by the Center for International Environmental Law, the Land Use Decree is based on the opinion that "all forms of customary tenure systems were backward and not able to follow the demands of a fast changing agricultural sector."<sup>62</sup>

However, legal advocates in Nigeria point out that the 1978 Land Use Decree conflicts with the Nigerian Constitution. The 1978 law puts all undeveloped land at the disposal of the state, making the state the legitimate arbiter of land use; on the other hand, the Constitution of Nigeria says that the government does not own the land, but can only hold the land in trust.

"This means that whatever agreement Wilmar has with the government is null and void," argues Odey Oyama of RRDC.

In addition, Wilmar International, under the RSPO and its own policy, has pledged "to respect and recognize the long-term customary and individual rights of indigenous and local communities, and commit to ensuring legal compliance as well as international best practices in FPIC are implemented, in accordance with the full scope of this policy, prior to commencing any new operations. Wilmar will engage with international stakeholder communities to ensure FPIC processes are correctly implemented and continuously improved."<sup>63</sup>

When various private investors acquired land in Cross River State in the 1950s and 1960s, community consent was actively sought; an informal but widely recognized system of consultation, including payment of royalties to local "landlord communities" became the norm.<sup>64</sup> A 1978 Land Use Decree changed this, putting all "undeveloped land" at the disposal of the state and formally doing away with the government's obligation to seek community consent.<sup>65</sup> Today, policies and practices of community consultation in Cross River State vary widely from village to village,<sup>66</sup> but vestiges of the previous norm still continue into the current era, with government and investors typically expected to seek the consent of local chiefs for land acquisitions.

But, says Oyama, "It is also not correct that only the chiefs are involved. All stakeholders need to be involved. Some families hold land for example, and they need to be part of consultation. Customary laws give community rights, but chiefs are afraid they will lose their throne, and that the government may mobilize communities against them."

Indeed, failure to conduct comprehensive consultations with all affected people – not only the chiefs – is a fundamental violation of the principle and intent of FPIC. As stated by the UN FAO, "Throughout the entire process of respecting FPIC, indigenous peoples and local communities must be consulted as a whole

## Consultation, consent or conflict?

**“Obasanjo sold the farm to Wilmar secretly without telling us. We did not know. We have no agreement with the company.” – Ntufam Clement, traditional ruler of Ekpe**

**“The people on the top suppress us so much, you have to keep your mouth shut.” – Anonymous Mbarakom Village chief**

group for however long is necessary for them to understand, consider and analyse the proposals.”<sup>67</sup>

The assumption that traditional authority figures such as clan chiefs legitimately represent local communities, and are sufficiently endowed with decision-making authority to make contractual agreements with companies has been questioned in other African nations. In a review of FPIC procedures carried out by the palm oil company Golden Veroleum in Liberia, Forest Peoples Programme notes that “there are unfortunately numerous examples of clan and other chiefs being co-opted by local government or corrupted by financial/material inducements in a way that undermines their ability to legitimately represent communities.”<sup>68</sup> Anonymous testimonies given in Nigeria suggest that this dynamic exists, as well, in Cross River State – and that Wilmar and the Nigerian government have exploited the authority of the chiefs to garner a semblance of consent, despite active community protest.

As evidenced in the case studies below, both the Nigerian government and Wilmar appear to have bypassed internationally-recognized best practices in community consultation and Free, Prior, Informed Consent in Cross River State.<sup>69</sup>





“Wilmar came and took our water, and now we have no water left.” -- Aso Ahong Echip, May 2015



## Case studies of the concessions

# 4



“Many people lost their land, but Wilmar did not keep its promises.” – Pastor Agbo Lawrence, Idoma Village, May 2015



#### 4. Case studies of the concessions

Wilmar's concessions in Cross River State fall into two blocks: a northern and western triad of concessions called the Biase, Ibiae and Calaro plantations, and a southern and eastern area called the Obasanjo plantation. The following sections look at the particular dynamics within these two concession blocks.

##### 4.1 The Biase, Ibiae and Calaro plantations: Faulty consultations and clearance of High Conservation Value areas

The Biase, Ibaie and Calero plantations are controversial both for the company's failure to implement robust community consultation processes and for their impacts on High Conservation Value areas, including lands used by local communities for subsistence farming.

###### 4.1.1 Poor community consultations

The Biase, Ibiae<sup>70</sup> and Calaro plantations (totaling 19,173 hectares)<sup>71</sup> had been slated for oil palm development as far back as 1963, when the communities entered into a 99 year lease agreement with the Eastern Nigerian Development Commission<sup>72</sup> to develop some of the land into palm oil plantations<sup>73</sup> and to grow subsistence crops on the rest. But ENDC's development plans were largely abandoned and the lands have been actively settled by local farmers since the 1970s.<sup>74</sup> Thus, at the time of Wilmar's land purchase in 2011, approximately one-third of the land in these concession areas was farmed by small-holder farmers who depended on the land and perceived themselves to have the right to farm there in perpetuity.<sup>75</sup> Due to this history of development and the fairly recent settlement of the area, land rights remain unclear, and it is individuals and families, not communities, who claim ownership of and title to the land.<sup>76</sup> Because of the fragmented social dynamic of the communities, no agreement signed with a community representative is perceived as binding for the entire population.

In a summary assessment conducted by Wilmar's subsidiary Biase Plantations Limited<sup>77</sup> to meet its requirements under the RSPO New Planting Procedures in 2012, the company's consultant documents that it undertook a series of surveys, focus group discussions and consultations with local communities (see summary findings, on page xx).

In its 2012 report to the RSPO,<sup>78</sup> Wilmar states that there is "basically *no local people's land within the boundaries of the Estate* [emphasis in original] although local people have in the past been using parts of the abandoned Estate for farming. Such use rights have been traditionally recognized by both local government and Biase Plantations Ltd. [Wilmar's local subsidiary tasked with plantation development]. The privatization council that acted on behalf of the local government have appointed an external consultant that have worked out a fair compensation rates to the local farmers who uses part of the Greenfield [sic]."

The government appears to have played a key role: in 2010, the state's Investment Promotions Bureau, on behalf of the state's

Privatization Council, invited 13 Councils of Chiefs and Elders from these concession areas to the state capital to seek their consent for Wilmar's land purchase. While most of the chiefs were reportedly apprehensive, the government assured them that Wilmar would contribute to schools and hospitals, provide access to clean water and electricity, and bring other benefits.<sup>79</sup> Wilmar also reportedly paid \$3 million Naira (about \$15,000 USD) per community in consultation and traditional rites fees.<sup>80</sup> The company recognizes these fees as the cost of doing business: "*The receipt of the consultation fees and traditional rites is a significant event that signifies that the communities have accepted the company to operate in their land. This is the social license that is required for the company to operate.*"<sup>81</sup>

Wilmar's report to RSPO explains the terms of its consultations in and around the Biase, Ibiae and Calaro plantations as follows: "The privatization council is the body representing the local government to negotiate with the respective council of chiefs that represent the community." The company further states, "The Privatization Council that is representing the local government has met with the Council of Chiefs many times over."<sup>82</sup>

Yet Wilmar does not appear to have earned the communities' consent, as it believes it has, because negotiations between Wilmar and the state's Privatization Council, and between the state's Privatization Council and the local chiefs, do not constitute adequate consultation of affected communities – nor does the payment of consultation fees and traditional rites to the chiefs constitute consent by the affected communities.

In addition, the process of consultation has not occurred prior to the investment. According to numerous testimonies, the communities never gave their consent when the land was handed over to Wilmar in 2011,<sup>83</sup> and the company has yet to sign a Memorandum of Understanding with any of the 20 communities who find themselves within the boundaries of Biase, Ibiae and Calaro plantations.<sup>84</sup>

"Wilmar has made no agreement, no MOU with us," said one traditional authority in Mbarakom, located on the border of the Calaro concession, who elected to remain anonymous. "We were not consulted or compensated. There is no other community but Mbarakom who owns this estate. There was no consultation with our elders or anyone."

Agreements made at the 2010 meetings between Wilmar and the state Privatization Council, with the participation of the chiefs, led to the establishment of the concessions – but did little to win over the communities. In the words of Clanhead Atte Ivan Iborot Sunday Ivong to Friends of the Earth in May 2015, "Government is not supposed to give the land before consulting with the community. We want the land back."

Wilmar's 2012 assessment for the RSPO appears to minimize or dismiss the finding in Schoneveldes' study that, as of 2011, approximately one-third of the land in the concession areas was farmed by smallholder farmers who perceived themselves to have the right to farm there in perpetuity,<sup>85</sup> and it clearly dismisses the concerns of the farmers themselves, for whom the chief concern

## Case studies of the concessions

when consulted by Wilmar was “loss of farmlands, community conservation [areas], and non-timber forest product collection areas.”<sup>86</sup>

collection areas. The proposed project may also have impact on agricultural lands for the production of food crops which could jeopardize the food security potential of the area.”<sup>89</sup>



Ibiae Plantation



Ibiae Plantation

Moreover, communities were not fully informed about the potential positive and negative impacts of this investment. When Wilmar conducted its 2012 social impact study to meet its RSPO obligations,<sup>87</sup> the company reported that the promise of infrastructure development ranked high among the potential positive impacts of the project from the perspective of local people: “Specific potential positive impacts [perceived by local stakeholders] include employment creation, improvement in infrastructure particularly road network and other business opportunities for the population in the project catchment area and beyond during the plantation development and processing of Fresh Fruit Bunches.”<sup>88</sup>

The study subsequently notes that “the proposed intervention may potentially cause negative environmental and social impacts such as pollution and loss of NTFP [non-timber forest product]

### Summary of potential positive and negative impacts, from RSPO New Planting Procedure Assessment Report, Biase Plantations Limited – Cross River State<sup>90</sup>

#### Potential positive impacts

The following are some of the potential positive socio-economic benefits of the proposed development of agro-industrial oil palm plantation.

- › *Creation of employment. The proposed project if implemented can create thousands of new jobs. The various activities including nursery development and oil palm seedling maintenance, plantation land preparation, planting and harvesting are all labour intensive activities and can also give employment to the rural communities, a potential tool for reducing rural unemployment and rural poverty.*
- › *Introduction of high yielding varieties of oil palm and sustainable management of palm plantation practices*
- › *Training and capacity building for employees and smallholders*
- › *Revenue to local communities through royalties payment to landlord communities*
- › *Tax revenue for the state government*
- › *Rural development (support to the development of rural electrification, potable water etc.)*
- › *Potential for smallholder schemes*
- › *Commercial opportunities for small and medium scale enterprises including petty trading*

#### Potential negative impacts

The potential negative impacts on environment include:

- › *Loss of farmlands, community conservation and NTFP collection areas*
- › *Impacts on food insecurity and prices of food products*
- › *Influx of plantation workers and potential impacts on family structures and social networks*
- › *Water pollution due to agro-chemicals, sewage from worker’s camps and POME*
- › *Potential conversion of traditional conservation areas including riparian vegetation*



- › · *Pollution from hazardous substances*
- › · *Impacts on heavy vehicles and construction activities*
- › · *Noise pollution from mill and plantations machineries*
- › · *Exposure to health risks (e.g. HIV)*
- › · *Adulteration/destruction of indigenous cultural values*
- › · *The quality of life and working conditions of workers and labourers in plantations and mill factories*
- › · *Impacts on public facilities (e.g. public structures)*
- › · *Impacts of operations on infrastructure (roads, water)*
- › · *Potential for open burning once the area is cleared during land preparation stage*

But the affected communities never had an opportunity to evaluate the potential positive and negative impacts of Wilmar's activities; nor did they have access to independent counsel to inform them of the potential short, medium, and long-term implications of these activities; nor do they appear to have been given a full understanding of their rights when faced with a large-scale land acquisition.

Instead, after assessing the positives (potential employment and infrastructure development) and negatives (food insecurity and loss of livelihoods), the study concludes: "Given that the proposed intervention would have several positive impacts which are very much needed for the development of the area in particular and for the Cross River State in general, it is recommended that authorities consider the overall cumulative impacts of the proposed intervention on the population of the host communities as well as the state and the general Nigerian economies."<sup>91</sup>

In other words, in the eyes of Wilmar's consultants, potential employment and infrastructure development trumped food security and livelihoods, and the consultants rubber-stamped the Biase, Ibiae and Calaro plantations to go ahead.

Despite repeated requests, the company and the government have refused to disclose the terms of the agreement to the landlord communities.<sup>92</sup> When an independent researcher managed to secure a copy of the agreement, he observed that "none of the provisions related to infrastructure development were included."<sup>93</sup>

Wilmar's surveys and consultations therefore appear incomplete, and clearly do not constitute a process of Free Prior and Informed Consent. Indeed, the consultations, at best, resulted in documentation of communities' hopes and fears, one to two years *after* the land was acquired and as the company commenced its operations. This process clearly contravenes the need for consultation (and consent) to be "prior," as noted by the Food and Agriculture Organization of the

United Nations:<sup>94</sup> "No decision to allocate lands to a third party should be made without first informing the peoples concerned and securing their consent. Governments have a vital duty to ensure that lands are not allocated to companies – through sales, leases, concessions or rental – in ways that violate rights or are likely to generate disputes."<sup>95</sup>

Three years after Wilmar's operations commenced on lands within the Biase, Ibiae and Calaro concessions project implementation appears to justify many of the local peoples' fears, and to realize few of their hopes.

#### 4.1.2 Impacts on High Conservation Value forest

The Biase, Ibiae and Calaro plantations all contain significant areas of natural, primary and secondary forest as well as areas used for subsistence cultivation. A December 2013 letter from Wilmar to the RSPO<sup>96</sup> identified several hundred hectares of land within the Ibiae and Biase concession areas as having High Conservation Value, and that "natural forest areas that are not identified as HCVA could be regarded as High Carbon Stock (HCS) Forests."

In the Biase Plantation, a High Conservation Value assessment found that, of the 5,561 hectares of land, some 55 percent is existing primary and secondary forest and farmlands that have never been cultivated as oil palm plantations, requiring the company to undertake New Planting Procedures under its commitment to the RSPO.<sup>97</sup>



*Cleared land near Mbarakom Village, May 2015*

Importantly, High Conservation Values do not apply only to natural forest, but also, in the case of HCVs 5 and 6, to land claimed by communities for livelihood activities and/or cultural uses.<sup>98</sup> Community farmland is categorized as High Conservation Value 5: "Sites and resources fundamental for satisfying the basic necessities of local communities or indigenous peoples (for livelihoods, health, nutrition, water, etc...), identified through engagement with these communities or indigenous peoples."<sup>99</sup>

## Case studies of the concessions

According to this assessment, there is no way to develop oil palm plantations here without significant destruction of forest<sup>100</sup> or of resources fundamental for satisfying the necessities of local communities.



*Cleared land and oil palm plants, Mbarakom village, May 2015.*

Satellite maps show that clearing of vegetation and forest cover in the Calaro, Ibiae and Biase Plantations saw a rapid increase beginning in 2011; beginning in that year, land clearance within the Biase concession increased by 81 percent; in Ibiae by 993 percent, and in Calaro by 32,000 percent (from a baseline close to zero).<sup>101</sup> Undoubtedly some of this land clearance is the felling of old palm trees to rehabilitate the former palm oil estates – but in the absence of reliable monitoring and independent oversight it is virtually impossible to know the extent to which Wilmar may be clearing natural forest and other species-rich habitat and lands used by local communities. As described later, community farmlands located within the current concessions are among the areas that have been destroyed by Wilmar’s activities.

### What are High Conservation Values?

According to the High Conservation Value Resource Network,<sup>104</sup> High Conservation Values, or HCVs, are “biological, ecological, social or cultural values which are considered outstandingly significant or critically important, at the national, regional or global level.

All natural habitats possess inherent conservation values, including the presence of rare or endemic species, provision of ecosystem services, sacred sites, or resources harvested by local residents. An HCV is a biological, ecological, social or cultural value of outstanding significance or critical importance.”

There are six categories of HCVs:

**HCV 1:** Concentrations of biological diversity including endemic species, and rare, threatened or endangered species that are significant at global, regional or national levels.

**HCV 2:** Large landscape-level ecosystems and ecosystem mosaics that are significant at global, regional or national levels, and that contain viable populations of the great majority of the naturally occurring species in natural patterns of distribution and abundance.

**HCV 3:** Rare, threatened, or endangered ecosystems, habitats or refugia.

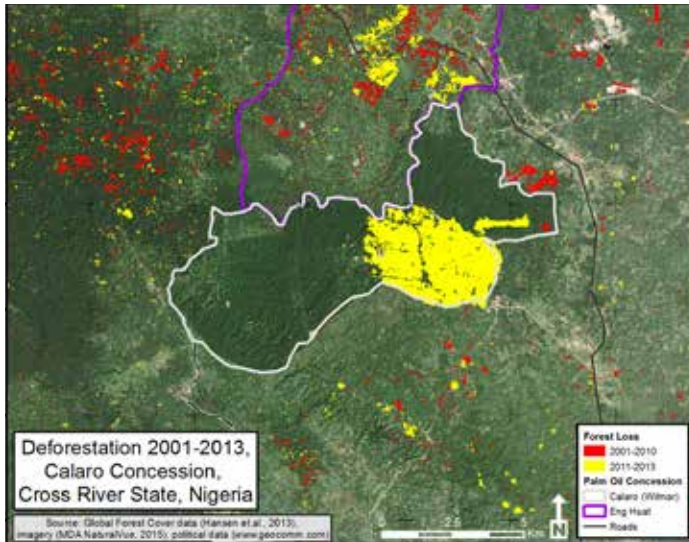
**HCV 4:** Basic ecosystem services in critical situations, including protection of water catchments and control of erosion of vulnerable soils and slopes.

**HCV 5:** Sites and resources fundamental for satisfying the basic necessities of local communities or indigenous peoples (for livelihoods, health, nutrition, water, etc...), identified through engagement with these communities or indigenous peoples.

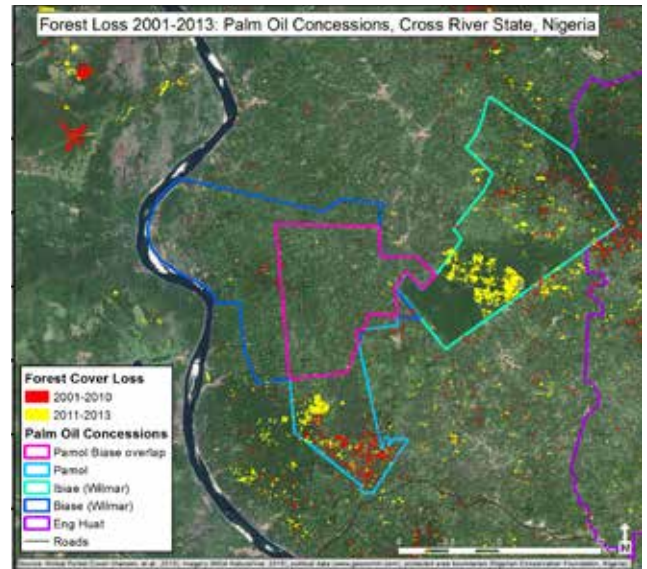
**HCV 6:** Sites, resources, habitats and landscapes of global or national cultural, archaeological or historical significance, and/or of critical cultural, ecological, economic or religious/sacred importance for the traditional cultures of local communities or indigenous peoples, identified through engagement with these local communities or indigenous peoples.

Community-based research also shows risks to wildlife conservation within the area of the concessions: focus group discussions carried out by RRDC in 2014 revealed that the landlord communities at Ibiae believe that Wilmar’s plans will strongly impact riparian vegetation, sacred areas, useful plants and endangered fauna and flora. According to villagers in Akpet-Egbai, species of animals once found in the area but now gone, include leopards, lions, tigers and tortoises. They also reported that gorillas, chimpanzees, antelopes, porcupines, pythons, cobras and cane rat cutters are threatened. Villagers in Idoma believe that Wilmar’s operation will harm sacred areas, useful plants and endangered animals, as well as the sources and watersheds of most of the streams and rivers in the area.<sup>105</sup> Impacts on community farmlands and water sources will be further explored in Section 6.





Calaro concession forest cover loss. The majority of deforestation occurred in 2011, but started in 2010. Source: Friends of the Earth/Urness, Teaby.2015<sup>102</sup> **Data: Global Forest Cover (Hansen et al.)**



Biase and Ibiae concessions with forest cover loss from 2001-2013. The Pamol concession (in light blue) does not pertain to Wilmar. Source: Friends of the Earth/Urness, Teaby. 2015<sup>103</sup> **Data: Global Forest Cover (Hansen et al.)**



Landsat8 imagery from January 2015 shows that Calaro concession continues to be heavily logged. The amount of forest loss in 2014-2015 appears to be double that which was seen in the 2011-2013 period. **Data: USGS. Source: Friends of the Earth/Urness, Teaby.**

## Case studies of the concessions

**“The land was never Obasanjo’s to sell. If you buy something stolen, then you cannot say it is yours.” - Linus Orok, Ekong Anaku village**

### 4.2 The Obasanjo Plantation: Historic dispossession and encroachment on Cross River National Park<sup>106</sup>

#### 4.2.1 Historical landgrab leads to current conflict

The Obasanjo concession area is thick with primary forest. In the early 1990s, conservation groups wanted it conserved, and residents of Ekong Anaku Village, which falls within the current concession boundaries, agreed to set aside a 10,000 hectare section of their traditional forest for a reserve. In exchange, the government promised to provide programs for agroforestry and rural development and credit for small farms and businesses. But 10 years later, Donald Duke, the governor of Cross River State from 1999 to 2007, ignored the agreement, abandoned the idea of a community reserve, and gifted the lands to a company owned by Nigeria’s president at the time, Olusegun Obasanjo.<sup>107</sup> According to a field survey conducted by RRDC and Environmental Rights Action in March, 2014, none of the communities were consulted when the land was originally acquired by Obasanjo in 2006.<sup>108</sup>

“The government’s promises were only ever on the drawing board,” said Linus Orok, a leader from Ekong Anaku village. “They never consulted us, not even the local chiefs.”

Obasanjo’s company, Obasanjo Farms, planned to convert the 10,000 hectares of forest into a large scale oil palm plantation, but it lacked the capacity and soon turned to outside investors. In 2012, having acquired the lands for free and having invested very little of his own money, Obasanjo sold the land to Wilmar International. Again, the land transfer happened without proper consultation.<sup>109</sup>

“The land was never Obasanjo’s to sell,” said Orok. “If you buy something stolen, then you cannot say it is yours.”

In the deal, Wilmar inherited many of the local workers and supervisors from the Obasanjo Farms plantations.<sup>110</sup> According to RRDC and Environmental Rights Action, by acquiring the Obasanjo Farms estate, Wilmar also inherited responsibility for the corrupt and troubled legacy of the former land acquisition.

Wilmar did attempt to institute a process of consultation after the acquisition of Obasanjo Farms, but the process was widely seen in the community to not be genuine, leading to ongoing disputes between local “landlord communities” and the government over failure to seek the endorsement of local chiefs, to pay consultation fees, and to compensate for loss of farmland. According to both Schonevelde and RRDC,

the only consultation process involved the cooptation of a select few local leaders.<sup>111</sup> Following closed-door meetings between government and local chiefs, the chiefs issued a communiqué endorsing Wilmar’s purchase, despite none of the community’s substantive demands being met. The fact that one of the chief’s sons was appointed to be the company-community liaison appears to confirm allegations of “cooptation” and has exacerbated the conflict.<sup>112</sup>



© Gerry Ellis/Minden Picture

*Rain forest giants are an immediate casualty of tropical rainforest conversion to plantation. Trees (round logs), legally and illegally cut, financially fuel land conversion. This giant is one of the few safe trees, located inside Korup National Park, the Cameroonian portion of the transboundary park region shared with Nigeria’s Cross River National Park.*

“Obasanjo sold the farm to Wilmar secretly without telling us. We did not know,” said Ntufam Clement, Traditional Ruler of Ekpe.<sup>113</sup> “We have no agreement with the company.”<sup>114</sup>

Finally, the fact that local “landlord communities” have no legal claims to the land also ensures their marginalization from any potential compensation. The problem is compounded in Obasanjo as considerable areas of the concession land falls within forest reserves and the Cross River National Park, where farmers have long established smallholder plots. Because Nigeria’s 1978 Land Use Decree forbids payments for the alienation of agricultural lands located within forest reserves, communities within the reserve have no legal claim to compensation under Nigerian law.<sup>115</sup>

#### 4.2.2. Encroachment on protected areas

In a letter to the RSPO in December 2013, shortly after the company announced its No Deforestation, No Peat, No Exploitation Policy, it acknowledged that



it had yet to complete HCV assessments<sup>116</sup> as required under RSPO's New Planting Procedures – though it appears to have begun clearing land within the concession earlier that year.

This assessment is particularly important because the Obasanjo concession overlaps with a protected forest reserve<sup>117</sup> and with the Cross River National Park<sup>118</sup> and the company appears to be deforesting within the encroachment area. It is noteworthy that there is disagreement on the encroachment, caused by divergent spatial assessments. Civil society groups, citing maps provided by the Nigerian Conservation Foundation, show the Obasanjo plantation clearly overlapping the National Park. Wilmar, supported by the Cross River State Forestry Department, asserts that there is no overlap.<sup>119</sup>

In a letter to the RSPO dated December 12, 2013, Wilmar writes, “For Calaro and the Obasanjo farms, we will conduct the HCV assessment next month and then followed [sic] with the HCS studies as well. If there are community forest that fits the description of HCV 5 and 6, it would have been captured by the Independent Consultant who is among the leading HCV consultant [sic] in the world today. We have acquired high resolutions [sic] (Worldview 50 cm) satellite images to help us to identify forest and non-forest areas within these concessions. From these images and based on the scoping visit by the HCV consultant, it can clearly be seen that most of the areas within the Ibad and Oban estates are very degraded forest.”<sup>121</sup>

However, the company has not provided a definition of “degraded forest,” and detailed data about the degraded quality of the forest were not made available. The delineation of degraded forests is critical because according to Wilmar's new policy, palm oil plantations should only be established on degraded lands.

#### RSPO New Planting Procedure<sup>122</sup>

1. Plantation company undertakes impact assessments (FPIC, HCV & SEIA) of new area to be developed.
2. Company uses results of assessments to inform management plans for new development, including plans for managing and monitoring HCVs.
3. RSPO certification body verifies creditability of impact assessments and management plans.
4. Plantation company notifies public of assessment results and plans.
5. Public has 30 day period to submit a grievance against plantation.
6. Company resolves any grievances or disputes.
7. Company begins expansion.

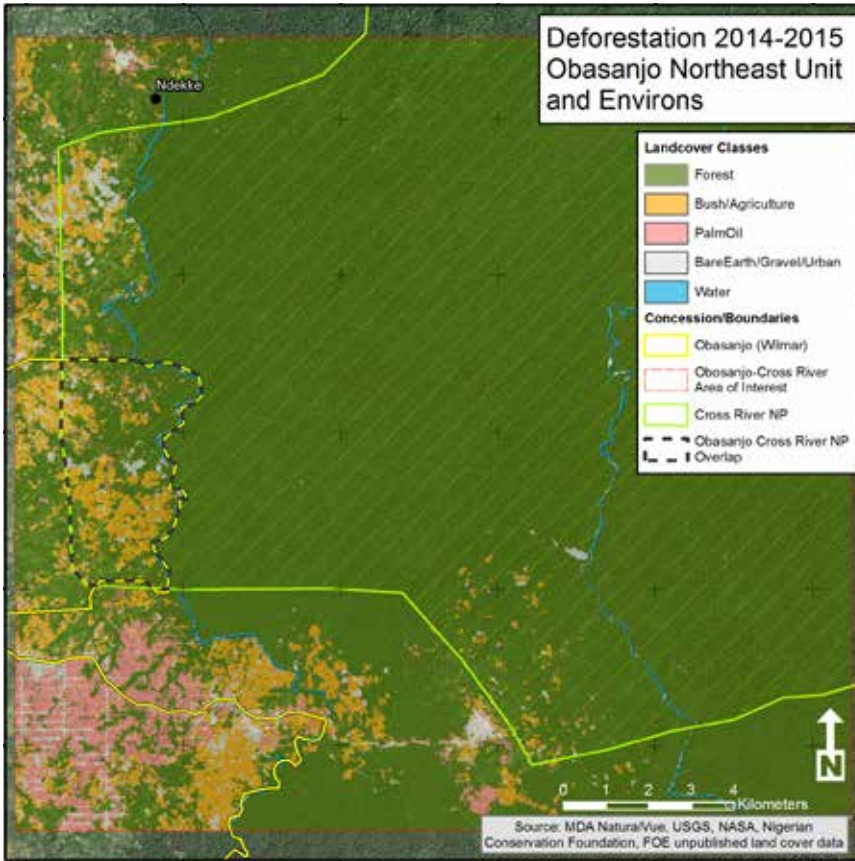


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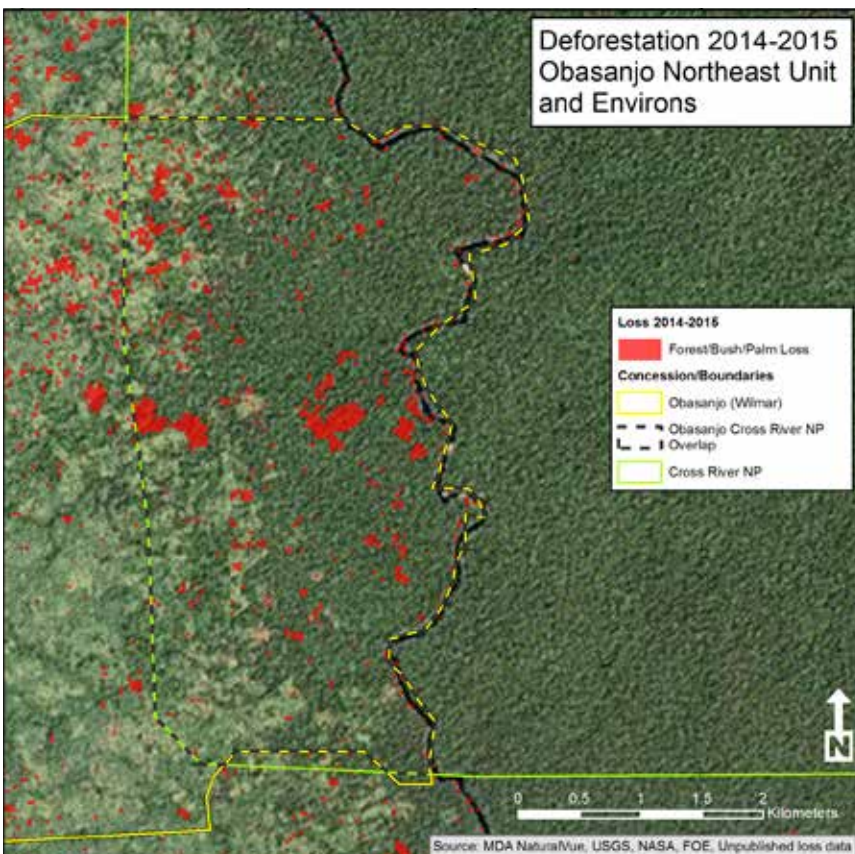
*The commonly cited figure of 95,000 western gorillas (Harcourt 1996) is based on an assumption that all intact habitat in Western Equatorial Africa contains gorillas at densities that were typical of Gabon in the early 1980s. However, habitat loss, driven by logging and industrial agriculture (primarily palm oil plantations), is now the major driver of ape decline in this region.*

Satellite maps of Obasanjo Farms show significant forest clearance in the concession boundaries since 2001, with activity slowing down between 2010–2012 and then picking up again after June 2013.<sup>124</sup> Between 2012 and 2013, forest clearance in Obasanjo increased by over 50 percent. Beginning at that time, and continuing through 2015, several hundred hectares of forest have been cleared within the Obasanjo concession. More than 82 hectares of this forest loss occurred within the borders of Cross River National Park – an increase from virtually zero in 2012.<sup>125</sup>

# Case studies of the concessions



The overlap of Obasanjo with Cross River National Park. Five-class land cover map of Obasanjo AOI for 2015. Landcover data was generated using Landsat8 imagery and SVM add-on tool in ArcGIS. Forest cover loss data was derived from differences between 2014-2015 two-class landcover maps. Source: Friends of the Earth/Urness, Teaby.<sup>120</sup> 2015 **Data:USGS**



Overlap of Obasanjo concession and Cross River National Park showing recent forest loss, in red. A total area of 82.2 hectares of forest cover was lost in the overlapping area in 2014-2015.<sup>123</sup> **Data: USGS.**



### The Cross River gorilla

The Cross River gorilla, a subspecies of the Western gorilla once thought to be extinct, is found in the highland forests on the border of Cameroon and Nigeria, along the headwaters of the Cross River.<sup>126</sup> With an estimated total population of 250-300 individuals left in the wild, this subspecies was classified as “critically endangered” by the International Union for Conservation of Nature in 2008. The remaining population of Cross River gorillas is currently divided into approximately 10 subgroups dispersed across a restricted area of 8,000 square kilometers.<sup>127</sup>

Poaching, habitat loss, and forest fragmentation are the most commonly cited reasons for the Cross River gorilla’s threatened status. Today, poaching remains the primary threat to the Cross River gorilla, although ongoing expansion of forestry and oil

palm plantations also places immense pressure on their survival. As a significant proportion of great ape habitat overlaps with current and potential future oil palm concessions, the growth of the palm oil industry in Africa will likely lead to significant biodiversity losses comparable to those in Southeast Asia.<sup>128</sup> As a direct consequence of increased forest fragmentation, the subspecies also faces loss of genetic diversity due to small population size and low gene flow between increasingly isolated sub-populations.

Since the Cameroon-Nigeria border region constitutes a critical biodiversity hotspot, the Cross River gorilla can therefore serve as a “flagship” species.<sup>129</sup> Strengthened conservation efforts and restrictions on plantation expansion will be indispensable in ensuring the survival of Africa’s most endangered ape, as well as the region’s biological wealth.



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*Cross River gorillas are cited as Africa’s rarest Western Lowland subspecies. The Nigeria-Cameroon transboundary habitat of the Cross River Gorillas is compromised by intense logging, industrial palm oil and bushmeat poaching. Decade-old estimates place the population at between 250-300 individuals; the actual numbers are not known. Nyango (pictured) is the only Cross River gorilla in captivity. She was rescued at two-years old, a victim of bushmeat hunting. Nyango is twenty years old and resides at the Limbe Wildlife Center.*

# Violation of national laws

# 5

## 5. Violation of national laws

Wilmar's acquisition of plantation lands and the start of its operations has been marked by a number of irregularities, including apparent violations of national laws. The state has not acted on or responded to charges of illegality, however, and the violations outlined below are best documented in a series of complaints lodged with the Roundtable on Sustainable Palm Oil. In a formal complaint to the RSPO filed in November 2012,<sup>130</sup> Rainforest Resources Development Centre charged Wilmar with unlawful acquisition of farmland; non-compliance with applicable municipal laws and regulations; lack of commitment to transparency; failure to properly account for migrant communities within the estate; and failure to reach an agreement with host communities.

RRDC alleges that Wilmar's unlawful acquisition of forest land belonging to indigenous communities violates Nigeria's Land Use Act No. 6 of 1978.<sup>131</sup> Soon after purchasing its Nigerian concessions, RRDC claims, Wilmar bulldozed several thousand hectares of land without having produced an Environmental Impact Assessment, in contravention of Nigeria's EIA Act CAP E12.<sup>132</sup> The RSPO initially recognized the merit of the complaint and requested that Wilmar stop all work until the complaint was resolved.<sup>133</sup> But in December 2013, Wilmar issued a letter to RSPO<sup>134</sup> stating that it is "pleased to announce that the review has concluded, and the RSPO Complaints Panel is of the view that our plantation operations in Nigeria is in compliance with the national laws of Nigeria, including the lawful acquisition of land and that due process of environmental impact assessment (EIA) was followed" – a conclusion that RRDC contests.

### 5.1 Lack of adequate environmental and social impact assessment

The only legal avenue through which the impacts of dispossession in Cross River State could be addressed is environmental and social impact assessments (ESIAs).<sup>135</sup> The Environmental Impact Assessment Decree of 1992 mandates that, when an agricultural project develops more than 500 hectares of land or involves the displacement of more than 100 households, the project must be preceded by an ESIA.<sup>136</sup> However, this is generally not enforced in practice<sup>137</sup> -- and it certainly was not enforced in the case of Wilmar's land and acquisitions.

In the words of researcher George Schonevelde, Wilmar conducted its ESIA "mostly in order to fulfill obligations under the Roundtable on Sustainable Palm Oil."<sup>138</sup> However, since the ESIA failed to acknowledge the existence of migrant groups and the need for their resettlement, thereby minimizing the magnitude of their dispossession, the veracity of the process can be disputed. Moreover, with three employees from the Ministry of Environment hired as consultants to conduct Wilmar's ESIA, the neutrality of the ministry responsible for appraising the report can also be questioned.<sup>139</sup>

According to RRDC and ERA, Wilmar failed to conduct ESIA reports for the Ibiae and Calaro plantations before commencing field operations. RRDC submitted a formal complaint to RSPO in November, 2012; it was only five months later, in March 2013, that the company reportedly submitted an ESIA to the Federal Ministry of Environment, though none of the civil society groups advocating on behalf of local communities have received the report. According to a source that did review the ESIA, the report failed to acknowledge the existence of migrant groups within the concessions and failed to quantify the number of people potentially impacted or the need for resettlement.<sup>140</sup>

Similarly, no ESIA was carried out prior to the establishment of Wilmar's operations in the Obasanjo concessions; this is doubly problematic, as these concessions overlap the protected Ekinta Forest Reserve and Cross River National Park.<sup>141</sup> Developing land within forest reserves without de-reserving the land and conducting an ESIA is prohibited under both federal and state law.<sup>142</sup>

None of these oversights should be surprising, however, in light of the fact that Wilmar hired three employees from the Cross River State Ministry of the Environment as consultants to conduct the ESIA.<sup>143</sup> In a state with an obvious vested interest in pursuing palm oil development, hiring government officials to conduct environmental and social impact assessments is a clear breach of ethics, if not a legal violation in itself.

In lieu of an adequate ESIA, the Cross River State Ministry of Environment issued Provisional Compliance Certificates to Wilmar at Ibiae and Calaro estates,<sup>144</sup> as well as an official EIA compliance letter.<sup>145</sup> However, nothing in Nigeria's EIA law mandates a State Ministry of Environment to issue such certifications. To the contrary, the role of the State Ministry of Environment is to monitor compliance with all processes mandated by the Federal Ministry of Environment.

These events present a strong implication that the Cross River State government misled Wilmar into believing that its operations complied with legal requirements, when this was far from the case. For its part, Wilmar appears to have exploited the governance gap to push ahead with its project development.

### 5.2 Violations of the Land Use Act, National Park Decree and Cross River State Forest Law

Several heads of state agencies, including the commissioner of Environment, the chairman of the Forestry Commission, the director of the Nigerian National Parks Service, and the Deforestation Task Force appear to have neglected to implement guidelines relevant to land purchases in the state.<sup>146</sup>

Under the National Park Decree (1991) and the Cross River State Forest Law (2010), in order for a concession to be allocated within a protected area, the land first needs to be de-reserved or de-gazetted; as this has not happened, all development activities



within protected areas are illegal.<sup>147</sup> The Land Use Act (1978) requires that any acquisition of land by the state be announced in the state's gazettes, but none of the Wilmar acquisitions appear to have been published at the time the sales were finalized.<sup>148</sup>

Numerous civil society organizations and government officials attribute the lack of enforcement and transparency to the complicity of commissioners and directors who have made substantial personal gains from allocating land.<sup>149</sup> In a frank admission of the problem, one senior official within the Ministry of Environment asserted to researchers that conservation was not a priority for the ministry and that the failure of companies and

government to consult civil society through the gazetting and the ESIA process was "to avoid excessive public scrutiny."<sup>150</sup>

While such practices are widespread, this does not justify or excuse Wilmar or its investors' complicity, or relieve them of culpability.

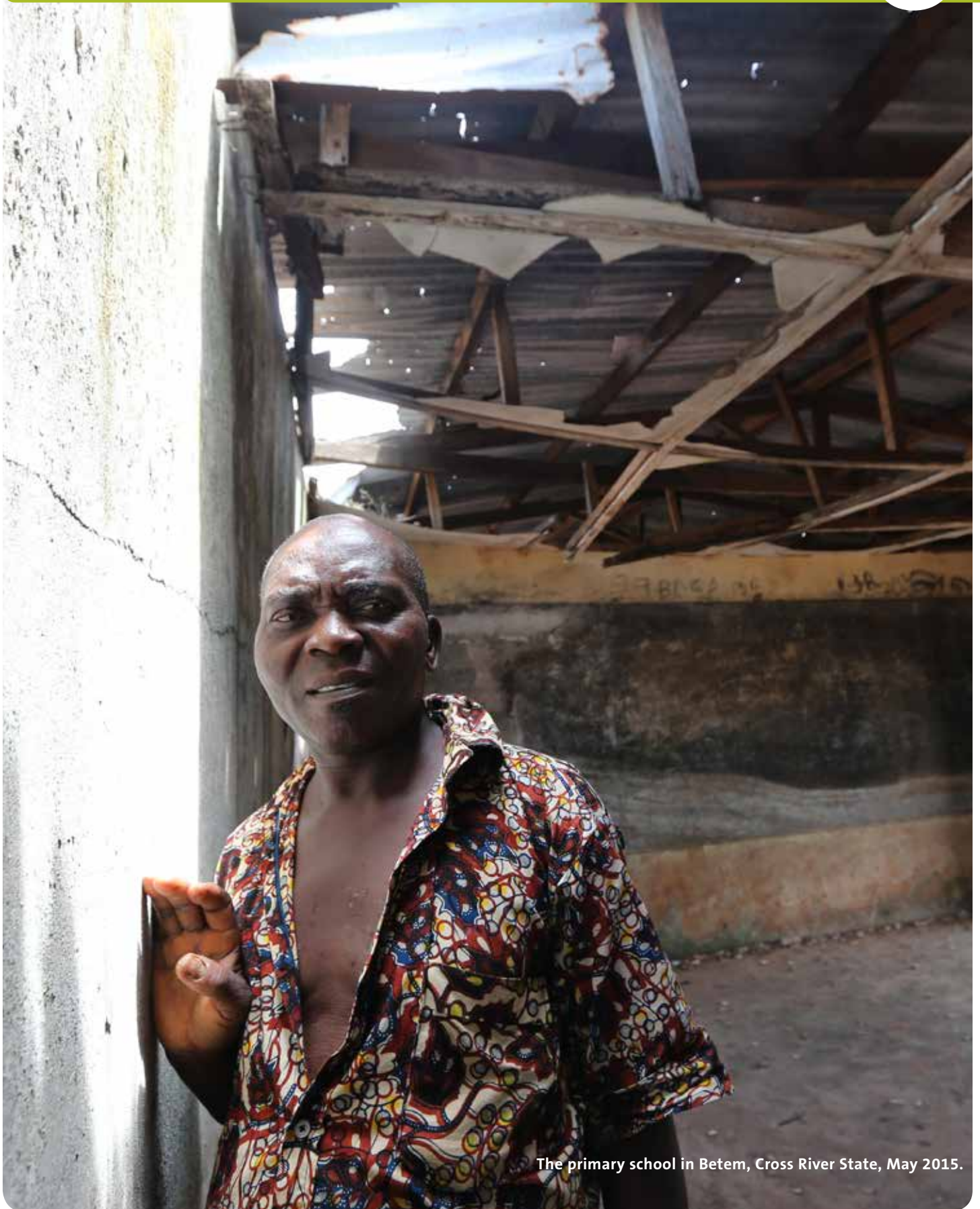


*Recently cleared farmland and forest near Ibogo Village, May 2015.*



# Promises, promises: Wilmar's community commitments

# 6



The primary school in Betem, Cross River State, May 2015.



## 6. Promises, promises: Wilmar's community commitments

In the prospectus of the Cooperative Framework of the New Alliance for Food Security and Nutrition in Nigeria,<sup>151</sup> PZ Wilmar commits to partnerships across the value chain and states that:

- Investments are expected to have a significant impact on job creation with an estimated 12,000 direct and 33,000 indirect employment especially in the rural parts of Nigeria.
- The company is also investing in capacity building for its own employees through training school, overseas training programs and support to small holder farmers through education on best management practices.
- The company's Corporate Social Responsibility activities positively impact the host communities in the areas of healthcare, education, access to potable drinking water and housing.

According to testimonies gathered from local community members in May, 2015, the company has thus far failed to live up to its word. Several villages within the project area state that they do receive a rental fee. Some villages, however, have not seen payment for over 18 months, while others have received nothing, and still others have stated that, while they have received the payments, they would prefer to have their land back, because they have seen no other benefits.



*A farmer from Ibogo Village showing remains of his crop, destroyed by Wilmar's land clearing, May 2015.*

### Voices from the villages

*"Wilmar came in 2011, they signed an MoU with the government, they said there were many things they would do for us: Community assistance program, accessible roads, build primary and secondary schools, health center, potable water, electricity, employment. When we asked Wilmar to come and help open up inaccessible areas in the community they came and helped us. But as a consequence of the project, our forest has been seriously degraded. Our timber has been destroyed and they have yet to compensate us. People who were farming in that area lost their land and they have yet to be compensated. We do not have electricity, the road still needs to be constructed, and although Wilmar employs the young here in the village these are unskilled jobs."* – Chief Steven Omari, Idoma Village

*"Wilmar destroyed all our farmland. My family has been on this land for 37 years, since before I was born. There is over 300 hectare here for the community. We used to plant planteen, oil palm, coco yam, pepe, economic trees. The community is over 7000 people, and the land was over 300 hectares, and 200 of this has been taken now. We lost our forest too. Some of our*

*community members used it for medicines. But there was a lot of wildlife, like antelope or monkey. Now we need to buy meat, or iced fish, and this is very expensive.*

*"We told Wilmar not to continue until they compensate us. If Wilmar can compensate us the way we want, we will accept it. If not, we want our land back. This is our only source of survival we have. We are no government workers, we are depending on our farms. By taking our farms, Wilmar is declaring us dead."* – Elder Aning Oja, Ibogo Village

*"Wilmar did not employ people from our village, but they brought them from the outside to build houses and do the work on the plantation. They used local people just to plant palms. They should employ our kids in the office, not just employ them in the bush."* – Fidelis Okor Elope, Mbarakom Village

*"Our forest has been gone. There has been a severe reduction of animals in the forest."*

– Chief Niufam Etim Itagbor, Mbarakom Village

# Promises, promises: Wilmar's community commitments

**“Wilmar wants to render us useless in life. We are finished if Wilmar proceeds with its plans.” --William Ogobe, Ibogo Village, May 2015**

## 6.1 Labor conditions and livelihood impacts: temporary jobs for permanent land loss

Economic development is a primary justification for the expansion of agribusiness plantations in Cross River State, but the benefits of this development by and large do not appear to accrue to local workers and local communities. It is incumbent upon Wilmar and the Nigerian government, at minimum, to uphold the core conventions of the International Labor Organization,<sup>152</sup> including the prohibition of all forms of forced or compulsory labor and the worst forms of child labor; equal treatment and non-discrimination of all workers regardless of the stage and details of the employment relationship; and respecting freedom of association, including the right to organize and bargain collectively. In keeping with global best practices,<sup>153</sup> it is also incumbent upon Wilmar to publicly and periodically report on data concerning workforce composition, production quotas, wages paid, average working hours, sickness, and accident rates.

Historically, plantation employment has been considered socially undesirable in the region and has been associated with poor, landless, out-of-state migrants.<sup>154</sup> This perception appears to continue today, and is supported by company policies. While Cross River State has made efforts to increase its minimum wage, many plantation companies circumvent the new requirements by relying on short-term casual labor, thereby paying between 50 and 70 percent of minimum wage.<sup>155</sup>

Wilmar claims to have created 5,000 jobs in Nigeria,<sup>156</sup> and promises 12,000 direct and 33,000 indirect jobs over the life of the plantations,<sup>157</sup> while issuing public relations statements that put the number of future jobs as high as 250,000.<sup>158</sup> Clearly, their claim is different from the reality on ground: to date, employment by the company is mostly non-permanent, unskilled, and lacking basic remunerations and incentives such as health insurance, accommodations, pension schemes, education for children and adequate salaries. Workers watering the nurseries, for example, earn an average monthly salary of \$17,000 (about \$100 USD) for 26 days' work.<sup>159</sup> They are given no employment letters, no specification of work responsibilities and entitlements,<sup>160</sup> and no job security. Earnings for women especially are far less than they would receive from productive activities on their own farmlands.

According to interviews conducted in March, 2014, basic salary for supervisors<sup>161</sup> in Wilmar's operations is \$25,000 (\$150 USD) for 42 hours—weekly—“hardly enough to cover basic needs.”<sup>162</sup>

“When it comes to payment, the company is poor in workers' pay package,”<sup>163</sup> one employee told



*Alternative water source developed by the community, Betem, Cross River State*

interviewers. “This is making many of us consider leaving, but unemployment is a factor keeping some of us since alternative employment is difficult to come by.”<sup>164</sup>

According to RRDC, some workers interviewed expressed fears that they would lose their jobs if they were quoted in this report, presenting an appearance that work is compulsory, contingent, and precarious.

Complaints of poor working conditions<sup>165</sup> are serious enough to have warranted the intervention of the state's Agricultural Labour Union.<sup>166</sup> Such poor labor standards are in clear violation of the RSPO principle of “responsible consideration of employees and of individuals in communities affected by growers and mills,” as well as Wilmar's “No Exploitation” policy.

## 6.2 Impacts on water sources: “Wilmar has destroyed the water”

Impacts on water quality and water quantity figure large among the environmental impacts of oil palm plantations, especially during plantation



establishment,<sup>167</sup> yet the immediate and long term impacts of oil palm plantations on water quality and water quantity are poorly studied.<sup>168</sup> What is clearly understood is that infiltration of surface water into aquifers is severely reduced when soils are compacted by heavy machinery following deforestation,<sup>169</sup> and leaching of nutrients from fertilizers applied on the soil surface can easily impact nearby wells and surface water sources.<sup>170</sup>

Testimonies from the concession areas in Cross River State show this to be the case: several communities within the project areas report that water levels have dropped in both aquifers and surface water sources, to the extent that rivers are drying up and wells no longer function properly. Compounding the problem, several years after plantation establishment, boreholes that the company promised have yet to be built, leading to hardships and health risks.

In Betem, Chief Ata Obo expressed concern about the drinking water because the river Ubot “has fallen almost dry” since Wilmar started to work there. “Wilmar provided a borehole,” he says, “but it is not functioning.”

In Ibogo Village, villagers report that drinking water sources are contaminated because of the palm oil project – “so farmers cannot drink the water when they come out to the field and farm” – and there is also considerably less water, since nearby land was cleared in January 2015.



*The River Ubot near Akbet Village, impacted by Wilmar's land clearing. This location is also used as a source of drinking water.*



*“We had to dig an alternative source of water, because the river dried up. Hundreds of people use this source, so people have to get up at 4 AM to be able to be the first person to fetch the water.” –Daniel, youth leader, Betem*



*“Wilmar has destroyed the water. We do not have enough water now. Wilmar keeps on promising they will bring us water.” – Fidelis Okor Elope, Mbarakom Village*

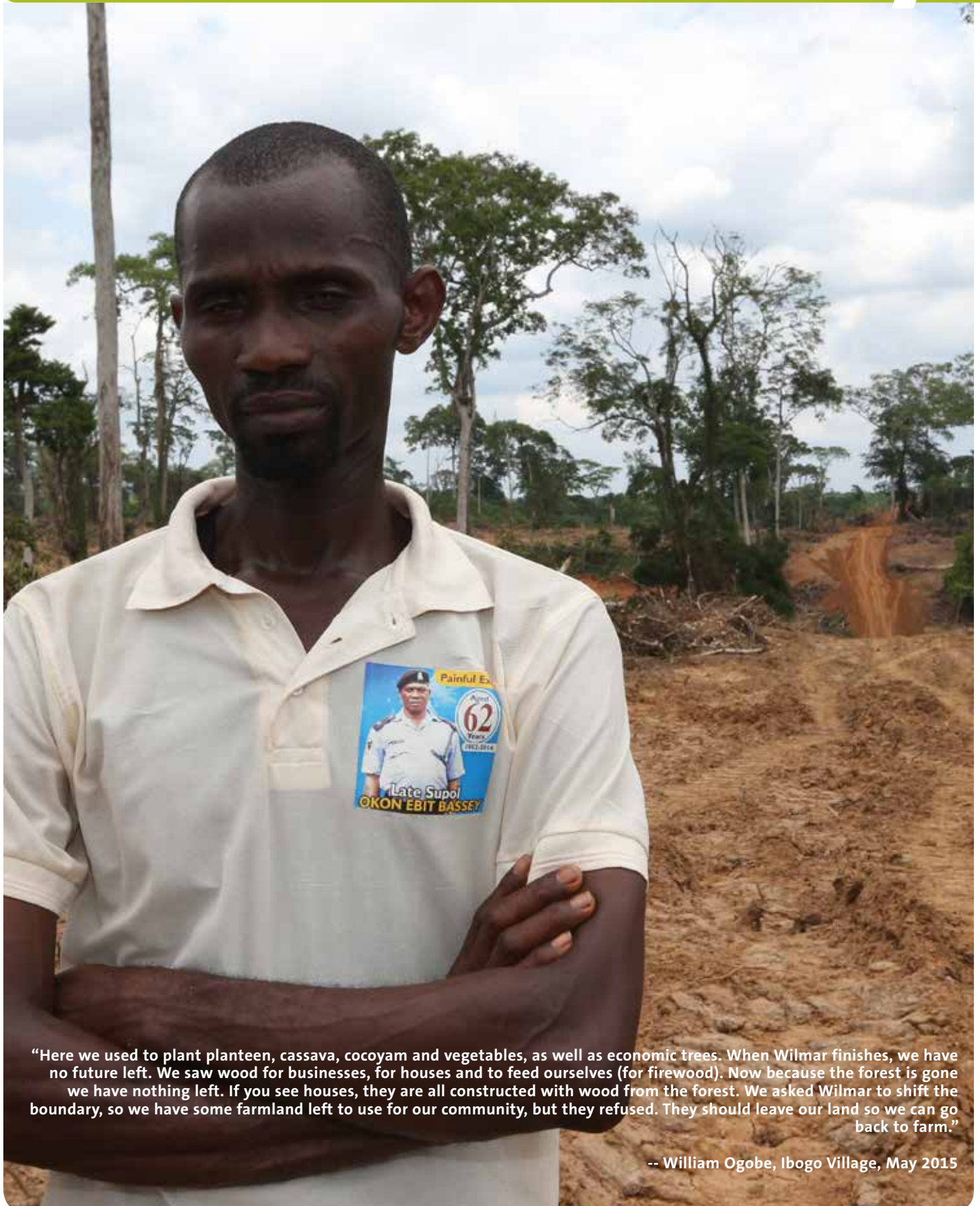


*“There is not enough water, and it is polluted.”*



# Community resistance

# 7



“Here we used to plant plantain, cassava, cocoyam and vegetables, as well as economic trees. When Wilmar finishes, we have no future left. We saw wood for businesses, for houses and to feed ourselves (for firewood). Now because the forest is gone we have nothing left. If you see houses, they are all constructed with wood from the forest. We asked Wilmar to shift the boundary, so we have some farmland left to use for our community, but they refused. They should leave our land so we can go back to farm.”

-- William Ogoke, Ibogo Village, May 2015



## 7. Community resistance

While many local people are outspoken about the impacts of Wilmar's operations, others have resigned themselves to fate. A few impacted communities and individuals are in various stages of preparing court cases to seek redress of grievances. However, court cases are expensive and time consuming and generally fail to provide near-term relief.

Local communities have established a "Community Forest Watch" in which community members analyze the socio-economic impacts of Wilmar's plantations, conduct resource mapping and land and forest surveys in order to fend off trespassers, and develop proposals for reparations and environmental remediation. The Community Forest Watch is adopting the principles of the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.<sup>171</sup> The Tenure

Guidelines, Part 5, on administration of land tenure with regards to recognition and records of customary tenure rights, provide that "States should provide systems such as registration, cadastre, and licensing systems to record individual and collective tenure rights in order to improve security of tenure rights including those held by indigenous and other communities with customary tenure systems."<sup>172</sup>

Internationally, some advocacy organizations, in recognition of the failure of the state to protect the communities impacted by Wilmar's operations, are calling for the establishment of a World Environmental Court to hold corporations such as Wilmar accountable for environmental crimes and human rights violations, per the United Nations Human Rights Commission resolution adopted in Geneva, June 2014.<sup>173</sup> Only through binding rules for corporations which are established at the UN level will local communities and affected people by Wilmar's operations have access to justice.



*"By taking our farms, Wilmar is declaring us dead." - Elder Aning Oja, Ibogo Village*

# Wilmar's financiers

# 8

## 8. Wilmar's financiers<sup>174</sup>

Wilmar is obligated to uphold environmental and social standards as a result of its own policy and its membership in the RSPO. However, shareholders and banks, who are the most important financial stakeholders of Wilmar International, may also be subject to Environmental, Social and Governance commitments.

Shareholders and banks are the most important financial stakeholders of Wilmar International. Shareholders finance 35.6 percent of the Wilmar's assets. A large amount of the shares of the company are held by a few major shareholders, including the Kuok Group and the American commodity trader Archer Daniel Midlands, which holds 18.1 percent of the shares in Wilmar through its wholly-owned subsidiaries ADM Asia Pacific, ADM Ag Holding and Global Cocoa Holdings.<sup>175</sup> Other major investors in Wilmar International include the investment management firms BlackRock, Vanguard, T. Rowe Price and Van Eck Associates.

At the end of 2014, bank loans financed 50.4 percent of Wilmar's assets, largely through short-term trading loans. The main providers

Financier	Country	Share value (Millions \$)	Share Value (Millions €)	Loans (Millions \$)	Loans (Millions €)
Mitsubishi UFJ Financial	Japan			351	256
Sumitomo Mitsui Financial	Japan			351	255
Commonwealth Bank of Australia	Australia			250	184
Westpac Banking Corporation	Australia			250	181
HSBC	United Kingdom			230	170
BNP Paribas	France			200	144
Mizuho Financial	Japan			200	144
Rabobank	Netherlands			200	144

of loans to Wilmar International in the past five years are HSBC, Mitsubishi UFJ Financial, Sumitomo Mitsui Financial, Overseas-Chinese Banking Corporation and BNP Paribas.

As of December 2014, Wilmar was financed for 1.0 percent by bondholders. (Bondholders are not included in the table below.)

Many of Wilmar's North American and EU financiers have adopted Environmental, Social and Governance criteria that should prevent them from investing in companies engaged in land grabbing and destruction of tropical forests. Yet despite the fact that some of these policies have been in place for more than ten years, financiers are still involved in these practices by providing financial services to companies like Wilmar.<sup>176</sup> This suggests that voluntary self regulation by companies and financiers is wholly insufficient to address ESG concerns, and signals a need for binding rules to hold both companies and financiers accountable.

These are Wilmar's largest North American, European, Australian and Japanese investors:<sup>177</sup>

Financier	Country	Share value (Millions \$)	Share Value (Millions €)	Loans (Millions \$)	Loans (Millions €)
JA Mitsui Leasing	Japan			20	15
Apple Financial Holdings	United States			20	14
DZ Bank	Germany			20	14
BlackRock	United States	85.63	76.52		
Vanguard	United States	71.06	64.42		
T. Rowe Price	United States	52.9	47.96		
Van Eck Associates	United States	45.3	41.07		
State Street	United States	25.5	23.07		
JPMorgan Chase	United States	23.85	18.97		
Dimensional Fund Advisors	United States	20.91	18.96		
CalPERS	United States	19.43	14.23		
Northern Trust	United States	17.04	15.44		
Fidelity Worldwide Investment	Bermuda	15.88	14.17		
ABP	Netherlands	15.74	12.95		
Bessemer	United States	13.58	12		
TIAA-CREF	United States	9.08	8.37		



Financier	Country	Share value (Millions \$)	Share Value (Millions €)	Loans (Millions \$)	Loans (Millions €)
Pensioen- fonds Zorg & Welzijn	Nether- lands	7.97	6.56		
Bank of New York Mellon	United States	7.38	6.69		
CPP Investment Board	Canada	7.28	5.29		
Geode Capital Management	United States	7.04	6.38		
Anima	Italy	6.49	5.98		
MassMutual Financial	United States	5.85	5.39		
Deutsche Bank	Germany	5.85	5.06		
Sumitomo Mitsui Trust	Japan	5.7	4.73		
EFG International	Switzer- land	5.55	4.03		
Aviva	United Kingdom	5.21	4.8		
Goldman Sachs	United States	5.16	4.67		
Invesco	United States	4.94	4.45		
Reyl & Cie	Switzer- land	4.8	3.95		
Crédit Suisse	Switzer- land	4.29	3.53		
UBS	Switzer- land	4.25	3.59		
Helaba	Germany	4.1	3.23		
Northwestern Mutual Life Insurance Company	United States	3.86	3.41		

# Conclusion and recommendations: Wilmar's expansion should stop

# 9

## 9. Conclusion and recommendations: Wilmar's expansion should stop

Wilmar's new plantations in Nigeria follow the same business model that has caused vast forest destruction and human rights abuse in Southeast Asia. For countries like Indonesia and Malaysia, the embrace of large scale palm plantations has actually contributed little to GDP;<sup>178</sup> failed to provide stable and secure local employment; and subjected the economies to the whims of global commodity price volatilities. In Southeast Asia, aggressive government support for large scale plantations, similar to that planned for Nigeria, has extracted wealth from the country into the pockets of foreign business owners, leaving as little as possible in tax revenue; and has left communities landless, hungry, indebted, and in conflict.

Those factors, combined with Nigeria's weak land rights regime for communities, high levels of corruption and a historic failure to implement applicable environmental laws and regulations, lead Nigerian NGO Rainforest Resources Development Centre (RRDC) to conclude that, in regards to Wilmar's Nigerian promises, "one must exercise caution."<sup>179</sup>

"Wilmar has the technical capacity to destroy all the forests of this region within six months," says RRDC. According to the group, Wilmar's environmental and social promises are company attempts "to buy time and divert public attention from the massive forest destruction activities that the company is already poised to execute."<sup>180</sup>

Others, including farmers recently displaced by Wilmar's Nigerian operations, are more direct: "By taking our farms," one Cross River State resident said, "Wilmar is declaring us dead."

Wilmar's expansion plans will likely lead to further evictions and appropriation of farmlands of migrant and small-holder farmers. The situation poses a grave and ongoing threat to local rights-holders, who have everything to lose and relatively little to gain – unless Wilmar proves able to dramatically change its business model, and unless the Nigerian government makes dramatic changes to its handling of human rights and land rights. The expansion plans also pose serious risks to Wilmar's brand reputation and the credibility of its commitment to "No exploitation."

Therefore, Friends of the Earth-Nigeria and Friends of the Earth-US recommend that:

- Wilmar should halt its expansion plans effective immediately.
- The Nigerian government should encourage and incentivize small-holder agricultural production and undertake a process of reforming its land tenure systems to prevent the dispossession of rural communities, in line with the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security;
- Wilmar should be held accountable for human rights

violations related to eviction and livelihood destruction. As it is exceedingly difficult to bring transnational corporations to justice in Nigeria and other developing countries, we recommend the establishment of a World Environment Court (WEC) to handle cases of human rights violations arising from the operations of Transnational Corporations. This is in furtherance of the United Nations Human Rights Commission resolution adopted in Geneva, June 2014.

### Financiers with outstanding loans to Wilmar, or who hold shares in Wilmar, should:

- use their influence to bring an end to the problems named in this report, by demanding that Wilmar comply with its stated policy and with global best practices in FPIC, ILO labor standards and international economic, social and cultural rights covenants, and make clear that they will terminate financial relationships with the company if Wilmar fails to take the actions outlined below;
- understand that neither self regulation by industry nor by multi-stakeholder bodies like the RSPO are sufficient to prevent the kinds of abuses outlined in this report; that the palm oil sector is rife with high environmental, social and governance risks that cannot be sufficiently addressed by voluntary codes of conduct; and that they should therefore approach palm oil, if at all, as a high-risk investment requiring strict business selection criteria and enhanced due diligence;

### Wilmar International and its subsidiaries in Nigeria should:

- immediately cease its expansion plans and halt its operations in Cross River State until all of the provisions of its No Deforestation, No Peat, No Exploitation policy have been met, until violations of Nigerian law are addressed and rectified to the satisfaction of local affected communities, and until the following demands are met;
- declare a policy of permanent inaction or withdrawal from reserve areas within the former Obasanjo farms;
- publish all concession maps, Socio-Environmental Impact Assessments, employment policies, HCV and HCS assessments and minutes of community consultations;
- thoroughly review and overhaul its protocols for seeking the Free, Prior and Informed Consent in line with global best practices; secure independent third party oversight of its practice of FPIC; and reinitiate a process of open consultation with all affected people;
- establish a local grievance committee to ensure restitution and compensation of people who have been displaced or suffered livelihood impacts.

**In the words of ERA and RRDC, "If Wilmar fails to improve its operations, the company had better pack and go."**





# Exploitation and Empty Promises

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36. Op cit. Schoneveld, 2013. 147
37. Op cit. Schoneveld. 2013. 152
38. Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Nigeria. 2014. At: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf)
39. <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>
40. <http://www.landmatrix.org/en/about/#what-is-a-land-deal>



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46. <http://www.gcftaskforce-database.org/StateOverview/CrossRiverState>
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50. The forest-cover loss percentages calculated from the data used in this study represent a fraction of the land area of a given concession so forest loss as a percentage of the existing forest will actually be greater. Analysis from 2013-2015 is unavailable.
51. International Union for Conservation of Nature (IUCN), <http://www.iucnredlist.org/> (accessed March 9, 2014).
52. <http://www.palmwatchafrica.org/tag/high-forest-low-deforestation/>
53. Op cit. Schonevelde.2013
54. Ibid.
55. RRDC and ERA.2014. *Large-scale Palm Oil Production, Environment and Livelihood of Local Communities in Nigeria: The Case of Wilmar Plantations in Cross-River State*. Report published in Nigeria, November 2014.
56. Op cit.Schonevelde.2013.156
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58. [http://www.un.org/esa/socdev/unpfi/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf)
59. UN FAO. "Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition."2014. At: <http://www.fao.org/3/a-i3496e.pdf>
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63. <http://www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf>
64. Ibid.153
65. Op cit.157
66. Op cit. Schonevelde.2013.153
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68. Forest Peoples Programme. *Summary Analysis of FPP's Review of GVL/GAR's FPIC Procedures*.2015.8 At: <http://www.forestpeoples.org/sites/fpp/files/news/2015/04/Golden%20Veroleum%20Summary%20FINAL.pdf>
69. According to UN FAO interpretation of FPIC, "Respect for FPIC guarantees indigenous peoples and local communities a voice at every stage of development planning and implementation for projects that may affect their wider rights. This includes the right of indigenous peoples and local communities to determine what type of consultation and decision-making process is appropriate for them. Obtaining initial consent may be only the first step; throughout the project's operation, the ongoing participation of communities, participatory monitoring and robust verification are required for FPIC to be upheld." UN FAO. "Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition."2014. At: <http://www.fao.org/3/a-i3496e.pdf>
70. Comprises Betem, Idoma, Igbofia and Akpet Egbai. Akpet Egbai in turn comprises: Akpet Central, Ibogo, Umai, Akparavuvuni and Ukwop Eyere villages.
71. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf)
72. A statutory body established by the Eastern Regional Government in 1962.
73. See Survey Plan No. ISH 351
74. Op cit. Schonevelde.2013.155
75. Op cit. 156
76. RRDC/ERA: Focus Group Discussion with Akpet Egbai farmers/ community March 3, 2014.
77. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf)
78. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf)
79. Op Cit. Schoenevelde.2013.154
80. Op Cit.156
81. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf).5 (Accessed May 21, 2015.)

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82. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.5](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.5)
83. RRDC and ERA.2014. Large-scale Palm Oil Production, Environment and Livelihood of Local Communities in Nigeria: The Case of Wilmar Plantations in Cross-River State. Report published in Nigeria. November 2014.
84. RRDC/ERA: Interview with His Royal Highness, Tufam Clement of Ekpe Emayib Oban, community on March 4, 2014. The newly acquired estate here is forest reserve. This reserve is community land but the government gave it to former President of Nigeria, Olusegun Obasanjo, without consulting the community people. The lack of any written policy or commitment to conservation was also implied in comments made by Wilmar's Head of Human Resources, Mr. Steven Ebong in an interview conducted March 4, 2014.
85. Op Cit. Schoenevelde.2013.156
86. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.20](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.20)
87. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf)
88. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.18](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.18) (Accessed May 21, 2015.)
89. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.18](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.18)
90. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.20](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.20). (Accessed May 21, 2015.)
91. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.18](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.18)
92. Op Cit 156
93. Op Cit.156
94. UN FAO. "Respecting free, prior and informed consent: Practical guidance for governments, companies, NGOs, indigenous peoples and local communities in relation to land acquisition."2014. At: <http://www.fao.org/3/a-i3496e.pdf>
95. This section of the FAO guide to FPIC merits citation in full: "For companies, the situation may be more ambiguous. They may find that lands they have acquired from the government (or through land transfers) are encumbered with customary rights that have been overlooked or ignored by government agencies. In such cases, companies should engage directly with the communities in good faith, explaining the situation. They should then carry out the procedures outlined below and communicate that they will not clear lands or pursue their investment objectives without first recognizing the full extent of customary rights and securing FPIC for their plans from the relevant rights-holders. It does need to be recognized, however, that such situations place affected communities in a position of considerable disadvantage. Once their lands have been allocated to a third party without their consent, the leverage of communities in any subsequent negotiations with the company is substantially weakened."
96. <http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf> (accessed on May 27, 2014).
97. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf.11](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf.11)
98. <https://www.hcvnetwork.org/about-hcvf>
99. <https://www.hcvnetwork.org/about-hcvf>
100. <http://www.rspo.org/file/RRDC%20Rejoinder.pdf>
101. Friends of the Earth/Urness,Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2.6 At: [http://webiva-downton.s3.amazonaws.com/877/4c/0/5932/FOE\\_NigerianPalmOilConcessions\\_ForestLoss\\_Analysis\\_Update2\\_41\\_web.pdf](http://webiva-downton.s3.amazonaws.com/877/4c/0/5932/FOE_NigerianPalmOilConcessions_ForestLoss_Analysis_Update2_41_web.pdf)
102. Friends of the Earth/Urness,Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2.
103. Friends of the Earth/Urness,Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2.
104. <https://www.hcvnetwork.org/about-hcvf>
105. [http://www.rspo.org/file/RSPO-NPP\\_Report\\_Ibiae-Assessment\\_Findings%20Final.pdf](http://www.rspo.org/file/RSPO-NPP_Report_Ibiae-Assessment_Findings%20Final.pdf)
106. The Obasanjo farms concessions overlap the Akampa Local Government Area which includes the villages of Ekpe, Abiati, Aningejhe, Anonghey, Ekong Anaku, Ndinana, Mbotakpa, Mbobui, Ikot Effangha and Ikot Uyom Ene.
107. GRAIN.2014. Stolen land: Nigerian villagers want their land back from Wilmar. At: <http://www.grain.org/article/entries/4844-stolen-land-nigerian-villagers-want-their-land-back-from-wilmar>. This article is based on interviews with two community leaders: Linus Orok and Patrick Chi.
108. Op cit.151
109. RRDC/ERA: Interview with Barrister Monday Ivah Ibogo March 3, 2014.
110. RRDC/ERA:Olusegun Obasanjo acquired the land from the Cross Rivers State government when he was serving president of Nigeria. This has been interpreted as unethical, as a serving President ought not to have used his position to impress on then Governor of the state, Donald Duke to hand over such size of land and plantations to him.
111. Op cit. RRDC and ERA.2014.
112. Op cit. Shonevelde.2013.158
113. RRDC/ERA.Interview with His Royal Majesty, Chief Ntufam Clement of Ekbe in his palace on March 3, 2014.
114. RRDC/ERA: For a long time the community adopted "a wait-and-see-attitude" because of the impression that government is both the owner of the land and the judiciary. This means that even getting justice is difficult if the community must fight government over the land.
115. Op cit.158
116. <http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf> (accessed on May 27, 2014).
117. Information about the protected forest reserve boundaries are provided by the online World Database on Protected Areas (WDPA), which is a joint project of IUCN and UNEP, and is identified as "the most comprehensive global database on terrestrial and marine protected areas." <http://www.protectedplanet.net/about> (accessed on May 27, 2014). Information about the protected status and the boundaries of these forest reserves were made available by the Government of Nigeria (see [http://www.protectedplanet.net/sites/Ekinta\\_River\\_Forest\\_Reserve](http://www.protectedplanet.net/sites/Ekinta_River_Forest_Reserve) and in the surroundings of the [http://www.protectedplanet.net/sites/Oban\\_Group\\_Forest\\_Reserve](http://www.protectedplanet.net/sites/Oban_Group_Forest_Reserve), accessed on May 27, 2014).
118. Ibid. Information about the Cross River State National Park boundaries are provided by the Nigerian Conservation Foundation (which is a partner of Birdlife International) (see [http://www.protectedplanet.net/sites/Cross\\_River\\_National\\_Park](http://www.protectedplanet.net/sites/Cross_River_National_Park), accessed on May 27, 2014). In its 12 December 2013 statement to a local organization in Nigeria, Wilmar International Limited however argues that "we would like to clarify that upon consultation with



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- the Cross River State Forestry Department in September 2013, we have confirmed that Obasanjo farms does not overlapped with the Oban Hills division of the Cross River State National Park (CRNP) as alleged. We welcome evidence to show otherwise.” - from <http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf> (accessed on May 27, 2014). This contradictory evidence has therefore been provided by the online tool of the IUCN and the UNEP, based on its contacts with the Government of Nigeria and a local partner of Birdlife International.
119. Information about the Cross River State National Park boundaries are provided by the Nigerian Conservation Foundation (which is a partner of Birdlife International) (see [http://www.protectedplanet.net/sites/Cross\\_River\\_National\\_Park](http://www.protectedplanet.net/sites/Cross_River_National_Park), accessed on May 27, 2014). In its 12 December 2013 statement to a local organization in Nigeria, Wilmar International Limited however argues that “we would like to clarify that upon consultation with the Cross River State Forestry Department in September 2013, we have confirmed that Obasanjo farms does not overlapped with the Oban Hills division of the Cross River State National Park (CRNP) as alleged. We welcome evidence to show otherwise.” - from <http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf> (accessed on May 27, 2014). This contradictory evidence has therefore been provided by the online tool of the IUCN and the UNEP, based on its contacts with the Government of Nigeria and a local partner of Birdlife International.
  120. Friends of the Earth/Urness, Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2. At: [http://webiva-downton.s3.amazonaws.com/877/4c/0/5932/FOE\\_NigerianPalmOilConcessions\\_ForestLoss\\_Analysis\\_Update2\\_41\\_web.pdf](http://webiva-downton.s3.amazonaws.com/877/4c/0/5932/FOE_NigerianPalmOilConcessions_ForestLoss_Analysis_Update2_41_web.pdf)
  121. <http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf> (accessed on May 27, 2014).
  122. See: [http://d2ouvy59p0dg6k.cloudfront.net/downloads/rspo\\_new\\_planting\\_procedures\\_2012.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/rspo_new_planting_procedures_2012.pdf)
  123. Friends of the Earth/Urness, Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2.
  124. There is a lack of clarity on the exact date of Wilmar’s take-over of Obasanjo Farms. Wilmar International Limited states in its 12 December 2013 letter to the RSPO Compliant Co-Ordinator that the plantation areas were acquired in 2012 (<http://www.rspo.org/file/Response%20to%20RRDC%20Dec%202013.pdf>, accessed on May 27, 2014), although in its 2013 open letter to Friends of the Earth, Wilmar states that it purchased the areas in 2011 (<http://www.wilmar-international.com/wp-content/uploads/2013/12/Wilmar-Affirms-Commitment-to-Open-Transparent-and-Responsible-Practices.pdf> (accessed on May 27, 2014).
  125. Friends of the Earth/Urness, Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2.
  126. [http://wwf.panda.org/what\\_we\\_do/endangered\\_species/great\\_apes/gorillas/cross\\_river\\_gorilla/](http://wwf.panda.org/what_we_do/endangered_species/great_apes/gorillas/cross_river_gorilla/)
  127. IUCN Red List IUCN Red List
  128. <http://www.iucnredlist.org/details/39998/0>
  129. Will Oil Palm’s Homecoming Spell Doom for Africa’s Great Apes?
  130. <http://www.sciencedirect.com/science/article/pii/S0960982214006800>
  131. Revised Regional Action Plan for the Conservation of the Cross River Gorilla (Gorilla gorilla diehli) 2014-2019 [http://static1.1.sqspcdn.com/static/f/1200343/24396223/1392763857780/CRG\\_action\\_plan\\_2014.pdf?token=wrUaxdDvj7MJ8Cg2irlYnpgcBPU%3D](http://static1.1.sqspcdn.com/static/f/1200343/24396223/1392763857780/CRG_action_plan_2014.pdf?token=wrUaxdDvj7MJ8Cg2irlYnpgcBPU%3D)
  132. <http://www.forestpeoples.org/sites/fpp/files/news/2012/11/NGO%20Complaint%20to%20RSPO%20about%20Wilmar%20NPP%20in%20Nigeria.pdf>
  133. Laws of the Federal Republic of Nigeria (LFRN)
  134. Ibid.
  135. [http://www.rspo.org/file/CPDecisionFinal\\_14May2013.pdf](http://www.rspo.org/file/CPDecisionFinal_14May2013.pdf)
  136. <http://www.wilmar-international.com/wp-content/uploads/2013/12/Wilmar-Affirms-Commitment-to-Open-Transparent-and-Responsible-Practices.pdf> (Accessed June 15, 2015)
  137. Op cit.156
  138. Op cit.157
  139. Op cit.157
  140. Op cit.157
  141. Op cit.157
  142. Op cit.157
  143. Friends of the Earth/Urness, Teaby, 2015: Analysis of Forest Cover Loss in Palm Oil Concessions in Nigeria for Friends of the Earth: Update 2. See also: <http://wrm.org.uy/oldsite/countries/Nigeria/Odey.html>
  144. Op cit. Schonevelde.2013.160
  145. Op cit.Schonevelde.2013.157
  146. The State Ministry issues two Provisional Compliance Certificates to Wilmar dated March 2013: No. ME.EPAD.013/12 and No. ME.EPAD.013/13
  147. ME/AD/108/Vol.vi/931 dated 6th March, 2013, entitled: PROOF OF COMPLIANCE/CERTIFICATE, and addressed to the Manager, Wilmar International.
  148. Op cit.Schonevelde.2013.160
  149. Op cit. 160
  150. Op cit. 160
  151. Op cit. 160
  152. Op cit. 160
  153. Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Nigeria.2014. At: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf).18-19
  154. <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>
  155. Humanity United et al. Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance. At: [http://humanityunited.org/wp-content/uploads/2015/03/PalmOilPrinciples\\_030315.pdf](http://humanityunited.org/wp-content/uploads/2015/03/PalmOilPrinciples_030315.pdf)
  156. Op cit.Schonevelde.2013.154
  157. Op cit.156
  158. Punch Nigeria. “PZ Wilmar creates 5000 jobs for Nigerians.” February 2015. At: <http://www.punchng.com/business/industry/pz-wilmar-creates-5000-jobs-for-nigerians/> (Accessed 21.5.2015)
  159. Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Nigeria.2014. At: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf).18-19.
  160. Agri-business Africa, “PZ-Wilmar \$650m oil palm JV to create 250,000 jobs”.

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161. <http://www.agribusinessafrica.net/index.php/by-sector/oilseeds-fibre-biofuels/1008-pz-wilmar-650m-oil-palm-jv-to-create-250-000-jobs-3>. (Accessed 20 May, 2015.)
162. RRDC/ERA. Interview with five female workers (names withheld) at Biase and Ibiae palm oil estates on March 3, 2014.
163. RRDC/ERA. Confidential source, Interview with field workers in Ibiae estate, March 4, 2014.
164. RRDC/ERA: "Supervisors in the company are university graduate employees."
165. RRDC/ERA. Confidential source, Interview with field workers in Ibiae estate, March 4, 2014.
166. RRDC/ERA. Interview with company supervisor at Kwa Fall plantation March 3, 2014. Supervisors are currently supervising the growing of nurseries.
167. RRDC/ERA. Focus Group Discussion at Ibiae palm oil estate March 3, 2014. Names of company Supervisors withheld for the security of their jobs.
168. RRDC/ERA. Focus Group Discussion at Ibogo on March 3, 2014.
169. The union's leadership had visited the employees two days prior to the research team's arrival at the plantation.
170. S Lord and J Clay. Environmental Impacts of Oil Palm –Practical Considerations in Defining Sustainability for Impacts on the Air, Land and Water. 25. At: <http://www.nbpol.com.pg/wp-content/uploads/downloads/2011/02/EnvironmentalImpactOfOilPalm.pdf>. (Accessed 21.5.2015)
171. Comte, Colin, Whalen and Olivier. Agricultural practices in oil palm plantations and their impact on hydrological changes, nutrient fluxes and water quality in Indonesia: a review. *Advances in Agronomy (Impact Factor: 5.02)*. 01/2012; 116:71-122.2012 At [http://www.researchgate.net/publication/230691353\\_Agricultural\\_practices\\_in\\_oil\\_palm\\_plantations\\_and\\_their\\_impact\\_on\\_hydrological\\_changes\\_nutrient\\_fluxes\\_and\\_water\\_quality\\_in\\_Indonesia\\_a\\_review](http://www.researchgate.net/publication/230691353_Agricultural_practices_in_oil_palm_plantations_and_their_impact_on_hydrological_changes_nutrient_fluxes_and_water_quality_in_Indonesia_a_review). (Accessed. 21.5.15)
172. Op cit.98
173. Op cit.101
174. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>
175. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.65
176. <http://business-humanrights.org/en/binding-treaty>
177. See Profundo Research & Advice. The financing of Wilmar – Update 2015. At: [http://webiva-downton.s3.amazonaws.com/877/24/4/5922/Wilmar\\_financing\\_FoEE.pdf](http://webiva-downton.s3.amazonaws.com/877/24/4/5922/Wilmar_financing_FoEE.pdf)
178. ThomsonONE, "Share ownership: Wilmar International - most recent filings", viewed in June 2015; Wilmar International (2015, May), Annual Report 2014.
179. See Friends of the Earth's brief, Continuing to exploit and deforest: Wilmar's ongoing abuses, June 2014, at: [http://www.foe.org/system/storage/877/95/4/4719/FOEE\\_wilmar\\_factsheets\\_eng\\_US\\_letter\\_lr.pdf](http://www.foe.org/system/storage/877/95/4/4719/FOEE_wilmar_factsheets_eng_US_letter_lr.pdf)
180. Note that this table excludes many financiers from Asia, including those from China, Taiwan, Singapore, Malaysia, Philippines, Abu Dhabi and Bahrain.
181. M Henstridge et al., "Growth in Indonesia: is it sustainable?" Oxford Policy Management, 2013, <http://www.opml.co.uk/sites/opml/files/>
182. [Growth%20in%20Indonesia\\_The%20impact%20of%20the%20commodity%20price%20boom.pdf](#)
183. <http://farmlandgrab.org/post/view/22912-rrdcs-rejoinder-wilmar-international-announces-policy-to-protect-forests-and-communities#sthash.vDGFkN7W.dpuf>
184. <http://farmlandgrab.org/post/view/22912-rrdcs-rejoinder-wilmar-international-announces-policy-to-protect-forests-and-communities#sthash.vDGFkN7W.dpuf>



# Notes

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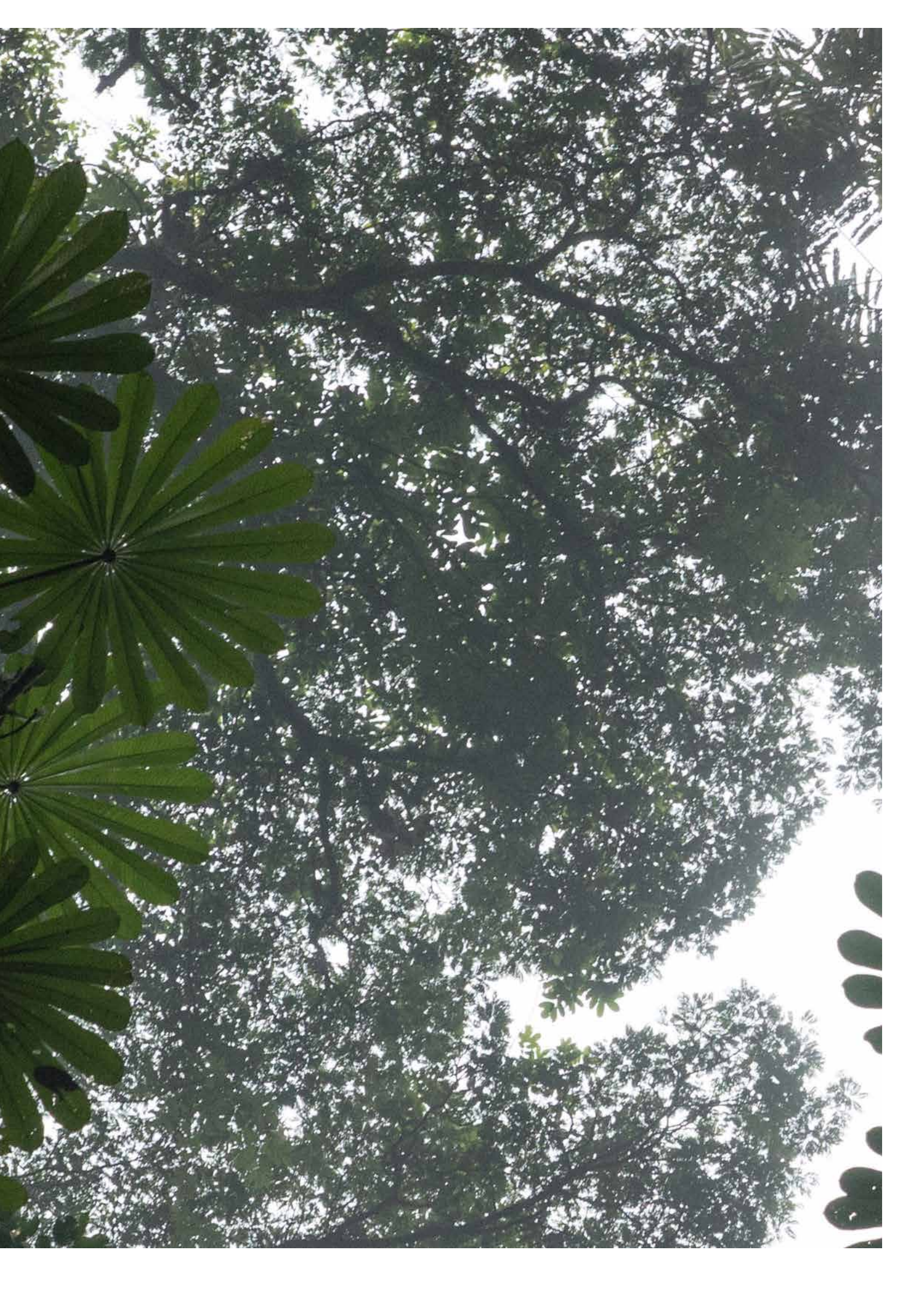
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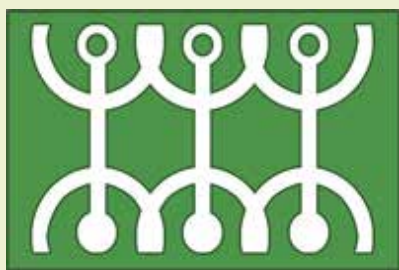








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