SEEDS OF DESTRUCTION

EXPANSION OF INDUSTRIAL OIL PALM IN THE CONGO BASIN: POTENTIAL IMPACTS ON FORESTS AND PEOPLE

FEBRUARY 2013

THE RAINFOREST FOUNDATION UK
233A Kentish Town Road,
London NW5 2JT, United Kingdom

Tel +44 (0) 20 7485 0193
Fax +44 (0) 20 7485 0315

info@rainforestuk.org
rainforestfoundationuk.org
youtube.com/thRFUK
facebook.com/rainforestfoundationuk
twitter.com/RFUK – @RFUK

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A series of special reports by The Rainforest Foundation UK.

These reports closely examine issues affecting indigenous peoples and traditional populations of the rainforest. Under the Canopy reports provide recommendations for international and local governments, the private sector, institutions and NGOs to innovate for positive change.

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<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>KEY MESSAGES</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>CONFIRMED AND POTENTIAL OIL PALM DEVELOPMENTS IN THE CONGO BASIN</td>
<td></td>
<td>6 - 7</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td></td>
<td>8 - 10</td>
</tr>
<tr>
<td>Box 1: Pygmies’ &amp; Bantus – the people of the Congo Basin rainforest</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>SECTION 1: BACKGROUND ON OIL PALM AND PALM OIL</td>
<td></td>
<td>11 - 12</td>
</tr>
<tr>
<td>Box 2: Who owns the Congo Basin rainforest?</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>SECTION 2: OIL PALM IN THE CONGO BASIN: RECENT DEVELOPMENTS &amp; FUTURE POTENTIAL</td>
<td></td>
<td>13 - 21</td>
</tr>
<tr>
<td>2.1 Historic &amp; current extent of development</td>
<td></td>
<td>13</td>
</tr>
<tr>
<td>2.2 Planned expansion</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>SECTION 3: CASE STUDIES OF NEW OIL PALM DEVELOPMENTS IN THE CONGO BASIN</td>
<td></td>
<td>22 - 44</td>
</tr>
<tr>
<td>3.1 Atama Plantation (Republic of Congo)</td>
<td></td>
<td>24 - 31</td>
</tr>
<tr>
<td>3.2 Olam (Gabon)</td>
<td></td>
<td>32 - 38</td>
</tr>
<tr>
<td>3.3 Herakles/SGSOC (Cameroon)</td>
<td></td>
<td>39 - 43</td>
</tr>
<tr>
<td>3.4 Conclusions from case studies</td>
<td></td>
<td>44</td>
</tr>
<tr>
<td>SECTION 4: POTENTIAL SOCIAL &amp; ENVIRONMENTAL IMPACTS OF OIL PALM DEVELOPMENT IN THE CONGO BASIN</td>
<td></td>
<td>45 - 54</td>
</tr>
<tr>
<td>4.1 Environmental impacts</td>
<td></td>
<td>46 - 47</td>
</tr>
<tr>
<td>4.2 Social impacts</td>
<td></td>
<td>48 - 50</td>
</tr>
<tr>
<td>4.3 Attempts to address the negative impacts of oil palm</td>
<td></td>
<td>51 - 53</td>
</tr>
<tr>
<td>Box 3: Challenges of smallholder / out-grower palm oil schemes</td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>SECTION 5: CONCLUSIONS &amp; RECOMMENDATIONS</td>
<td></td>
<td>55 - 59</td>
</tr>
<tr>
<td>5.1 Conclusions</td>
<td></td>
<td>55</td>
</tr>
<tr>
<td>5.2 Recommendations</td>
<td></td>
<td>56 - 59</td>
</tr>
<tr>
<td>ANNEX 1: SUMMARY INFORMATION ON KNOWN OIL PALM EXPANSION PROJECTS IN THE CONGO BASIN</td>
<td></td>
<td>60</td>
</tr>
<tr>
<td>ANNEX 2: FREE, PRIOR AND INFORMED CONSENT (FPIC) AND CONSULTATION</td>
<td></td>
<td>63</td>
</tr>
<tr>
<td>ACRONYMS</td>
<td></td>
<td>64</td>
</tr>
<tr>
<td>REFERENCES</td>
<td></td>
<td>65</td>
</tr>
</tbody>
</table>

This report is based on research by Earthsight Investigations on behalf of Rainforest Foundation UK (RFUK). Earthsight specialises in using in-depth research, investigations, undercover work and filming to document environmental and social crime and injustice. The conclusions and recommendations and any views expressed within the report are those of RFUK only.
HUGE FUTURE DEVELOPMENT PLANNED

New industrial oil palm expansion projects currently underway cover 0.5 million hectares in the Congo Basin, which will result in a fivefold increase in the area of active large-scale palm plantations in the region. The area of projects announced since 2009, but not necessarily underway, covers 1.6 million hectares and palm oil companies are searching for larger areas. Approximately two-thirds of the total forest area of the Congo Basin’s forests – 115 million hectares – has suitable soil and climate for growing oil palms. Some of the projects are associated with wider agro-industrial developments, such as for rubber production or biofuels.

LACK OF TRANSPARENCY

The terms of the agreements between palm oil companies and Congo Basin governments have mostly been conducted and concluded in secrecy. Those agreements and contracts that have found their way into the public domain indicate that very generous investment terms are being offered; the potential benefits to local and national economies are much less clear.

PROJECTED INCREASE OF EXPORTS

Although current exports of Congo Basin palm oil to major global markets are minimal, they may increase markedly from 2020.

RISK OF MAJOR SOCIAL AND ENVIRONMENTAL PROBLEMS

There is a real and growing risk that some of the serious, negative environmental and social impacts resulting from rapid expansion of palm oil production in Indonesia and Malaysia, such as widespread deforestation, social conflict and dispossession, could be repeated in the Congo Basin. However, practical steps can be taken to minimise such impacts if action is taken quickly (see Recommendations).

INFORMATION GAPS

Details of many of the new oil palm developments – including even geographical locations and agreements/contracts – are missing from publicly available information sources. Governments and investing companies may not have records of the presence of local and indigenous communities or important natural resources within the concessions earmarked for development. A key recommendation of this report is that this information needs to be collected as a matter of urgency, and incorporated into government planning of new developments in order to increase transparency and minimise negative impacts on people and the environment.

ABSENCE OF STATE PLANNING

For most of the new projects included in this report, there is little evidence that they form part of national land-use plans or socio-economic development strategies, or that alternative development options have been considered.
“Approximately two-thirds of the total forest area of the Congo Basin’s forests – 115 million hectares – has suitable soil and climate for growing oil palms.”

**Confirmed and Potential Oil Palm Developments in The Congo Basin**

**Cameroon**

- **Palm CO**
  - Reportedly seeking 100,000 ha
- **CDC**
  - Started planting 6,000 ha in 2009
- **Smart Holdings**
  - Seeking 25,000 ha
- **Cargill**
  - US$390m deal close to signature, 50,000 ha
- **Good Hope**
  - Believed to be looking for 6,000 ha, plan to invest “hundreds of millions” of dollars
- **Biopalm Energy**
  - Secured 53,000 ha, seeking at least 200,000 ha
- **Herakles Farms**
  - Agreement for 73,000 ha, 60,000 ha to be planted

**Gabon**

- **OLAM**
  - 100,000 ha of planting started
  - See Case Study 3.2, Section 3
- **SIAT**
  - In possession of 6,000 ha for expansion of current operation
- **BIDCongo Global Trading**
  - 24,200 ha planted as part of a 60,000 ha, US$150m deal
- **FRI-EL Green**
  - 40,000 ha agreed for biofuel production
- **Eni**
  - 70,000 ha ‘protocol’ agreement signed
- **Atama Plantations**
  - 180,000 ha to be developed in a 470,000 ha deal

**Central African Republic**

- **Palmex**
  - Agreement to develop 8,701 ha
- **Sime Darby**
  - Reportedly seeking up to 600,000 ha

**Key**

- Figures listed in hectares (ha)
- *For more detailed information on each development, please see Annex 1*
The cultivation of palm oil at an industrial-scale has wreaked havoc with the rainforests and forest peoples of South-East Asia and is now threatening rainforests in the Congo Basin.

In Malaysia and Indonesia, the (often illegal) expansion of oil palm between 1990 and 2005 resulted in the deforestation of 1.1m hectares and 1.7m hectares respectively. Fifty to sixty per cent of all oil palm expansion in the two countries during this time occurred at the expense of natural forests. The human cost of palm oil production has been alienation of forest peoples from their land, land conflicts and the pollution or over-use of water sources. Oil palm expansion on peat forests has been a major contributor to increased climate change emissions. Oil palm companies in Indonesia have cleared the habitat of endangered Orang-utans and Sumatran tiger.

This report shows that some of the same major players behind oil palm production in South-East Asia (such as Sime Darby, Goodhope, Wilmar and FELDA) are now turning their attention to Africa. In addition, new players - some with questionable backgrounds - are entering the market along with agricultural commodity traders seeking to break into the industry. Whilst new oil palm investments in Liberia have received attention, developments in the Congo Basin are among the most advanced. Though all are at an early stage of development, these three plantation areas are likely to be significantly impacted by the development.

Confirmed projects identified will result in 0.5 million hectares of new planting in the Congo Basin - a stark new threat to the second largest rainforest in the world.

Although oil palm production has the potential to boost growth and generate foreign exchange earnings, this needs to be balanced against the cost to the environment and the replacement of diverse farming and forest-based livelihoods with an export-orientated monoculture. In practice, the contracts signed between governments and oil palm developers are being kept secret, reducing transparency and democratic accountability. Those contracts that have come to light show that governments have already signed away some of the potential economic benefits, by granting developers extremely generous tax breaks of 10 to 16 years and land for “free” or at highly-discounted rates. It is far from clear that the national economic benefits of palm oil will be shared equitably or compensate for local livelihoods lost by communities in the Congo Basin due to development, or that granting large land concessions to foreign companies is a real solution to rural poverty and food insecurity in the region. There is little or no evidence that host governments have undertaken such “cost-benefit” analyses, and they certainly haven’t allowed any such analysis to be subject to public debate.

Areas newly allocated for conversion to oil palm plantations include habitats for rare, threatened or endangered species. For example, studies have shown the presence of great apes (including chimpanzees and gorillas), forest elephant, buffalo and manatees in one palm oil concession adjacent wetland ecosystems. Another concession even overlaps with a National Park. The areas allocated also often play an important part in local peoples’ livelihoods, including hunting, collection of important ‘non-timber forest products’, and subsistence farming. These are likely to be significantly impacted by the development.

Most developments appear to be progressing without an overall vision or national plan for the total area of land to be allocated to oil palm, what proportion of that land will or could be dedicated to smallholder production, and how to balance the demands for land for local community subsistence, mining, logging, and other agriculture. Furthermore, all countries in the region are engaged in the ‘Reducing Emissions from Deforestation and Degradation’ (REDD) process, but it is not clear how any ambitions to reduce greenhouse gas emissions can be reconciled with ambitions to become significant palm oil producers.

This report, the result of original research commissioned by The Rainforest Foundation UK (RFUK), lifts the lid on the new expansion of oil palm developments in the Congo Basin. It demonstrates that the negative impacts of oil palm developments seen in South-East Asia over the last twenty years are already starting to be felt in the countries of Central Africa. After providing a detailed overview of all projects announced in recent years, this report focuses on three major projects, in the Republic of Congo, Gabon and Cameroon respectively, which are among the most advanced. Though all are at an early stage of development, these three plantation developments already demonstrate the potential environmental destruction and social conflict that the expansion of oil palm development in the Congo Basin is likely to bring unless lessons from elsewhere are learned.
“Pygmy” is the term used (sometimes pejoratively) in relation to a number of different but related groups of indigenous peoples that inhabit various parts of the Congo Basin rainforest. They were originally fully nomadic hunting-gathering people, but in recent decades many have become at least partly sedentarised, partly as a result of government policies. Western Bantu farming people migrated into the Congo Basin, where ‘Pygmy’ people were probably already present, 3,000-4,000 years ago. Bantu people, which are sub-divided into many different ethnic groups, represent the dominant population in all the region’s countries. Typically, Pygmy ‘camps’, consisting of around 100 people from two to three large ‘family clans’ are located at the edge of, or nearby, a larger Bantu village. Very few of these settlements (usually termed ‘campements’) are officially recognised. Because of the lack of documents such as birth certificates or ID papers, and the lack of formal title to the land they occupy, Pygmy people and their settlements may be completely absent from government censuses, maps and planning documents.

It is believed that there are around 500,000-700,000 Pygmies throughout the Congo Basin. Although they have been present within the Congo Basin for many millennia, they are universally landless, heavily discriminated against, are victims of violence and racism, and often living in conditions of ‘indentured’ labour to their Bantu farming neighbours.

In forest areas, Bantu people generally practice subsistence rotational farming systems in small ‘forest gardens’, which are temporarily cleared of lower vegetation by slashing and burning and planted with short rotation crops, accompanied by selection and retention from the natural vegetation of plants producing fruits, nuts, rattans and medicines. Because land might need to be left fallow for 15-20 years, it can sometimes appear ‘unoccupied’ or unused, even if it is part of an integral farming system. Bantu people are also responsible for almost all of the farming of permanent cash crops, such as cocoa, within the forest zone.

For more on the environmental, climate and human cost of expansion of industrial oil palm plantations in Indonesia and Malaysia, and some attempts to mitigate those impacts, see Section 4.

The oil palm (Elsineus guinensis) is native to tropical Africa and its fruit has provided useful edible oils for local people there for many centuries. During the 20th century, however, governments and large companies began planting oil palms on an industrial scale in monoculture plantations. Though such plantations have been established in many tropical countries, by far the largest growth has taken place over the last twenty years in Malaysia and Indonesia.

Oil palms produce a much greater yield of oil per hectare than other oilseeds such as soy or rapeseed, and have therefore been increasingly favoured by producers. In the ten years from 1999-2009, for example, the area of oil palm plantations in Indonesia more than doubled (see Figure 1). Much of the expansion in South-East Asia has taken place at the expense of forests, and it has resulted in dramatic negative impacts on the environment and on indigenous peoples (see Section 1).

The primary consumers of palm oil include China, India and the European Union. Palm oil is mostly used as a frying oil, but is also an ingredient in a vast array of processed food and pharmaceutical products such as soap, chocolate, ice-cream and cosmetics. Over the last few years, driven by increased crude oil prices and government policies intended to reduce greenhouse gas emissions from vehicles, an increasing (though still relatively small) proportion of palm oil has been destined for use as biodiesel.

At present, 85 per cent of global palm oil production happens in Indonesia and Malaysia. There are wide expectations that global demand will continue to grow substantially for the foreseeable future, but there is limited new capacity for expansion of oil palm plantations in Malaysia, and growth in Indonesia has slowed. Whilst there is believed to be the potential for substantial increases in yields from existing (or renewed) plantations (such as through better plantation management practices, and selection of planting stock, for example), palm oil developers are looking farther afield for large-scale expansion - including to Africa (see Section 2.2).
Section 2: Oil Palm in the Congo Basin: Recent Developments and Trends

2.1 Historic & Current Extent of Palm Oil Production

Most existing oil palm concessions in the Congo Basin were originally developed many decades ago. Large areas date back to colonial or early independent governments. As oil palms become commercially unproductive about 20-25 years after planting; many have now fallen into disrepair or are past prime production. As a result, the total area of commercially operated oil palm in the Congo Basin was at about the same level in 2010 as it was 50 years earlier. There are some regional variations: the area in the DRC has declined since colonial times and that in Gabon has increased – but the overall picture has been static and at a relatively low level, until now.

Figures for the current area of productive plantations, collated from information on the individual companies identified in this report, are provided in Table 1. This table does not include the area of planting within new developments, which is addressed in the following section. The data in Table 1 suggests that productive industrial plantations in the Congo Basin, excluding dilapidated large-scale plantations and community oil palm plots, currently cover approximately 100,000 hectares.

Table 1: Existing large-scale commercial oil palm plantations in the Congo Basin

<table>
<thead>
<tr>
<th>Country</th>
<th>Existing productive oil palm plantation area (hectares)</th>
<th>Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameroon</td>
<td>57,520</td>
<td>Pamol, CDC, Bollore Group</td>
</tr>
<tr>
<td>CAR</td>
<td>1,000</td>
<td>Centrapalm</td>
</tr>
<tr>
<td>DR Congo</td>
<td>28,127</td>
<td>Feronia Inc, SDFCIN (Brabant), Groupe Agro Pastoraire (Blattner Group)</td>
</tr>
<tr>
<td>Gabon</td>
<td>7,300</td>
<td>SIAT</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>4,000</td>
<td>Pin-El-Green</td>
</tr>
<tr>
<td>Total</td>
<td>97,947</td>
<td></td>
</tr>
</tbody>
</table>

Source: Earthsight Investigations for Rainforest Foundation UK.

Who Owns the Congo Basin Rainforest?

1. Cameroon
2. Central African Republic
3. Equatorial Guinea
4. Gabon
5. Republic of Congo
6. Democratic Republic of Congo

All forest land in all countries of the Congo Basin region is considered to be the property of the state. Parcels of land are leased out for specific purposes over defined periods of time (typically, for timber extraction, over 20-30 years) under concession agreements. Such agreements should accord with both the national forest/land zoning plan, where this exists, and also with national forest legislation, which usually determines different types of forest land, in particular whether they are part of the ‘permanent’ forest estate, or are convertible to other uses. Even at official zoning level, forest land allocations can be erratic and inconsistent with national policies; overlaps and multiple allocations are not uncommon, such as between different types of commercial concessions, or between such concessions and, for example, designated national parks or other protected areas.

Another major problem in ensuring clear and uncontested land rights is that probably the vast majority of forest land in the Congo Basin region is claimed under customary ‘ownership’ of usage rights by at least one ethnic group or community (see Box 1 on Pygmies and Bantus). Such claims exist through very long occupation, custom and practice. They are often recorded only in verbal history and agreements between communities and have mostly not been formally recorded or officially recognised. Large areas of land inherited by forest-dependent communities and claimed by them under customary regimes have been allocated to other forest users and exploiters - a continuous level of conflict between customary forest ‘rights-holders’ and those allocated new rights, such as logging companies, is a consequence.

“Large areas of land inhabited by forest-dependent communities have been allocated to other forest users and exploiters.”

The absence of formal (written) land ownership titles over any land does not necessarily indicate that the land is unoccupied, unused, or is unclaimed by communities. Government agencies responsible for confirming agreements with oil palm developers may have few or no records of such customary rights and claims, though some legislative frameworks, such as in the Democratic Republic of Congo (DRC), in principle recognise customary possession and oblige all investors to undertake prior consultation with indigenous peoples and other local communities, and to compensate for any loss of customary usage rights. ‘Pygmies’ have been excluded from legal processes determining rights to land, and sedentarisation has often meant settling on land that is already either claimed, owned or used by settled Bantu farmers.
SECTION 2: OIL PALM IN THE CONGO BASIN: RECENT DEVELOPMENTS & FUTURE TRENDS

The Congo Basin is thus currently a small player globally in terms of palm oil production. The region has less than 2 per cent of the world’s oil palm-planted land and accounts for less than 0.5 per cent of global palm oil production. Even within Africa, Nigeria, Ivory Coast and Ghana are larger palm oil producers than any Congo Basin country. Both Malaysia and Indonesia dwarf the entire region’s production. Cameroon, DRC and Gabon all currently export palm oil, but up to now the amounts have remained very small in global terms (see Table 2). The largest exporter in the region, Cameroon, exported just 4,000 tonnes in 2010, worth $7.4 million. Most existing palm oil produced in the Congo Basin is consumed domestically. Significantly, all countries in the region are net importers (see Table 2), Cameroon, for instance, is the largest producer in the Congo Basin, but domestic consumption in the country exceeds this. Some have used this argument to justify the development of new industrial palm oil plantations in the Congo Basin, but as this report argues, the business models behind new developments seem to be based on exports to lucrative markets, similar to the region’s timber industry. Currently, nearly all palm oil exports from DRC and Gabon go to other countries in Central Africa. Just 60 tonnes of palm oil were exported by Congo Basin countries to Europe in 2010, with Belgium (34 tonnes), France (13 tonnes) and the UK (9 tonnes) the largest European destinations. Exports from the region to the UK represented less than 0.01 per cent of the UK’s total palm oil imports. Almost all of these exports were from Cameroon.

### Table 2

<table>
<thead>
<tr>
<th>Country</th>
<th>Palm Oil Production 2010 (Tonnes)</th>
<th>Palm Oil Exports 2009 (Tonnes)</th>
<th>Palm Oil Imports 2009 (Tonnes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameroon</td>
<td>111,440</td>
<td>6,052</td>
<td>29,847</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>No Data</td>
<td>0</td>
<td>5,188</td>
</tr>
<tr>
<td>Democratic Republic of Congo</td>
<td>187,000</td>
<td>500</td>
<td>74,000</td>
</tr>
<tr>
<td>Gabon</td>
<td>2,800</td>
<td>1,684</td>
<td>23,606</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>25,500</td>
<td>0</td>
<td>9,250</td>
</tr>
<tr>
<td>Total</td>
<td>326,740</td>
<td>8,236</td>
<td>141,891</td>
</tr>
</tbody>
</table>

Source: Earthsight Investigations for The Rainforest Foundation UK

2.2 PLANNED EXPANSION

#### 2.2.1 POTENTIAL & DRIVERS

Since as early as 2009, media reports on the oil palm industry have been noting increased attention by major companies to tropical Africa for future expansion. There are various reasons for this. The principal one is that the amount of land available for expansion in the two main producing countries - Malaysia and Indonesia - is rapidly diminishing, while demand for palm oil is expected to continue to grow. Investment bank Nomura has predicted that these countries will run out of suitable land by 2020-2022. By the end of the current decade, assuming ‘business as usual’, and continued expansion in both countries, it is expected that global demand for palm oil will significantly outstrip supply. It is estimated that to meet anticipated demand will require around 7 million hectares of additional planting, and $20 billion in investment.

Labour costs are increasing in Malaysia and Indonesia – and in the same way that this became a limiting factor for the rubber industry, so it will affect palm oil production. As well as plentiful and cheap labour, West and Central Africa also have the advantage of being closer to key palm oil markets in Europe and the Middle East, reducing shipping costs. There is also growing domestic demand in Africa itself, which imported 3 million tonnes of palm oil in 2010, an increase of 15 per cent on the previous year. Oil palm development in the Congo Basin is being encouraged by new investments in road and port infrastructure in key countries (often linked with other commodity development, especially minerals), which is opening new areas to possible investment. Land is cheap and seemingly plentiful, and taxes low. Recent investments indicate that land which typically costs up to $500 per hectare in Indonesia can be obtained for free (at least in terms of officially declared and recorded payments) from pliant African governments, along with incredibly generous tax breaks. (see case studies in Section 3).

![Figure 2](image-url)

**What’s driving oil palm production in the Congo Basin?**

**LAND AVAILABLE FOR EXPANSION IN MALAYSIA AND INDONESIA – WHICH ACCOUNTS FOR 85% OF GLOBAL PRODUCTION – IS RAPIDLY DIMINISHING, WHILE DEMAND FOR PALM OIL IS EXPECTED TO CONTINUE TO GROW.**

![Image](image-url)

**TABLE 2**

Summary data on commercial palm oil in Congo Basin countries.

![Image](image-url)

**FIGURE 2**

What’s driving oil palm production in the Congo Basin?
SECTION 2: OIL PALM IN THE CONGO BASIN: RECENT DEVELOPMENTS & FUTURE TRENDS

The potential for expansion of oil palm production in the Congo Basin is undoubtedly very large. It has been estimated that up to 115 million hectares of the Congo Basin’s forests have the necessary soils and climate for growing oil palm20 – or almost two thirds of the total forest area21 (see Table 3). Consultancy company McKinsey & Co has claimed that there are 5 million hectares of farmable land in Gabon22, and estimates that 1.6-3 million hectares of forested lands in the DRC could be converted to industrial oil palm in the near future.23 In its 2009 ‘REDD+ strategy’ for DRC, McKinsey & Company suggested that large amounts of farmable land still owned by the government.24

Exports to European Union (EU)
Given that all Congo Basin countries are net importers of palm oil and consume more than they produce, one might expect that much new development production would be consumed domestically. However, as with the timber industry in the region, it is likely that production from large-scale commercial operations will be destined for more lucrative export markets, despite a dearth of supplies for domestic use. Anecdotal evidence suggests that one of the drivers behind the expansion of palm oil production in Africa is the expected growth of demand for biofuels in European markets (even though such markets now appear to be less promising than they were five years ago25). The twenty-seven member states of the EU have committed to sourcing 10% of transport energy from biofuels by 2020, which is likely to include diesel from palm oil. In the face of concerns about negative environmental and social impacts, they have adopted a ‘Sustainability Criteria’ for biofuels, which may exclude the produce of ‘greenfield’ developments in the Congo Basin. However, the EU biofuels target might still increase demand for palm oil indirectly, but drawing other edible oils (such as rape seed) into biofuels and hence providing a gap in the market for palm oil to replace these oils in food and cosmetics. While production from new plantations planned or under development may be targeted towards the European market, it will however be some years before imports into the EU from the Congo Basin increase substantially. It takes 3-4 years for oil palms to become productive, so even limited new planting which has already taken place will not result in increased trade before 2016 at the earliest. Significant increases are unlikely before 2020, though thereafter there is the potential for Congo Basin palm oil exports to Europe to increase dramatically. Congo Basin countries have one additional advantage over Malaysia and Indonesia, that they are part of the African, Caribbean and Pacific Group of States (ACP), which have preferential access to the EU, including import duty exemptions.

In DRC, a new agricultural code26 passed in December 2011 prohibits foreign individuals or companies from owning farms in the country outright, and may serve to restrict agricultural investment in forest areas. At least three large-scale agricultural investment plans have reportedly been abandoned as a result of the new law27, though Feronia (which is currently re-planting 107,892 hectares of oil palm in DRC) has claimed that its legal analysis and discussions with the government suggest that the law does not apply in cases where developments are leased to companies on land still owned by the government.28

The analysis in this report shows that the area of planned planting covered by announced projects in the Congo Basin has risen sharply in recent years (see Section 2.2.3). This expansion can be expected to continue, since numerous other companies are known to be seeking similar investments in the region. For example, the Singapore-based palm oil company Biopalm has listed DR Congo as one country which it is targeting for large-scale oil palm expansion29. World-leading oil palm company Wilmar is reported to be scouting out various African countries for expansion opportunities.30 Olam, which already has a large oil palm project in Gabon, is reported to be negotiating with the DRC government over a large-scale agricultural investment31, and has also expressed interest in developing oil palm in The Republic of Congo.32 Malaysian state-owned plantation company FELDA, the third largest oil palm company in the world by planted area33, is targeting large scale expansion in Cameroon but has yet to announce any specific deals. Cameroon government officials told WWF-CIFOR recently that there are a number of companies negotiating large oil palm deals in the country, in addition to those already announced34, and the same is also very likely the case in Gabon, Republic of Congo and DRC.

There are four broad categories of company involved.
1. First, there are existing plantation companies looking to expand (e.g. CDC, SIAF). These represent a very small percentage of the potential total expansion, their focus largely being on re-planting abandoned colonial-era plantations.
2. Second, there are large Asian companies already producing palm oil that are looking to expand into Africa. This group includes two of the three largest oil palm companies in the world: Sime Darby, which is already developing a large new plantation in Liberia and is negotiating another in Cameroon; and Wilmar, which has not announced any specific new planned developments in the Congo Basin but is reported to be seeking large deals in the region.35
3. Third, there are new and relatively unknown companies moving into oil palm for the first time, usually with Asian backing. Examples include Biopalm in Cameroon and Atama in DRC.
4. Fourth, there are global agricultural commodity traders which are seeking to break into the top ranks of oil palm producers through development of plantations in Africa. This group includes agricultural giant Olam and Cargill.

In the case of company involvement.

"IT IS LIKELY THAT PRODUCTION FROM LARGE-SCALE COMERCIAL OPERATIONS WILL BE DESTINED FOR MORE LUCRATIVE EXPORT MARKETS."

TABLE 3

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>TOTAL FOREST AREA (MILLION HECTARES)</th>
<th>TOTAL AREA POTENTIALLY CONVERTIBLE TO OIL PALM</th>
<th>OTHER DATA/ESTIMATES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameroon</td>
<td>8.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CAR</td>
<td>14.5</td>
<td>64% of forests potentially convertible to oil palm36</td>
<td></td>
</tr>
<tr>
<td>DR Congo</td>
<td>77.8</td>
<td>Potential conversion of forest to oil palm in ‘near future’. estimated at 1.6 – 3 ha37</td>
<td></td>
</tr>
<tr>
<td>Gabon</td>
<td>8.1</td>
<td>5m ha of potentially ‘farmable’ land.28</td>
<td></td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>6.6</td>
<td>92% of forests potentially convertible to oil palm38</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>115.3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Earthsight Investigations for The Rainforest Foundation UK
SECTION 2: OIL PALM IN THE CONGO BASIN: RECENT DEVELOPMENTS & FUTURE TRENDS

Various government entities are involved in the expansion of oil palm in each Congo Basin country. Agriculture or Forest ministries do not always take the lead. In Congo, the Minister of Industrial Development has signed large oil palm deals, while in Cameroon the Minister of Economy, Planning and Regional Development has been a signatory. In Gabon, the Ministry of Agriculture and Rural Development has led, but the President’s office has had significant involvement. Often an ‘investment promotion agency’ is involved alongside relevant ministries.

Foreign governments are also involved, albeit indirectly. Malaysia’s state-owned oil palm plantation company, FELDA, is involved in promoting expansion of oil palm in Cameroon, having dropped plans for expansion in Brazil in the face of opposition from environmentalists. The company floated on the stock market in June 2012, and was expecting to use US$680 million of the proceeds to help fund new palm planting, including in Africa.

At an industry conference in 2011, Malaysia’s Plantation Industries and Commodities Minister made a public offer of assistance to African countries in expanding oil palm plantations, including through the Malaysian Palm Oil Board, a government agency which promotes and supports oil palm within the country. The Minister implied that the government had already had some engagement with existing oil palm developments in Congo, Liberia and Sierra Leone involving Malaysian companies.

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Singapore’s sovereign wealth fund, Temasek Holdings, is a major shareholder of Olam, which is developing a large new plantation in Gabon. (see Section 3.2)

The development of large-scale oil palm plantations is capital intensive, with zero cash-flows in the initial years (apart from sales of timber from cleared forests), so most new developments are dependent on outside finance, either through commercial loans, investments from wealth funds or assistance from multilateral development banks. Belgian company SIAT received a €10 million loan from the African Development Bank in 2007 to improve and expand its oil palm & rubber developments in Gabon, including the planting of a new 4,250 hectare oil palm plantation at Bindo.

“LARGE ASIAN COMPANIES ALREADY PRODUCING PALM OIL ARE LOOKING TO EXPAND INTO AFRICA. THIS GROUP INCLUDES TWO OF THE THREE LARGEST OIL PALM COMPANIES IN THE WORLD.”

“FOREIGN GOVERNMENTS ARE ALSO INVOLVED, ALBEIT INDIRECTLY. MALAYSIA’S STATE-OWNED OIL PALM PLANTATION COMPANY, FELDA, IS INVOLVED IN PROMOTING EXPANSION OF OIL PALM IN CAMEROON.”

Olam has borrowed $228 million from the Central African States Development Bank (BDEAC in French) to fund its 300,000 hectare oil palm and rubber plantation development in Gabon. The World Bank lifted its short-lived suspension of oil palm investments in 2011, but has yet to make any such loans in the Congo Basin. The large new oil palm plantation in Cameroon being established by the SG Sustainable Oils Cameroon (SGSOC) is being funded with capital from US investment house Herakles Capital. It is very likely that a number of major international commercial banks are providing finance for oil palm developments in the region, but hard evidence is difficult to come by. Citibank, for instance, is listed as a ‘principal banker’ for Wah Seong Corporation, which is in the process of purchasing a majority stake in a new plantation development in the Republic of Congo, with half the purchase cost funded through debt (see Section 3.1), but it is not clear whether Citibank is providing the funds.
Many of the announced development projects are still at an early stage, and very few have broken ground. Some remain in negotiation. The agreement covering at least one large potential investment (by ZTE in DR Congo) appears to have expired. Even once agreements are finalised, it can take a long time to identify suitable land, carry out environmental and social impacts assessments, bring in equipment and hire workers. As a result, the rate of actual new planting is advancing more slowly than planned growth in planting (see Figure 3 and Table 5).

Table 5: Summary data on oil palm plantation expansion plans in the Congo Basin, by company

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>COUNTRY</th>
<th>TYPE</th>
<th>NEGOTIATIONS ANNOUNCED</th>
<th>DEAL SIGNED</th>
<th>AREA (TOTAL) HECTARES</th>
<th>AREA (PLANTED) HECTARES</th>
<th>AGREEMENT SIGNED</th>
<th>LAND IDENTIFIED</th>
<th>GROUNDS BROKEN</th>
<th>AREA PLANTED TO DATE (EST) HECTARES</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDC</td>
<td>Cameroon</td>
<td>EXP*</td>
<td>2008?</td>
<td>6,000</td>
<td>6,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>2,000</td>
<td></td>
</tr>
<tr>
<td>SGSOC (Herakles)</td>
<td>Cameroon</td>
<td>New</td>
<td>Sept 09</td>
<td>73,086</td>
<td>60,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>Biopalm (Sime)</td>
<td>Cameroon</td>
<td>New</td>
<td>Aug 11</td>
<td>200,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Sime Darby</td>
<td>Cameroon</td>
<td>New</td>
<td>May 11</td>
<td>N/A</td>
<td>300,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Goodhope</td>
<td>Cameroon</td>
<td>New</td>
<td>Aug 11</td>
<td>N/A</td>
<td>6,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Cargill</td>
<td>Cameroon</td>
<td>New</td>
<td>May 12</td>
<td>N/A</td>
<td>50,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Palm Co</td>
<td>Cameroon</td>
<td>New</td>
<td>2012?</td>
<td>100,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Smart Holding</td>
<td>Cameroon</td>
<td>New</td>
<td>25,000</td>
<td>?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Palmex</td>
<td>CAR</td>
<td>New</td>
<td>May 12</td>
<td>8,701</td>
<td>?</td>
<td>Yes</td>
<td>?</td>
<td>?</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>ENI</td>
<td>Republic of Congo</td>
<td>?</td>
<td>May 08</td>
<td>70,000</td>
<td>?</td>
<td>Yes</td>
<td>?</td>
<td>?</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Fre-El-Green</td>
<td>Republic of Congo</td>
<td>New</td>
<td>July 08</td>
<td>40,000</td>
<td>?</td>
<td>Yes</td>
<td>?</td>
<td>?</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Atama Plantation</td>
<td>Republic of Congo</td>
<td>New</td>
<td>Dec 10</td>
<td>470,000</td>
<td>180,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Biocongo Global Training</td>
<td>Republic of Congo</td>
<td>New</td>
<td>March 12</td>
<td>24,280</td>
<td>?</td>
<td>Yes</td>
<td>?</td>
<td>No</td>
<td>4,000</td>
<td></td>
</tr>
<tr>
<td>Olam</td>
<td>Gabon</td>
<td>New</td>
<td>Nov 10</td>
<td>200,000</td>
<td>100,000</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>6,000</td>
<td></td>
</tr>
<tr>
<td>SIAT</td>
<td>Gabon</td>
<td>EXP*</td>
<td>Sep 07</td>
<td>6,000</td>
<td>6,000</td>
<td>Yes</td>
<td>Yes</td>
<td>?</td>
<td>?</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,579,067</td>
<td>352,000</td>
<td></td>
<td></td>
<td>12,500</td>
<td></td>
</tr>
</tbody>
</table>

In terms of geographical distribution of new plantings, the largest announced expansion plans are in Cameroon, while Gabon and Republic of Congo also have significant expansions underway. The only new investment announced for DRC covered a smaller area than originally stated, and has now expired. So far there is only one small project in CAR, which also has a very limited existing planted area. Summary data on the 15 oil palm plantation expansion projects in the Congo Basin identified for this study is provided in Table 5 below. Additional details on these cases and the companies involved, plus two projects which have apparently expired, are provided in a table in Annex 1.

Of the companies which have been identified as being behind specific developments, or are otherwise known to be seeking oil palm land in the Congo Basin, three – Cargill, Sime Darby and Wilmar – have been found in the past to be involved in illegal and destructive oil palm development in Indonesia.60

Figure 3, Table 4 and Table 5 Source: Earthsight Investigations for The Rainforest Foundation UK
There is a lack of publicly available information about most new oil palm developments in the Congo Basin. This makes an assessment of actual and potential impacts difficult. For the purposes of this study, RFUK has examined in detail three of the largest projects for which some information is available, and written to, and received replies from, companies behind the three developments. Though little actual clearance and planting has yet occurred in any of them, and what has occurred has not been assessed through field work, these three oil palm developments (in three different countries - Republic of Congo, Gabon and Cameroon) nevertheless already demonstrate worrying signs of the same sort of negative impacts seen with oil palm in South-East Asia.

“THESE PLANNED OIL PALM DEVELOPMENTS DEMONSTRATE WORRYING SIGNS OF THE SAME NEGATIVE IMPACTS OBSERVED IN SOUTH-EAST ASIA.”

SECTION 3: CASE STUDIES OF NEW OIL PALM DEVELOPMENTS IN THE CONGO BASIN
3.1 CASE STUDY: ATAMA PLANTATIONS, REPUBLIC OF CONGO

A Malaysian corporation known as a ‘pipe-coating specialist’ is purchasing Atama Plantations SARL, which has a concession agreement to occupy 470,000 hectares of forested land in the Congo Basin. The Atama concession area lies near Epoma in Sangha65, while a second nursery in one area of 5,000 hectares at Epoma in Sangha66, while a second area of 5,000 hectares is planned for forest in the concession in Cuvette has also been signed off for logging and clearance.66

3.1.1 BACKGROUND

On 17 December 2010, after 19 months of negotiations, the Minister of Agriculture and the Minister of Land Affairs and Public Domain in the Republic of Congo signed a concession agreement with a company called Atama Plantations to ‘occupy’ 470,000 hectares of federal land for the development of an oil palm plantation and associated industrial complexes.67 The majority of the land (402,637 hectares) is in Cuvette Province, while the remaining 67,363 hectares are in Mokeko District in Sangha Province.68 Eventual palm oil production is expected to be 900,000 tonnes per year.

The concession agreement is for an initial, extendable, period of 30 years. The licensee has to pay royalties of CFA 2,500 (US$5) per hectare of planted land (half the rate which will eventually be paid by Olam in Gabon, see section 3.2), from when palm oil production starts, but is exempted from customs duties or VAT on imports of equipment, and from all taxes on profits for the first five years of production. Thus far, feasibility studies have identified 180,000 hectares of plantable land, which is an area 17 times the size of Paris.42 The company expects to develop this over a period of 15 years, commencing in early 2013. It is possible the final area of the plantation may be larger, if additional suitable land is found.69

Atama is owned through a complex chain of companies registered in various secretive tax havens (see Figure 5 for a representation of the company’s corporate structure). The Congolese licensee, Atama Plantation SARL, which was registered in June 2008, is wholly owned by an associated company registered in Mauritius in July 2011, Atama Resources Inc, which until recently was wholly owned by a company called Silvermark Resources Inc, registered in the British Virgin Islands (BVI) in 2007. Silvermark is, in turn, wholly owned by a company called Tanaldi Ltd, of which there is almost no information. In addition, Atama Resources Inc owns a second company, Sigit Plus SB, registered in Malaysia in December 2011, which provides ‘management and accounting services’ for the Congolese plantation company.42 A number of questions are raised in the following text about the ultimate ownership of Atama.

To date, Atama has begun clearing forests for roads and an oil palm nursery in one area of 5,000 hectares at Epoma in Sangha66, while a second 5,000 hectare section of forest in the concession in Cuvette has also been signed off for logging and clearance.66

3.1.2 WAH SEONG PURCHASE

In February 2012, Wah Seong Corporation, a Bursa Malaysia (formerly the Kuala Lumpur stock exchange) listed company, announced its intended purchase of a majority 51% stake in Atama Resources Inc, thus becoming majority owners of the oil palm plantation project in Congo.67 Previously, Wah Seong has principally been involved in the manufacturing of special metal pipes for the oil and gas industry. The company’s only previous connection to oil palm in Africa was the supply of equipment for palm oil refineries,42 and this will be its first venture into the oil palm plantation industry. Even if only the initial 180,000 hectares are planted, this new project would be the largest oil palm plantation in the Congo Basin and would catapult Wah Seong into the top ten largest oil palm growers in the world.

The $25 million purchase of Atama by Wah Seong is almost as complicated as the web of companies behind Atama. When the purchase is completed, Wah Seong will, through a newly formed subsidiary WS Agro Industries Pte Ltd, own 51% of Atama’s shares, while the original owner (Silvermark/Tanaldi) will retain 39% and another BVI-registered company named Giant Dragon Group will hold the remaining 10%.69 As of December 2012, the first phase of the purchase was complete, with Wah Seong holding 41.7% of the shares.69 More detail on the purchase and the BVI companies involved is provided in section 3.1.6 below.
3.13 POTENTIAL 'TIMBER GRAB'?

Stock-watchers have questioned how Wah Seong can afford the costs of developing the massive new oil palm plantation, which they estimate at US$650 million. One analyst has suggested that the cost "could be partly offset by forest clearance such as sale of logs". This has often happened in the past in Indonesia71. Evidence obtained by RFUK suggests that the forests Atama is planning to convert are indeed primary forests with significant timber stocks. The potential profits from harvesting this timber may be one of the main driving factors behind the development.

No maps are publicly available for the Atama concession. Wah Seong declined to provide these documents when requested by RFUK, citing commercial confidentiality. RFUK has, however, obtained copies of official government reports which describe the boundaries of the concession72 and the boundaries of the two 5,000 hectare areas for which the company has obtained authorisation to log and clear.74 The most recent available forest maps and satellite imagery suggest that the majority of the broader area the company plans to convert is untouched, primary, closed-canopy tropical forest, much of it swamp forest. The overall concession is split into two areas. The northern area, in Sangha province, is a 67,000 hectare zone of mixed forest and savannah between a logging concession and a major river. The much larger southern area, in Ouverte, covers 320,000 hectares and is almost entirely made up of primary forest, most of it swamp forest75 (see Figure 4). Of this second area, large parts are flooded, so only the licensed 402,000 hectares is expected to be available for the plantation.76 According to official reports, by October 2012 the company had already harvested almost 15,000 cubic metres of timber at its first development in Epoma in Sangha, yet had thus far only cleared 120 hectares.77 If most of it is primary forest, by a rough yet conservative estimate, the 180,000 hectares the company plans to convert could yield timber worth more than $500 million.78 Wah Seong has admitted to RFUK that, "timber extraction is a necessary part of the process to make available land for an oil palm plantation".79 The company has stated to RFUK that it has considered "the sustainability criterion" before deciding to become involved in the Atama plantation project, but has not provided further detail of what this involves.80

3.14 HUGGE POTENTIAL FOR NEGATIVE ENVIRONMENTAL AND SOCIAL IMPACTS

As explained above, documents obtained by RFUK indicate that the majority of the area slated for conversion for the Atama plantation is virgin rainforest. Much of this forest would almost certainly be classified as being of ‘high conservation value’ (HCV) according to standard definitions. Evidence from IUCN (International Union for Conservation of Nature) suggests it is also habitat for large numbers of endangered species, including western lowland gorillas, classified as ‘Critically Endangered’, chimpanzees, and elephants.81 The intact swamp forests which make up the majority of the larger southern section of the concession are part of the Western Congolian Swamp Forests Ecoregion, identified by WWF as one of the most outstanding areas of biodiversity on the planet.82 Around 28,000 hectares of the allocated concession land appears to overlap with a proposed new National Park, Nkoukou-Pikounda, which was announced in 2006 and is in the last stage of formal establishment.83 The park is believed to contain one of the highest concentrations of great apes anywhere in the world.84 The Republic of Congo has recently designated the Nkoukou-Pikounda area as a Ramsar (wetlands of international importance) site, noting its rich biodiversity, its importance ‘in maintaining the general hydrological balance of the Congo Basin’ and its ‘great cultural, historical and religious value to the resident population’.85 Aside from the obvious devastating environmental impacts for biodiversity which would stem from destruction of the forest inside the concession, the improved transport network and migration of workers to the area associated with the plantation development bring further threats to wildlife in neighbouring areas (including the rest of the new National Park) from increased commercial poaching.

Congolese law requires an environmental impact assessment to be carried out for a project such as Atama’s, yet Wah Seong declined to confirm in response to queries from RFUK whether any such assessment had been conducted. The company instead stated that it believed it was the responsibility of the Congolese government to ensure that the impacts of the plantation were considered before issuing the licence to operate. Wah Seong also did not provide any evidence to RFUK that the social impacts of the project had been properly considered and addressed or the free, prior, informed consent of the local people sought or obtained. It should be noted that the Republic of Congo passed legislative provisions on the promotion and protection of indigenous peoples in 2011, which may be of direct relevance here. Wah Seong instead told RFUK that it was “invited by the Government of The Republic of Congo” to cultivate oil palm in the country, that it seeks to “alleviate rural poverty through meaningful long term employment”, and that it is helping “an emerging economy to be self-sufficient in food and energy supply without trampling on the hopes and rights of the Congolese people”.86 Given Wah Seong’s failure to provide evidence to the contrary, it is likely that there has been little or no consultation with local forest communities or indigenous peoples.

Wah Seong did not provide evidence to RFUK that the Free, Prior, Informed Consent of the local people had been obtained.

### The Forests Atama

**“THE FORESTS ATAMA PLANS TO CLEAR COULD YIELD TIMBER WORTH MORE THAN $500 MILLION.”**

The forests at Atama are one of the main driving factors behind the development. No maps are publicly available for the Atama concession. Wah Seong declined to provide these documents when requested by RFUK, citing commercial confidentiality. RFUK has, however, obtained copies of official government reports which describe the boundaries of the concession and the boundaries of the two 5,000 hectare areas for which the company has obtained authorisation to log and clear. The most recent available forest maps and satellite imagery suggest that the majority of the broader area the company plans to convert is untouched, primary, closed-canopy tropical forest, much of it swamp forest.
3.1.5 Illegal Logging

In October 2012, a team from the Sangha province forest department made an inspection visit to the first 5,000 hectare area in which Atama had been licensed to clearfell, at Epoma. The team found that Atama had subcontracted the logging to a second company, Lawoncongo SARL, and had set up a sawmill at the site. By the time of the visit, the company had cleared around 80 hectares for roads (including in a neighbouring part of the concession, outside the initial 5,000 hectares), plus a further 40 hectares for the sawmill, log storage yards and an oil palm nursery.87

The inspectors found numerous breaches of exchange agreements in the logging being carried out. More than 350 trees had been cut but not recorded in official felling reports. Records found were known to have been altered with tip-ex and there was evidence that multiple logs had been given the same log numbers (a method often used to launder illegal logs). The inspectors concluded that Atama was in breach of the terms of the forest clearance license, and issued official forestry infringement notices to the company.88

3.1.6 Companies Registered in the British Virgin Islands (BVI): Unclear Ultimate Ownership

As stated above, Wah Seong will purchase a 51% majority stake in Atama, while two companies registered in the British Virgin Islands will, once the purchase is completed, own 39% and 10% respectively of the Congolese plantation company.

The first of these two companies, Silvermark Resources Inc, was registered in the British Virgin Islands in November 2007 and prior to the Wah Seong investment was the sole owner of Atama. Silvermark stands to receive $25 million from Wah Seong for its shares in Atama. The official stock exchange announcement for shareholders published by Tanaldi Ltd and lists another company, Greenland Limited, as its sole director. The stock exchange announcement provides proper details on the intermediary companies, but it does not state where or when Tanaldi was registered, who owns it, or the identity of its directors.89 Tanaldi and Greenland are noteworthy, as explained further below.

The second British Virgin Island registered company is Giant Dragon Group Limited, registered in May 2006. Once the purchase is complete, it is due to hold 10% of the shares in Atama (worth US$5 million), even though there is no evidence that it was connected to Atama prior to the purchase agreement and there is no mention of it contributing to the cost of the Wah Seong purchase from which it will benefit. The official stock exchange announcement by Wah Seong states that Giant Dragon Group is owned by a company called Marston International Ltd, and lists another company - Eastern Sky Ltd - as its sole director. Wah Seong’s stock exchange announcement of the intended purchase of Atama does not provide further details of either Marston International or Eastern Sky.

Wah Seong has, for the interest of its shareholders, published detailed information about the proposed purchase, but the information stops short of actually identifying the ultimate current owners of the plantation, (through Silvermark Resources/Tanaldi) or the ultimate owners of Giant Dragon Group. This information is arguably of material interest to Wah Seong’s shareholders. However, Wah Seong has stated to RFUK that it has, “made all necessary disclosures to Bursa Malaysia under the Bursa’s Listing Requirements in respect of its venture into the Republic of Congo.”90

Research for this report suggests that Atama’s ownership structure may have been deliberately created in order to shield the identity of its ultimate owner or owners. There may be legitimate reasons for this structure, but RFUK has found evidence that the same companies which controlled Atama prior to Wah Seong’s involvement (and continue to hold a large minority stake) have been used on more than one occasion to shield the identity of individuals found guilty of serious offences.

The best documented example comes from UK court papers from 2008, which relate to a case in which a British man was found guilty of falsely claiming an inheritance and holding the proceeds in a British Virgin Islands registered company named Trixilis. The sole shareholder of Trixilis was Tanaldi Limited, and the sole director a company called Greenland Limited (the same names identified as ultimately controlling Atama through Silvermark Resources Inc). According to the court documents for this case, the defendant was “shown a list of available companies” by a Singaporean firm which specialises in setting up offshore structures, and one was selected.91 There was also a separate formal document through which Greenland gave the defendant full authority to operate the British Virgin Islands registered company through his Swiss bank account.92 This allowed the defendant to control the funds without being named at all in official records. Although there is certainly no direct link between a UK inheritance case and a Malaysian-Congo palm oil development, the similarities in the names and functions of the shareholder and director appear too striking to be a coincidence. In another case, a British Virgin Islands registered company investigated by Thai authorities in 2006-07 for criminal offences was also controlled through a company called “Green Land Ltd” in Brunei, and set up by the same Singaporean offshore services provider involved in the 2008 British fraud case.93

Other sources suggest that Tanaldi Ltd might also at one time have been connected to a Mr. Rafat Ali Rizvi, a British-Singaporean businessman, who has been convicted in Indonesia for grand corruption and is wanted by Interpol.94 An article, from 2010, on the website of the respected Indonesian news magazine Tempo lists a Brunei- registered company by the name of Tanaldi Ltd as being owned by Rizvi, and also mentions that a company called Greenland Ltd is connected to him.95 In addition, a Singapore stock-exchange filing from 2007 relating to another company, states that Brunel-registered Tanaldi Ltd is “ultimately beneficially owned by Mr Rafat A. Rizvi.”96 Wah Seong strongly denies that there is any link between Atama Resources or Atama Plantations and Mr. Rafat Ali Rizvi. However, the company declined to answer a request from RFUK to identify the current ultimate beneficial owners of Atama (through Silvermark and Tanaldi) or Giant Dragon Group.

In summary, the evidence from the above cases suggests that Tanaldi is a shelf company used by more than one person, on more than one occasion, and that it has been used specifically for the purpose of hiding the identity of beneficial owners of assets.

*"The inspectors found numerous breaches of regulations in the logging being carried out by Atama.*"
SECTION 3: CASE STUDIES OF NEW OIL PALM DEVELOPMENTS IN THE CONGO BASIN

3.1.7 CONCLUSION

A company with no significant relevant previous experience has begun felling tropical forests in the Republic of Congo to make way for what could be the region’s largest ever oil palm plantation. Almost no public information is available about the project, and its new owners have declined to provide even the most basic information, such as concession maps. There is no evidence of any environmental or social impact assessments having been carried out for the plantation, or that the free, prior informed consent of local populations has been sought. The evidence which is available suggests that high conservation value, intact primary forests are being converted, including habitat for endangered great-apes and forest elephants. And while Atama has only just started clearing forests, its contractors have already been found to be breaching regulations.

In addition to the serious issues regarding potential social and environmental impacts, questions must also be raised as to why Atama appears originally to have been deliberately structured to hide the identity of its ultimate owners – even potentially from its current purchasers, Wah Seong. It could be that there are legitimate reasons for this structure, but the past circumstances noted above raise sufficient suspicions for this to be a matter of potentially serious concern to the Congolese government, to Atama’s purchasers, to Wah Seong, and to Wah Seong’s shareholders.
Olam, the Singaporean agricultural commodities trading giant, has entered into a joint agreement with the Gabonese government to greatly expand palm oil plantations in this forest-rich country. Olam has committed to set aside from development areas of high environmental and social worth, but still plans to develop 130,000 hectares of palm oil in the country, with potential for significant environmental impacts, and uncertain social consequences, especially for traditional forest communities.

In November 2010, Olam announced a large new oil palm investment in Gabon. The President of Gabon was in Singapore for the signing ceremony of the agreement with the CEO of Olam, a part of a larger deal that also involved a joint venture for the building of a area fertiliser plant and a Special Economic Zone focusing on timber processing. The oil palm plantation agreement is a joint venture with the Gabonese government, in which the former has a 30% stake and commits Gabon to providing a 300,000 hectare land bank for oil palm and rubber plantation development. This is an area over four times the total land area of Singapore. The potential future investment is estimated at US$236 million.

Traditionally, Olam has been principally involved in downstream shipping, trading and processing of agricultural commodities, including timber, palm oil, cocoa and others. Recently, however, it has expanded its role in the production of these commodities, through a strategy of ‘vertical integration’. Olam is part-owned by the Singapore government through its sovereign wealth fund Temasek Holdings. News reports state that many major investment funds hold shares in Olam, including BlackRock, Hartford, Prudential, Vanguard and Fidelity. Norway’s Pension Fund Global also holds shares in the company.

Olam’s presentation at the launch of the agreement stated that the palm oil would mostly be exported to Europe, and that it expected the project to be competitive in terms of costs with Indonesia and Malaysia, because of reduced shipping costs and lower taxes. The presentation noted that the land in Gabon was “free”, in comparison to Indonesia where it costs US$250 - $500 per hectare. The project will benefit from a 16-year income tax holiday, and exemptions on payment of duties or tax on machinery, gas, oil, fertilisers and other inputs. In response to questions from the President of the FAU, Olam claims that it will pay a lease rent of CFA Franc 5,000 (US$10) per hectare from the 17th year and that these tax benefits are “available to all investors under the relevant law and not just limited to Olam’s projects in Gabon.” Olam aims for the concessions to be RSPO certified, and that planting would not begin until social and environmental impact and high conservation value forest assessments had been completed. It did not expect these assessments to present any problems, because it claimed the plantation is “entirely on degraded land”. The company also claims that there is a “minimal threat from local community or land rights issues” due to Gabon’s low population density.

Of the total 300,000 hectares of land allocation by the Gabonese Government, Olam is planning to develop at least 180,000 hectares by 2018 or 2019, including 100,000 hectares of industrial palm oil plantations (in two phases) and up to 30,000 hectares of smallholder palm plantations and 50,000 hectares of rubber plantations. A McKinsey study on Olam’s investment portfolio in Gabon states that, when completed, it would be “Africa’s biggest oil palm plantation”, with production of just under 0.5 million tonnes of crude palm oil (CPO) per year, which would make the company Africa’s second largest palm oil producer. The McKinsey study claims the project will lead to an 85 per cent increase in the area of commercial agriculture in Gabon by 2022, and that the combined Olam investments will lead to a 1.1 per cent per annum boost to non-oil GDP. It also notes the potential that, “social tensions could arise from possible community claims to land and a major influx of labor” as well as the “potential risk of ecosystem damage from the process: forest degradation, pollution and land clearance.”

The initial phase of the oil palm development is in Kango, in the Estuaire region, about 60km from Libreville, and in another area slightly further south in Mouila. Other areas in Ngouine and Nyanga have been allocated for oil palm plantations but have not yet been assessed by Olam for potential development. According to Olam’s figures, it has already been allocated 209,334 hectares of land for commercial palm oil development in Gabon, of which 63,780 hectares has so far been returned to the government as ‘unsuitable’ and other areas have been set aside because of social or environmental value.

With the assistance of African banks Ecobank, Afreximbank and BGFI Bank Gabon, Olam secured a loan of $228 million from the Central African States Development Bank to fund the plantation development, which Olam expects to draw upon in December 2012.

“OLAM IS PLANNING TO DEVELOP AT LEAST 100,000 HECTARES OF INDUSTRIAL PALM OIL PLANTATIONS BY 2018/19.”
3.2 OLAM’S PREVIOUS TRACK RECORD IN TIMBER
Following major acquisitions in 2011, Olam now has 1.8 million hectares of logging concessions in the Congo Basin, making it one of the region’s largest logging companies. The company began trading timber in Gabon in 1998, and started operating timber concessions in the country in 2006. It has two sawmills in Gabon with a combined capacity of 70,000 cubic metres, leded, with logs from over 55,000 hectares of logging concessions the company has in the north-east.

Olam has a number of blemishes on its track record in forestry. The company previously had logging concessions in DRC, which it is alleged were issued in contravention of a 2002 moratorium. Though Olam’s non-operational concessions were relinquished in late 2007, it continued to buy and sell timber from third parties for some time thereafter.

In 2007, allegedly illegal timber shipments from Olam International were seized in the remote province of Bandundu, the area’s Forestry chief, Coco Pembe, allegedly accused the company of trading illegal timber cut by local companies whose logging permits had expired. Olam also had US$0.5 million of logs seized by the DRC forest authorities in 2007 for alleged failure to pay taxes. Olam states that it subsequently “exited the woodbusiness entirely in DRC” following this incident, which it claims was due to suppliers delivering cargoes in contravention of Olam’s internal documentation systems. In 2005, Olam’s Gabon branch was also reported to owe nearly US$12,000 in forestry back-taxes, but now says that it is up to date with the relevant taxes.

3.2.1 THE START OF OLAM’S OIL PALM OPERATIONS
Thus far, Olam’s plans for palm oil development in Gabon under the agreement with the government involve two 50,000 hectare phases, to be completed by 2018/19. Information from Olam states that planting began in February 2012 and that 12,134 hectares (7,134 hectares in Kango and 5,000 hectares in Mouila) will be planted by June 2013. This is an area over 35 times the size of New York’s Central Park. Gert Vandersmissen, Director of the only previous commercial vegetable oil and rubber plantation company operating in Gabon (SIAT), has said it would be relatively easy for Olam to clear the amount of forest needed, but has cast doubt on the ability of Olam to meet its planting targets unless they brought in labour from outside Gabon; SIAT has had similar problems in Gabon in recent years. Olam has told RFUK that the vast majority of its workforce is recruited locally and that “we do not believe we will have to import foreign labour to keep to our planting timetable.” Beyond Olam’s promise to abide by RSPO standards, it is not yet possible to judge the potential impact of the majority of this massive conversion project, since clearance has only recently begun and most of the land has yet to be identified. However, some of the lessons from the first two oil palm areas identified are sobering.

3.2.2 RANGK OIL PALM PLANTATION – ENVIRONMENTAL, SOCIAL AND CARBON IMPACTS
The first 51,920 hectares identified by the Gabonese government for oil palm development under the agreement with Olam are spread across three ‘lots’ or areas in Estuaire & Moyen-Ogooué provinces, just to the south of the capital, Libreville. How these areas were first identified is open to question, since the High Conservation Value (HCV) assessment undertaken for the areas found that two of the three lots were entirely within a key Ramsar-listed wetland populated by endangered manatees, one of which was also mostly untouched primary forest within an area of Intact Forest Landscape. Evidence of the presence of chimpanzees and forest elephants was found in a large part of the final lot, much of which was also found to be too steep for clearance to occur without potentially serious erosion and pollution of rivers which flow into the nearby Pongara National Park and the adjacent Komo estuary. The study also noted that the livelihoods of people living in the earmarked areas were “inextricably linked” to natural resources in the landscape, including hunting, collection of non-timber forest products, and artisanal timber harvesting. Any such potential livelihood values are completely lost in areas which are converted to oil palm.

The first two lots were not pursued by Olam for further development, and in the third lot Olam set aside areas identified as HCV forest and areas of particular use to local communities (for example, where vines are used for making baskets), and was only able to identify 7,134 hectares as suitable for planting - just 14 per cent of the initial land allocation. Olam states that it will allow fishing, but not hunting, in the area. While the area the company does plan to clear does not meet the strict definition of HCV, converting it will still involve the clear-felling of secondary forest and will bring about significant changes to local livelihoods, some of which are likely to be negative. The carbon impacts of the development are also significant: it is estimated that it will result in the release of around 4 million tonnes of carbon dioxide – almost double Gabon’s current annual emissions - (carbon emissions are not considered in HCV assessments – see Section 4.3 on the flaws in RSPO standards). According to the environmental assessment for Olam’s development in Kango, the estimated carbon stock in the forests planned for clearance is 160 tonnes of carbon per hectare. This is almost five times the maximum allowed by another major oil palm firm’s forest conservation policy, which commits them to avoiding new development on ‘High Carbon Stock’ forests, defined as those with over 35 tonnes of carbon per hectare. Satellite images obtained by RFUK confirm that extensive clearance of secondary forest in the Kango plantation area had already taken place by the end of April 2012 (see Figure 7 and aerial photos in this case study).
3.2.5 MOUILA OIL PALM PLANTATION – COMMUNITY NEEDS AND RARE AND THREATENED ECOSYSTEMS AND SPECIES

The second area earmarked by the Gabonese authorities for oil palm development by Olam is at Mouila in Ngounie province. Olam has been allocated 67,154 hectares of land for potential industrial oil palm development in two lots. The HCV assessment for the 35,354 hectare concession of ‘Mouila 1’ found large areas of high conservation value forests, including rare, threatened or endangered ecosystems and species, and forest areas critical to water catchment, fundamental to meeting the needs of local communities and critical to local communities’ cultural identity. One large area in the north of the concession is a habitat for forest buffalo and elephants, while populations of great apes have also been identified. Forty-two per cent of the concession, 14,994 hectares, has been set aside on the basis of its high environmental value, and further areas of HCV still need to be established for livelihood and cultural purposes. Olam has stated that it is carrying out “further faunal surveys” in the area. Related to community rights, many serious concerns were raised during the social impact assessment consultations. Olam claims to have identified a particular concern related to subsistence agriculture activities, as part of a free, prior and informed consent (FPIC) process, and set aside two areas totalling 950 hectares for this purpose.

The second area in Mouila to be allocated by the government for Olam’s palm oil plantations (‘Mouila 2’) is 31,800 hectares and the suitability of the area has yet to be assessed by the company. The exact location and boundary of this second area has not yet been made public, so no independent assessment is possible. The HCV assessment for this area has not yet been made public, so no independent assessment is possible. One small area of 950 hectares has been set aside in compliance with FPIC.

3.2.6 OTHER JOINT VENTURES BETWEEN OLAM AND THE GOVERNMENT OF GABON

As well as the 80/20 joint venture with the government to develop 28,000 hectares of rubber plantations, which is beyond the scope of this report, there is also a 60/40 joint venture between Olam and the Gabonese government for the creation of a Special Economic Zone focusing on timber processing, and another related to an area for fertiliser plant.

RFUK is not aware of any information in the public domain about how any beneficiary earnings from these joint-ventures would be used by the state. A document provided by Olam setting out the ownership arrangements of Olam Palm Gabon only states that the 30 per cent share is owned by “La République Gabonaise”, represented by the Minister of Economy, Commerce, Industry and Tourism. Olam states that the government is aiming to diversify from oil, gas and timber and holds stakes in other timber and mining companies.

3.2.7 SUMMARY – OLAM’S RESPONSE TO CONCERNS, AND BROADER IMPACTS OF DEVELOPMENTS

Olam has shown greater transparency than many palm oil companies in the region and has conducted and made available HCV forest assessments for its developments and set aside identified areas. Olam also claims to carry out FPIC and long term community engagement procedures. This demonstrates that the company is attempting to address some of the potential major negative environmental and social impacts of industrial palm oil development. In general, Olam states that it is helping to develop the agricultural sector in Gabon, providing paid jobs mainly taken up by Gabonese citizens with a minimum wage of CFA 150,000 (approximately US$300) per month, health check-ups for workers and are “commencing the construction of worker housing.” Olam also claims to be investing in roads, schools, a small-scale agriculture support programme, solar light panels and wells. These claims could be verified through local NGO or other independent third-party monitoring, preferably on an on-going basis.

Even if this is taken at face value, large questions still remain about the broader social and environmental impacts of Olam’s developments in Gabon. They will involve the clearance of large areas of secondary tropical forests, resulting in huge carbon dioxide emissions. It is possible that despite the company’s efforts, there will be significant negative impacts on local livelihoods. Indirect social and environmental impacts have not been assessed or addressed and could be significant. There is a lack of transparency regarding the government’s role in the project.

Perhaps most worrying is the fact that almost 70 per cent of the first 87,000 hectares allocated by the Gabonese government for the planting of oil palm by Olam was found to be extremely valuable forest, including areas of intact forest landscape, Ramsar wetlands, great ape and elephant habitat, and areas with crucial livelihood functions. While Olam has committed not to develop such areas, this is a voluntary commitment. Other oil palm companies to whom the Gabonese authorities may issue licences in the future may not make the same voluntary commitments as Olam, and hence clear forests with high environmental or social value. The choices of land made so far suggest that very little truly ‘suitable’ land is available in the country, or that the government is not making sufficient effort invested to identify suitable land.

THE HCV ASSESSMENT FOUND LARGE AREAS INCLUDING RARE, THREATENED OR ENDANGERED SPECIES, AND FOREST AREAS CRITICAL TO WATER CATCHMENT, FUNDAMENTAL TO MEETING THE NEEDS OF LOCAL COMMUNITIES AND CRITICAL TO LOCAL COMMUNITIES’ CULTURAL IDENTITY.”

“OLAM’S DEVELOPMENTS WILL INVOLVE THE CLEARANCE OF LARGE AREAS OF SECONDARY TROPICAL FORESTS, RESULTING IN HUGE CARBON DIOXIDE EMISSIONS.”
The indirect impacts of the creation of large-scale plantations in remote and previously forested areas should be taken into account. Large projects attract workers into the area who often bring their families, sharply increasing the local population and hence pressure on surrounding flora and fauna. Olam claims to have a “robust process to manage HCV areas”, although details of this have not been provided.147 Once a new plantation has been established, expansion of that plantation or new developments in the area by other companies becomes more likely. Newly renovated or opened up roads allow easier access to outsiders into forest areas, which can lead to an increase in artisanal logging and commercial bushmeat hunting and poaching.

The broader political context of these developments cannot be ignored either. All land in Gabon is formally owned by the state, and customary use of forest areas mostly remains unmapped and usually not recognised in law or respected - although Olam has voluntarily committed to do so. Local communities - especially traditional hunter-gatherer communities - therefore have limited political voice and influence. The asymmetry in political power between the different actors is particularly stark when the project is partly owned by the government. This is likely to play a role in determining which actors will benefit or be negatively impacted by the project.

New York-based Herakles Farms, founded by investment group Herakles Capital, is developing 60,000 hectares of oil palm plantations in Cameroon, an area ten times the size of Manhattan,148 near several key wildlife sanctuaries and protected areas. The development, which has received generous tax breaks from the Cameroonian government, has been controversial locally, nationally and internationally, and has faced questions as to its legality. The company recently has decided not to proceed with certification under the Roundtable on Sustainable Palm Oil (RSPO) scheme.

3.3.1 BACKGROUND

In September 2009, an agreement was signed between Sithe Global Sustainable Oils Cameroon (SGSOC, a subsidiary of the New York-based Sithe Global Corporation) and the Cameroon government, whereby 73,086 hectares of land were to be leased for a period of 99 years for the development of an oil palm plantation. Shortly after, SGSOC was sold by Sithe Global, part of the Blackstone Group, to US company Herakles Farms, which was founded by the investment group Herakles Capital. The project is located in the Kupe, Manengula and Ndian divisions of the Southwest region of Cameroon, about 250km from the port town of Douala. The site consists mostly of logged-over forests, but is surrounded by five separate protected areas, including the globally significant Korup National Park, home to forest elephants, chimpanzees and gorillas.149

“Almost 70 per cent of the first 87,000 hectares allocated by the Gabonese government was found to be extremely valuable forest including great ape and elephant habitat and areas crucial for livelihoods.”

“Herakles is developing 60,000 hectares of oil palm plantations in Cameroon, an area ten times the size of Manhattan, near key wildlife sanctuaries and protected areas.”

Recent forest clearance for oil palm by Olam, Kango, Gabon. Alexander De Marcq

FIGURE 8 HERAKLES’ OIL PALM CONCESSION, CAMEROON

FIGURE 9 HERAKLES’ OIL PALM CONCESSION, CAMEROON

KEY

Oiram
Herakles concession area
3.3.2 RSPO Certification Plans Dropped

Herakles originally planned to obtain RSPO certification for its Cameroon plantation and carried out an Environmental and Social Impact Assessment (ESIA), as is required under Cameroonian law. This ESIA, published in August 2011, states that the company will exclude from development areas of high conservation value (HCV) forest, steep slope areas (over 30 degrees incline), areas sacred to local communities, river buffers and land currently used by local people for agriculture.166 Herakles stated that the actual area to be cleared and planted within the concession will be 60,000 hectares, implying that a total of 13,086 hectares (18 per cent) will be set aside from palm oil production. However, the ESIA makes clear that almost all of this ‘set aside’ area is made up of buffer zones where the concession shares a boundary with protected areas, as well as all land over a 650 metre altitude.167 Careful reading of the ESIA shows the company is actually only proposing to set aside 1,969 hectares for riparian reserves, HCV forest and local people’s agriculture. This contrasts with figures from the German development agency GIZ, which has stated that it believes that at least 23,115 hectares of the concession is HCV forest, while a further 31,576 hectares needs to be set aside for local agriculture.168

The consultant recruited by Herakles to conduct its HCV assessment published a summary in February 2012.169 Independent experts published a damning critique of this HCV assessment two months later, which concluded that it was “extremely weak and completely inadequate”.170 The independent review of Herakles HCV assessment also stated that, “The review team did not believe that the company has clear tenure rights for the plantation development, and that traditional tenure and customary use rights have been recognized... It is clear that hunting grounds and other areas where collection activities currently take place will be impacted by plantation development”.171 Herakles has stated to RFUK that its HCV assessment was confirmed as complete and in compliance with RSPO by the British Standards Institute (BSI).172

“Experts state that 23,115 hectares of the concession is HCV forest, and 31,576 hectares is needed for local agriculture. In contrast, Herakles is setting aside only 1,969 hectares for riparian reserves, HCV forest and local people’s agriculture.”

In August 2012, Herakles dropped its plans to obtain RSPO certification of the concession.173 The company claims that this decision was due to the delays to the project which were likely to occur as a result of following RSPO grievance procedures, but that it nevertheless intends to meet RSPO standards.174 When questioned by RFUK as to its reasons for dropping RSPO, Herakles responded that it “did not withdraw from the RSPO in order to proceed without having to follow the sustainable requirements of the RSPO”, and that it had to quickly begin planting because its palm seedlings were starting to take root in the nursery.175

The ESIA for the project admits that, “the conversion [to oil palm] will destroy existing biodiversity in 75% of the concession”176 and that it will “result in an overall loss of fauna”.177 It concluded that there will be major adverse impacts on livelihoods, flora, fauna and biodiversity.178 The ESIA found specifically that forest elephants regularly pass through the concession when moving between the surrounding protected areas179 – the implication being that these migration routes, which can be critical in elephant populations’ survival, would be destroyed by the development. Environmentalists have expressed particular concern that the influx of workers into the plantation will lead to increased bushmeat hunting in the neighbouring protected areas.

Herakles claims that it will adopt “best practices for protecting the (elephant migration) route” and that “pre-clearing environmental studies” will be carried out prior to clearance and planting, which may identify additional areas for protection beyond those noted in the HCV assessment.180 The company also claims to be “looking into intercropping” (growing two or more crops in proximity, although this is usually only practical in the early years of oil palm plantation establishment whilst the palms are still small). As a result of these additional measures, the company told RFUK that, “it is certainly not expected that an entire 60,000 ha [hectares] will be clear-cut for conversion to oil palm”.181 Curiously, in its initial response to questions from RFUK in November 2012, Herakles claimed that its development would “not be clearfelling any forests”, even though plentiful evidence, including aerial photographs and the company’s own official documents and statements, clearly shows this to be incorrect (see Figure 9).

“The conversion will destroy existing biodiversity in 75% of the concession.”

The ESIA for the project states that the company plans to develop the 60,000 hectares of palms over just four years, with 7,500 hectares planted in the first year, 21,000 hectares in the following two years and 10,500 hectares in the final year.182 This is a very rapid planting schedule in comparison to most oil palm plantation developments in Africa and Asia, which typically aim for between 2,000 and 5,000 hectares of new clearance and planting a year.

“All for Africa”, an NGO with strong links to Herakles, has stated that it will fund development projects in the area, but has been seen by campaigners concerned about the development as a vehicle for helping to ‘market’ a controversial project and downplay social and environmental concerns. All for Africa posted misleading claims on its website, which were subsequently taken down, that the project would be carbon positive.183 In fact, no assessment appears to have been carried out by the company of the carbon stocking of the secondary forests which the project plans to convert, and the company has made no public commitment to avoiding clearance of high carbon stock forests in the concession.

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**SECTION 3: CASE STUDIES OF NEW OIL PALM DEVELOPMENTS IN THE CONGO BASIN**

### 3.3 QUESTION MARKS OVER LEGALITY

The Herakles oil palm project has been dogged by allegations of illegality from the start. While local groups allege that the concession agreement with the Cameroonian government was in breach of legislation, the company has also been accused by official inspectors of various breaches of regulations in its initial land clearance at the site.

During the summer of 2011, prior to the issuance of the ESIA, Herakles began clearance and planting in at least one nursery area. The company claimed to have permission to clear up to 100 hectares in advance of the ESIA and associated environment permit required under Cameroon law, but a local court thought otherwise and suspended the company’s operations in February 2012 after a case was brought by a local NGO. The suspension was overturned by the court in April 2012, however, as by the time the original court decision was handed down, the company had obtained the environmental permit in question.

The existence of an ESIA and associated environment permit does not appear to have been the only legal problem with the clearance for the nursery, however, and the local court decision in April did not spell the end of the legal issues. An official April 2012 report from Cameroon’s Ministry of Forestry states that a government inspection team found the company had breached regulations and seized two bulldozers which had been used in the clearance. Herakles initially told RFUK that it had “no knowledge of the Ministry of Forestry report you mention” and has continued to assert that no equipment was ever seized. Herakles claims that the findings of the official inspection in April 2012 were not enforced and assumes from this that it was a result of a misunderstanding between Ministry of Forestry officers in the region and the capital about what permits the company had been issued.

However, documents obtained by RFUK show that in May 2012, a joint follow-up mission to the SGSOC concession by the official Cameroon Independent Observer of Forest Law Enforcement and Governance (OI-FLEG) and government forestry officials confirmed that the company had cleared forest which had not yet been officially excised from the Permanent Forest Estate, as legally required. It concluded that SGSOC had cleared forest which had not been used in the environment permit does not appear to have been the only legal problem with the clearance for the nursery, however, and the local court decision in April did not spell the end of the legal issues. An official April 2012 report from Cameroon’s Ministry of Forestry states that a government inspection team found the company had breached regulations and seized two bulldozers which had been used in the clearance. Herakles initially told RFUK that it had “no knowledge of the Ministry of Forestry report you mention” and has continued to assert that no equipment was ever seized. Herakles claims that the findings of the official inspection in April 2012 were not enforced and assumes from this that it was a result of a misunderstanding between Ministry of Forestry officers in the region and the capital about what permits the company had been issued.

**“THE HERAKLES OIL PALM PROJECT HAS BEEN DOGED BY ALLEGATIONS OF ILLEGALITY FROM THE START.”**

“**A GOVERNMENT INSPECTION TEAM FOUND THE COMPANY HAD BREACHED REGULATIONS.**”

Permanent Forest Estate, as legally required. It concluded that SGSOC had illegally felled 220 cubic metres of logs, and reported that the company had been served with a “notification primitive” to pay 24.5 million CFA (US$48,000) in fines and damages by the National Control Brigade (Brigade Nationale de Contrôle - BNC). Though the area of forest destroyed by this apparently illegal felling is not large, it indicates a worrying and early ignorance or disregard by Herakles for the due process of the law, in an area where, as noted above, the potential for causing major environmental damage is great. In response to questions on this issue, the company told RFUK that “Herakles Farms never received a fine, penalty or order to stop work.” The company continues to cite the April 2012 decision of the local court (regarding the environment permit) as evidence that the clearance for the nursery was legal.

As of June 2012, the company had cleared 30 hectares for oil palm nurseries, and carried out a pre-clearance assessment, but not yet clearance or planting, of an initial area of 2,000 hectares. A report on Herakles’ development by Cameroonian non-governmental organisation Centre for Environment and Development (CED) alleges that the concession agreement breaches both the spirit and the letter of Cameroon law. CED claims that the process followed for the approval of the ESIA may have failed to comply with relevant regulations, and the agreement itself also does so, since it did not obtain the necessary Presidential approval and exceeds the maximum five years allowed by law for initial leases. The agreement also poses significant legal questions by allegedly contradicting other Cameroonian legislation in its provision of tax exemptions.

As with other such investments elsewhere in Central and West Africa, the agreement includes extremely generous investment terms, including a total exemption from all taxes and duties for ten years. In response, Herakles has vigorously denied allegations of illegality, and stated to RFUK that it is “not receiving any special treatment that puts us above the law”, but that, “the details of the agreement with the government of Cameroon cannot be discussed as it is confidential.”

**3.3.4 LOCAL OPPOSITION**

The development is meeting with increasing opposition locally, nationally and internationally. Greenpeace has documented the frustrations and opposition of numerous local villagers to the development. Young people from the village of Fabe are reported to have tried to intervene directly to prevent bulldozers clearing land for the palm nursery. Herakles has misbehaved in an area where, as noted above, the potential for causing major environmental damage is great. In response to questions on this issue, the company told RFUK that “Herakles Farms never received a fine, penalty or order to stop work.” The company continues to cite the April 2012 decision of the local court (regarding the environment permit) as evidence that the clearance for the nursery was legal.

Herakles has countered this by stating that “millions of dollars” of additional revenue will be generated by sale of timber on the land which Herakles will cut, trim and stack ready for auction by the Cameroonian government. Herakles has claimed, in its defence, that it is bringing paid employment to the area, as well as medical services, university scholarships and farming programmes.
In addition to the three case studies above, a brief summary of other active projects in the region is given in Annex 1. Taken together, this information illustrates numerous reasons for concern regarding the new wave of expansion of industrial oil palm plantations in the Congo Basin.

Of the seventeen projects identified, at least three are connected in some way to companies which have been found to have breached national regulations in other countries, involving timber-felling or plantation development. All three main case studies involve conversion of forests and potentially large-scale carbon emissions. In at least two and probably all three cases, the land allocated by the governments encompass areas of high conservation value, including primary forest, great ape and elephant habitat, or internationally-listed wetlands. Without appropriate assessment and mitigation measures, all three are likely to have negatively impacted on local people’s farms and areas of forest needed for subsistence livelihoods. At a minimum, this suggests that potential environmental and social impacts have so far been very much a secondary consideration in site selection for new oil palm developments. It further suggests that some of the ambitious planting targets already set out by governments will only avoid very large-scale environmental damage and social disruption if much greater effort is put into site selection, assessment and mitigation measures.

In two of the three main case studies, companies with existing logging and timber interests in the country concerned are involved in some way, raising the possibility that developments may aim to boost profits through commercial timber felling. In both case studies where clearance has actually begun, there has been opposition from local NGOs. There is a consistent lack of transparency in the projects identified, especially with regard to the details of contracts signed with governments, or concession maps showing the areas planned for conversion. The case studies also expose the flaws in RSPO certification (see section 4.3 below for more on RSPO). For a start, it is voluntary; of the seventeen new plantation projects identified, just two have committed to meeting RSPO standards, and of those one has since decided to drop its bid for certification. Whilst Olam has embarked on a process to achieve RSPO certification, the huge carbon emissions likely to result from forest clearance for the Olam plantation demonstrates the flaws in RSPO standards, which do not require high carbon stock forest to be set aside. Meanwhile the Herakles case demonstrates the difficulty in ensuring that RSPO standards are meaningfully met: not all cases will meet with the same level of NGO attention, and without such attention it is unlikely the flaws in HCV assessments and local consultations would have been exposed.

In the case of Atama Plantations in the Republic of Congo, Rainforest Foundation UK has not been able to find evidence that any environmental and social assessments have been carried out.

Involvement of governments at all stages of the process, together with this information illustrates numerous reasons for concern regarding the new wave of expansion of industrial oil palm plantations in the Congo Basin. Of the seventeen projects identified, at least three are connected in some way to companies which have been found to have breached national regulations in other countries, involving timber-felling or plantation development. All three main case studies involve forest conversion and potentially large-scale carbon emissions. In at least two and probably all three cases, the land allocated by the governments encompass areas of high conservation value, including primary forest, great ape and elephant habitat, or internationally-listed wetlands. Without appropriate assessment and mitigation measures, all three are likely to have negatively impacted on local people’s farms and areas of forest needed for subsistence livelihoods. At a minimum, this suggests that potential environmental and social impacts have so far been very much a secondary consideration in site selection for new oil palm developments. It further suggests that some of the ambitious planting targets already set out by governments will only avoid very large-scale environmental damage and social disruption if much greater effort is put into site selection, assessment and mitigation measures.

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SECTION 4: POTENTIAL SOCIAL & ENVIRONMENTAL IMPACTS OF PALM OIL IN THE CONGO BASIN

4.1 ENVIRONMENTAL IMPACTS

4.1.1 Deforestation & Biodiversity Loss

There is a direct relationship between the growth of oil palm estates and deforestation in Malaysia and Indonesia.\(^{192}\) Between 1990 and 2005, 1.1 million hectares of forest in Malaysia and 1.7 million hectares of forest in Indonesia were cleared to make way for oil palm. Between 50 and 60 per cent of all oil palm expansion in those countries during the 15-year period occurred at the expense of natural forests.\(^{193}\)

Much of this destruction has been illegal. Licenses are often issued in breach of regulations, sometimes as a result of corruption. For example, the governor of East Kalimantan province in Borneo was jailed for 4 years for illegally issuing oil palm plantation permits covering 1 million hectares between 2003 and 2008.\(^{194}\) It is common in Indonesia for oil palm companies to begin clearance before all the necessary permits are in place.\(^{195}\) There are numerous examples of oil palm companies illegally using fire to clear land\(^{196}\), clearing forest outside of concession boundaries\(^{197}\) and clearing in prohibited areas such as river buffers and areas of deep peat.\(^{198}\) Oil palm companies in Indonesia have cleared habitats of endangered Orang-utans and Sumatran tigers.\(^{199}\)

Oil palm companies almost always defend green-field operations on the basis that their new planting is on ‘degraded’ land, but this term is widely abused and is often used to refer to areas of forest which have been selectively logged but retain significant biodiversity values, carbon stocks and livelihood and watershed functions. Palm oil planting has often been linked with timber extraction, with different parts of the same industrial conglomerates first pulling out all the most valuable timber species, then the ‘degraded’ forest being clear-felled for palm plantations.

Where oil palm developments target primary forest areas, this is often simply a cover for accessing valuable timber resources: once these are taken, the land is abandoned and no planting ever takes place. Even where plantations are developed on genuinely ‘degraded’, or un-forested land, they can have indirect negative effects on neighbouring forests. Where local people’s subsistence agricultural land is planted, farmers may be forced to cut down neighbouring forests in order to replace the lost land. The large influx of people needed for the planting and operation of an oil palm plantation can also lead to increased small-scale illegal logging, bush-meat hunting and agricultural clearance. Where fire is used to clear degraded land, they can spread beyond concession areas into neighbouring forests.

4.1.2 Climate-Change Emissions

Oil palm plantations are a very large contributor to climate-changing gas emissions. Emissions result from the above-ground biomass cleared to make way for the plantations, which even in heavily degraded forests exceeds the biomass of the oil palms which replace them. Studies in Indonesia found oil palm plantations had an above-ground carbon store of 39 tonnes of carbon per hectare (C/ha), while logged-over forest areas which they typically replace had above-ground carbon stores of between 179 and 290 tonnes C/ha.\(^{200}\)
SECTiON 4: pOTENTiAl SOCiAl & ENviRONMENTAL iMpACTS Of pAlM Oil iN ThE CONGO BASiN

4.2 SOCIAL IMPACTS

4.2.1 LAND RIGHTS & CONFLICT

Written laws in tropical countries often do not recognise customary land rights of indigenous or other local peoples, and all ‘vacant’ land is formally ‘owned’ by the state. In such instances, governments are able to hand people’s ancestral land to oil palm companies without consultation or their free, prior, informed consent (FPIC) and without suitable compensation. In most countries where large-scale oil palm plantations have been developed, this has led to the loss of customary lands and resulted in conflicts between local people and oil palm developers. Where formal regulations do provide for consultation with communities or require some form of consent, these regulations are regularly breached by companies and governments. Even where consultations are conducted, false information is provided and false promises are made in order to obtain local people’s consent.202

The painstaking work of NGOs such as Sawit Watch (which translates as ‘Oil palm watch’) has demonstrated beyond doubt that the rapid expansion of oil palm plantations in Indonesia has led to “hundreds of disputes and conflicts over land, involving demonstrations, land occupations, displaced persons, arrests, beatings, torture and deaths”.203

Sawit Watch was aware of 513 active conflicts between companies and communities in the oil palm plantation sector in Indonesia in 2008, and believed that, in total, there may have been as many as 1,000 conflicts in the country. It has been estimated that between 1998 and 2002, 479 local people and activists defending community rights were tortured, 12 were killed, and 936 were arrested; at least 284 houses or huts were burned down or destroyed and 307,954 hectares of “peasants’ land was affected by crop damage, destruction and burning”.204

4.2.2 LIVELIHOOD IMPACTS

The conversion of community agricultural lands and forests can have dramatic negative impacts on local livelihoods. Forests which are destroyed to make way for oil palm plantations can no longer provide subsistence foods, medicines and building materials. Where insufficient land is left for subsistence agriculture, it can be impossible to grow enough food. Villages can find that they have become ‘islands’ in a sea of oil palm plantations. The new opportunities for income from formal employment within the oil palm plantations often fail to fully counter the loss of subsistence incomes and leave people worse off than they were before.205

4.2.3 CULTURAL IMPACTS

Oil palm developments have dramatic negative impacts on indigenous and local cultures and customs. Many customs are related to traditions of working and using the land, including subsistence agriculture, hunting and gathering of forest products and for spiritual and cultural purposes. Indigenous peoples in particular have a profound relationship with the land and its resources. The loss of land for subsistence agriculture, the loss of forest resources, and the shift to working as wage labourers in oil palm plantations all serve to undermine and ultimately destroy these traditions, and the cultural practices which accompany them.

More direct impacts include numerous well-documented instances in Indonesia and Malaysia of oil palm companies desecrating indigenous people’s ancestral grave sites. Ultimately, the disruption caused by conversion of local people’s land to oil palm can lead to communities losing the very things which make them communities: their self-respect, pride and identity, their independence, and their collective spirit.206
**SECTION 4: POTENTIAL SOCIAL & ENVIRONMENTAL IMPACTS OF PALM OIL IN THE CONGO BASIN**

4.2.4 WATER QUALITY AND AVAILABILITY

Studies in Indonesia have shown how oil palm developments can have serious, detrimental impacts on local people’s access to clean water. Concession agreements often define new plantations as private property, and give the oil palm company the right to refuse access, including access to rivers and streams within the concession area, to local people. At least some of the new concessions being allocated in the Congo Basin countries have similar provisions.207

“OIL PALM DEVELOPMENTS OFTEN HAVE DRAMATIC NEGATIVE IMPACTS ON INDIGENOUS AND LOCAL CULTURES AND CUSTOMS.”

The planting of oil palm monocultures has dramatic effects on local hydrology. Local communities surveyed in Indonesia found that rivers and streams dried out following the planting of oil palm, while conversely floods also became more common. Even where communities are still able to access water sources, and these have not dried out, they are often polluted. Pesticides and other agrochemicals are leached from fields into streams, and increased erosion leads to increased turbidity and sedimentation. Even worse pollution comes from the oil palm processing facilities, which release large amounts of organic liquid waste which saps oxygen from water, killing fish. A palm oil mill serving a concession of around 8,000 hectares can produce 1,200 cubic metres of liquid waste per day, equivalent to the sewage produced by a city of 75,000 people.208 Examples of water pollution in the Congo already exist: a press report in March 2010 claimed that SIAT’s oil palm processing facilities in Lambaréné and Makokou, Gabon, had caused significant pollution of rivers.209

4.2.5 POOR LABOUR CONDITIONS

Oil palm companies, including those involved in developments in the Congo Basin, seek to justify inevitable negative environmental impacts by highlighting the numbers of jobs which will be created. Where the permission of local communities is sought, the promise of employment is a key incentive. Paid employment in rural areas of the Congo Basin is in very high demand, as these are some of the poorest countries and regions anywhere. The experience in Indonesia however, is that existing communities in the vicinity of new oil palm plantations often end up disappointed. Many of the promised jobs are only temporary, since plantation establishment is much more labour intensive than plantation maintenance. One study found that plantation establishment required 542 person-days per hectare, whereas operation required just 85 days.210 Most jobs are for casual workers, with little or no job security. Wages are very low - at or below the minimum wage, which is itself not a liveable wage.211 The quality of work found in palm oil plantations is often also very poor - harvesting palm fruits is physically difficult and results in many injuries.

4.3 ATTEMPTS TO ADDRESS NEGATIVE IMPACTS OF OIL PALM DEVELOPMENT

4.3.1 Certification

In response to consumer campaigning by NGOs, in 2004 the Roundtable for Sustainable Palm Oil (RSPO) was set up. The RSPO has established a set of standards for independent, voluntary certification of “sustainable” palm oil. An increasing number of major corporate buyers of palm oil are demanding certified supplies, and companies can choose to have their plantations RSPO certified in order to sell to these more discerning customers (in theory, at a premium price). As of September 2012, 1.5 million hectares of oil palm plantations had been certified to RSPO standards.212 An RSPO Africa Roadshow “aimed at supporting best practice in the planning and expansion of oil palm plantations in West and Central Africa” kicked off with events in Liberia and Gabon in May and June 2012. The roadshow was funded by the International Finance Corporation, a member of the World Bank Group, and Sime Darby, Olam International and Unilever.213

For a plantation to meet RSPO standards, it is supposed (among other things) to meet all local and national legislation, only diminish customary rights of local land users with their free, prior, informed consent, and must avoid planting on areas of ‘high conservation value,’ such as primary forests or forests with important populations of endangered species.214 Importantly, this does not prevent RSPO certified plantations clearing natural forest.

While RSPO can help bring greater transparency to the palm oil industry and has served as a forum for discussion, it is only a voluntary scheme. Most plantations (and most importantly, most new plantations) are still not certified or seeking to be certified, and even for those plantations which are certified, there are serious problems with the standards used, as well as with their enforcement. RSPO standards still allow companies to clear natural tropical forests, including areas of high carbon stock, provided that these forests have previously been slightly degraded by logging. Plantations established prior to 2005 can even be certified in cases where they replaced primary forests.215 RSPO certification does not address potential indirect impacts on neighbouring forests of displacing local people from farmed land. Multiple case studies have also demonstrated how RSPO member companies are able to obtain RSPO certification for some of their plantations (usually the older ones), while continuing to develop new plantations illegally or unsustainably elsewhere.216

4.3.2 THE ‘DEGRADED LAND’ STRATEGY

A lot of attention is now being paid by international agencies and NGOs to the idea that deforestation can be reduced significantly by shifting new oil palm development from forest areas on to degraded land. The World Resources Institute (WRI), for instance, has calculated that there is already sufficient suitable degraded land in Indonesia to cater for continued oil palm expansion through to 2020, without any more forests needing to be felled.
NGOs like WRI and WWF are working with donors, national governments and major oil palm companies to try to encourage oil palm development on degraded land, by helping identify land and minimise any administrative hurdles. Such initiatives are also linked to potential funding for REDD, such as in the financial agreement between the governments of Norway and Indonesia.

Although the basic concept is sound, there are a number of potential challenges with the degraded land strategy as currently implemented. The first is that land rights and tenure issues on ‘degraded land’ may be as or even more significant than they are on forested land. The second relates to how ‘degraded land’ is defined; the term has been widely abused and often used to refer to areas of forest that have been selectively logged but still retain significant biodiversity values, carbon stocks and livelihood and watershed functions.

The third, larger, but less well documented problem is that the whole strategy could be counterproductive, because it is not being sufficiently coupled with parallel actions to prevent continued new planting on ‘non-degraded’ forest land. Given the huge profits and massive demand for palm oil, as well as the tempting cash-flows offered by timber clearance and sale, it is entirely possible that oil palm companies will take the degraded land offered to them, and then plant on that and the forested land they were originally planning to plant on. The reality is that, in Indonesia and other Asian countries, palm oil companies have built up substantial ‘land banks’ which, if utilised, would require further forest clearance, and they have been strongly reluctant to relinquish such land reserves even if suitable ‘degraded land’ is on offer.

The term ‘degraded land’ has been often used to refer to areas of forest that still retain significant biodiversity, carbon stocks and livelihood functions.”

Because of its perennial, year-round production, oil palm has proven favourable for smallholder production in Asia. Roughly two-fifths of oil palm plantations in Indonesia are controlled by smallholders, a proportion that looks set to grow. Typically these are between 10-15 hectares in extent, though up to 50 hectares, and occasionally more. Earnings per hectare and per person/day of labour from these small plantations are at least ten times higher than, for example, dry-land rice production (in Indonesia, earnings for smallholder production are seven times higher than the average net income of subsistence farmers). Such figures can indicate, superficially, that smallholder palm oil production, which is already widespread, may offer a compromise between the desire of palm oil producers to expand production in the Congo Basin, and the need to ensure that such expansion advances local community well-being and efforts to achieve rural development – and possibly even to help secure community ownership over land. In an idealistic vision, it might be possible to locate small-scale palm oil production in degraded portions of community-managed forest land (though legal provisions for such community forests exist only in one country so far, Cameroon), thus providing both sustainable cash income whilst protecting natural forests for other non-cash needs, and providing greater security of ownership. However, this vision presents numerous challenges (see Box 3).
CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS

This report has shown that the expansion of commercial palm oil production poses a new and growing threat to the forests of the Congo Basin, as well as to people who depend on those forests for their livelihoods and culture. This expansion is likely to have negative environmental and social impacts unless national governments, palm oil developers, international agencies, investors and palm oil buyers adopt practices that radically improve on those typically seen in Indonesia and Malaysia.

The following are provisional recommendations that are designed to be a starting point for discussion among all relevant stakeholders.

THE EXPANSION OF OIL PALM POSES A GROWING THREAT TO THE FORESTS OF THE CONGO BASIN, AS WELL AS TO PEOPLE WHO DEPEND ON THOSE FORESTS.

RFUK has carried out an initial consultation with key non-governmental organisations in the Congo Basin on these recommendations, but much more needs to be done to inform and open public debate within the region. Substantive recommendations about palm oil development in some specific countries, especially Cameroon, have already been made by national NGOs; the more general recommendations offered here are intended to complement those recommendations, not serve as an alternative to them.

Further studies in the field are needed, as well as wider consultation and engagement with relevant non-governmental organisations, palm oil developers and governments of the region.
5.2 RECOMMENDATIONS

5.2.1 GENERAL RECOMMENDATIONS

- Greater transparency needed: There is a need for transparency in the industry, specifically in dealings between palm oil investors and Congo Basin governments. All contracts and agreements between governments and palm oil developers should be made public, to enable proper public debate, reduce the potential for corruption and enable local consultation and participation prior to development.

- New plantations: Agreements between governments and palm oil investors and Congo Basin NGOs have a crucial role. Non-governmental organisations (NGOs) in the region can play critical roles in minimising negative impacts of the expansion of large-scale oil palm in the Congo Basin. They can provide independent assessments of land ownership rights and environmental and socio-economic conditions in proposed planting sites, help local and indigenous communities articulate their concerns, convene relevant stakeholders to seek consensus around proposed developments, and act as independent monitors. However, sustained technical and human capacity building will be needed to ensure that they can fully fulfil these roles.

- Rehabilitation of old plantations and use of degraded land should be prioritised: In countries with deforested oil palm plantations, any development should focus on these areas instead of expanding into natural forest areas. The planning of new oil palm developments should include a presumption in favour of utilisation of land which can be assessed as ‘degraded’ (in relation to, for example, previous forest or other natural ecosystems) – while bearing in mind that such areas may be particularly important in local livelihoods, even if they are not subject to formal land title. Efforts to promote developments on degraded land must be coupled with parallel measures to prevent developments on forested land.

- Indirect impacts need to be taken into account: Assessments of the likely environmental and social impacts of large-scale oil palm developments in the Congo Basin need to take account of potentially major indirect impacts, such as through new infrastructure increasing accessibility to nearby forested areas, in-migration of employment-seekers, displacement of subsistence farmers into adjacent areas and potential increase in social conflicts.

- Congo Basin NGOs have a crucial role: NGOs in the region can play critical roles in minimising negative impacts of the expansion of large-scale oil palm in the Congo Basin. They can provide independent assessments of land ownership rights and environmental and socio-economic conditions in proposed planting sites, help local and indigenous communities articulate their concerns, convene relevant stakeholders to seek consensus around proposed developments, and act as independent monitors. However, sustained technical and human capacity building will be needed to ensure that they can fully perform these roles.

5.2.2 RECOMMENDATIONS FOR CONGO BASIN GOVERNMENTS, PALM OIL PLANTATION DEVELOPERS, INVESTORS AND INTERNATIONAL ORGANISATIONS:

- Government agencies should develop and implement clear and transparent policies on the allocation and management of oil palm plantations, in consultation with all relevant stakeholders. Large-scale agro-investments should be developed in harmony with national land-use plans and poverty reduction strategies. Governments should avoid signing agreements with palm oil developers that include restrictive confidentiality clauses and all such contracts and agreements should be available to the public. The public auctioning of oil palm development licenses should be explored.

- Governments should make high environmental and social standards compulsory: Governments should legislate strict standards to ensure that high conservation value (HCV) forests and high carbon stock (HCS) forests are not allocated to oil palm developments, and that an obligation to obtain free, prior and informed consent (FPIC) is obtained (see next recommendation). Companies with a poor track record elsewhere should be excluded from developing oil palm plantations.

- Customary tenure and user rights should be mapped and recognised, and free prior and informed consent sought: Government agencies should develop the means to systematically record and recognise both the formal and customary tenure conditions within any potential palm oil development area, prior to approval of projects. Careful analysis of existing livelihoods systems, especially those that rely heavily on subsistence (non-cash) use of natural forest resources which may be largely invisible to standard cost-benefit analyses, need to be made prior to approval of projects.

The free, prior and informed consent (FPIC) of local and indigenous communities should be obtained before any development is negotiated with palm oil developers.
SECTION 5: CONCLUSIONS AND RECOMMENDATIONS

**RECOMMENDATIONS FOR PALM OIL DEVELOPERS:**

- Customary land rights of communities must be respected: Palm oil developers need to be aware of, and respect, customary land tenure and usage rights of forest communities and ensure that local and indigenous communities are genuinely able to exercise the principle of free, prior and informed consent (FPIC) and their right to be consulted over developments affecting their lands. This would require, as a minimum, a participatory process involving all sections of local and indigenous communities through which the areas under customary rights and usage regimes are clearly identified and mapped, that communities are made fully aware of the consequences of the conversion of these lands for palm oil development, and that any expressed collective demand to exclude these lands from future development is respected. Some companies included in this report have taken positive steps in this direction, but more needs to be done. As stated above, governments would preferably be required to hire experts to ensure that

- RSPO alone will not be enough: Standards and certification through the Roundtable on Sustainable Palm Oil (RSPO) have been strongly criticised in South-East Asia and are unlikely be easily adapted to the Congo Basin, or robust enough to ensure that conflicts over land tenure or social and environmental impacts will be avoided. Palm oil developers will need to ensure that due diligence goes beyond application of the RSPO’s standards, and should be wary of the quality of third-party assessments for RSPO certification compliance in the Congo Basin, due to the lack of adequate, independent, reliable and easily obtainable information on the socio-economic, tenure and livelihoods conditions of proposed development sites, and weak capacity of both governmental and non-governmental organisations.

**RECOMMENDATIONS FOR INTERNATIONAL ORGANISATIONS:**

- Greater technical assistance needed on mapping customary land tenure: Assistance will need to be given to most governments within the region to ensure that they have adequate capacity to properly assess, record and legally recognise local (customary) land tenure regimes and traditional forest utilisation patterns in areas earmarked for oil palm development, as well as to ensure that they have the resources and skills necessary to monitor oil palm developments and ensure compliance with the relevant laws and norms.

- Support capacity building of local community organisations: Donors should help strengthen the capacity of local civil society organisations to raise awareness of, and monitor the expansion of, oil palm – and other large-scale plantations – in the Congo Basin. In addition, donors could support programmes to accompany local and indigenous communities in the formulation, implementation and evaluation of community projects, in order that communities benefit from any oil palm development.

- Financial and technical assistance on smallholder production: Financial, technical and market assistance/incentives may be required to ensure that smallholder production offers a viable and attractive proposition to local communities, governments and investors.

- Scrutinise how oil palm expansion fits with national commitments on forest management and conservation: Donor governments and agencies should scrutinise how current and planned expansion of large-scale oil palm plantations fits with Congo Basin governments’ commitments and engagements with international processes concerning the improved conservation and management of forests, especially countries which have signed a Voluntary Partnership Agreement (VPA) as part of the European Union’s Forest Law Enforcement, Governance and Trade (FLEGT) programme, or are receiving official development funding related to REDD. The multi-stakeholder approaches and forest governance-strengthening embedded in the FLEGT processes should be extended to decision-making concerning palm oil developments. Consideration should be given as to whether the kind of international timber trade controls mutually agreed to through VPA agreements could usefully be extended to agricultural commodities such as palm oil, where the production of these affects forests.

As large-scale palm oil developments in the Congo Basin are likely to cause significant levels of emissions of climate-changing gases from land-use developments, as well as shaping wider patterns of forest loss or conservation, donors of REDD funding should seek to address such developments through both ‘REDD-readiness’ programmes and/or REDD ‘payments for achievements’ agreements.

**“PALM OIL DEVELOPERS NEED TO RESPECT CUSTOMARY RIGHTS OF FOREST COMMUNITIES.”**

above, governments would preferably record and legally recognise customary tenure and usage regimes in the relevant areas before any FPIC consultations are undertaken, and would make FPIC a legal requirement.

Kate Eshelby

58 THE RAINFOREST FOUNDATION UK SEEDS OF DESTRUCTION FEBRUARY 2013 59
### ANNEX 1: SUMMARY INFORMATION ON KNOWN OIL PALM EXPANSION PROJECTS IN THE CONGO BASIN

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>INVESTOR</th>
<th>HECTARES</th>
<th>NOTES</th>
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<tbody>
<tr>
<td>Cameroon</td>
<td>CDC</td>
<td>6,000</td>
<td>Already around 12,000 ha of oil palm in Cameroon. As of 2009, had just started planting on new 6,000 ha estate at Boa Plain, Itani (in SW); work was expected to take 5 years. As of April 2011, 1,000 hectares had been planted. No information available on nature of land involved.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Sime Darby (SSGOC) (Herakles)</td>
<td>9,000</td>
<td>99-year lease, signed in 2009. Land is selectively logged forest, adjacent to four protected primary forest areas in Ndian and Kupe-Manenguba Divisions of SW Cameroon. Env &amp; soc impact assessment says only 60,000ha will be planted. Dropped plans to obtain RSPO certification after HCV assessments were heavily criticised. Owned by Herakles Farms, a US company. Widespread NGO attention and opposition. Ground broken for nursery during 2011, not clear if wider planting has begun or if so how far it has progressed. For references and additional information see Section 3.3.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Biopalm Energy</td>
<td>200,000</td>
<td>In Aug 2011. In South-East Cameroon. 1,000ha signed off for nursery, not clear if remaining areas fully signed off or just under memorandum of understanding with the authorities. No Free Prior and Informed Consent for local Bagyeli indigenous people. Biopalm is subsidiary of Singapore-based Siva Group, which is owned by an Indian billionaire. Will be jointly developed with Cameroon's National Investment Corporation. No reports that ground has yet been broken. Expect to produce 60,000 tpa by 2016. Kribi, Loukongdj, Bipindi, Lodeloford and Evengué regions. The company is said to be seeking 'at least' 200,000 ha in Cameroon, not in one block, and has reportedly 'already been accorded 50,000ha in Ocean Division, with authority to develop 10,000ha yearly'. One site Siva is trying to secure is UFA 00-003, a Forest Management Unit (logging concession, part of the 'Permanent Forest Estate') managed by MMG. Biopalm is also a joint venture partner in new oil palm plantations in Liberia, and targeting oil palm investments in DRC.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Sime Darby</td>
<td>300,000</td>
<td>Still in negotiation; would be in south-west (Yingui, Nkam Division, adjacent to Ebo NP). The company wants to develop 5,000-15,000ha per year, and is reported to have recently rejected a site offered to it (an intact primary forest near Mintom) because of its high conservation value. Sime Darby is reportedly searching for up to 600,000ha of land in total for oil palm and rubber in Cameroon; in addition to the 300,000 of oil palm they are currently also proposing a further 150,000 ha of rubber (100,000 in Efoulan, Niela and 50,000 in Meyomesi, Dja et Lobo Division). Sime is one of the largest oil palm companies in the world. It has been found to have been clearing orangutan habitat and clearing forest illegally without the necessary permits in Indonesia. At Sime Darby's new oil palm plantation in Liberia, villagers have complained that the company had thrown people off their land, illegally cleared forest and filled in wetlands. In 2011, Sime Darby was fined $50,000 by the Liberian authorities for breaches of environmental requirements during forest clearance.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>GoodHope (est.)</td>
<td>6,000</td>
<td>Company announced in August 2011 a plan to invest ‘hundreds of millions of dollars’ in oil palm in Cameroon, and said to be searching for ‘an unknown quantity of land’ for oil palm development in Ocean Division, Southern Region. New reports say only 50ha approved, but also say investment is $200m and will produce 30,000tpa, which would represent around 6,000ha. Goodhope are a very large Malaysian oil palm company.</td>
</tr>
</tbody>
</table>

### (INCLUDING INFORMATION ON OPERATIONS ELSEWHERE OF THE COMPANIES CONCERNED)

<table>
<thead>
<tr>
<th>Country</th>
<th>Investor</th>
<th>Hectares</th>
<th>Notes</th>
</tr>
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<tbody>
<tr>
<td>Cameroon</td>
<td>Cargill</td>
<td>50,000</td>
<td>Announced by Director of Cargill's Investment Promotion Agency May 2012, said to be worth $390 million; deal not yet signed; Cargill has declined to comment. Not clear whether a location has been identified. Cargill has been found to have cleared tropical forests in Indonesia for oil palm without all the necessary permits, while local people have complained of pollution. The company has also cleared forest on peatlands, and fire hotspots were found in its concessions during clearance in 2006.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Palm Co</td>
<td>100,000</td>
<td>This company is reported to be requesting at least 100,000ha in Nkam area of Littoral, no other information available.</td>
</tr>
<tr>
<td>Cameroon</td>
<td>Smart Holdings</td>
<td>25,000</td>
<td>Company of this name said to be trying to acquire 25,000ha in an unknown destination. Not clear if it is connected to giant palm oil company PT SMART / Golden Agri in Indonesia (which has a new oil palm plantation in Liberia already, and which in the past has been found to be clearing illegally on deep peat, clearing orangutan habitat and clearing forest without EIAAs in Indonesia). No other information.</td>
</tr>
<tr>
<td>CAR</td>
<td>Palmex</td>
<td>8,701</td>
<td>Revealed in May 2012, planting planned for Pissa in Lobaye Mbabi sub-prefecture. Announced at a launch ceremony attended by Minister Pascal Koyamene.</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>Eni</td>
<td>70,000</td>
<td>Italian oil &amp; gas firm. Has had presence in Congo since 1968, protocol agreement signed with governent Nov 2008; MoU signed in 2009; Niari in NW Congo. Eni says its role is as technical consultant to MoAg to help identify most suitable areas and create a consortium to implement the project, in which it will have a maximum stake of 10%. Eni website says feasibility studies are ongoing, and plan is to do environmental and social impact assessment and follow RSPO. In 2009 a special FAO mission visited Congo to evaluate the project's potential. This included a visit to the site at Mbel, in Pool region. Congo environmental legislation requires EIAAs to be made public. Eni is also working with Congo government on developing tar sands and building a gas-fired power station. The tar sands area of exploration is 70% primary forest, so could impact forests more than the proposed oil palm plantation. Status of investment unclear - since Eni was only advising, it could be that part or all of this 70,000ha is the same land later provided to Fri-El/Green or Biscogo (see below)</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>Fri-El Green</td>
<td>40,000</td>
<td>Italian bioenergy company. 50% owned by German energy utility RWE, purchased 4,000ha of existing plantations in Cuvette province in the north of the Congo, from two state-owned firms (Sangha Palm and Congo National Palm Plantations Authority -RNPC), in July 2008, and agreed 40,000ha expansion, with all the palm oil intended for the production of biofuel. The Sangha Palm land is in EtoUmou district, the RNPC land in Owando. The new planting is to be in Sangha (30,000ha), La Cuvette (5000ha) and La Cuvette-Ouest (5000ha). Fri-El also signed a deal for 30,000ha for OP in Ethiopia in 2008, but this was cancelled by the government there due to a failure to meet targets for starting development of the land. Also took over 11,000ha of dormant state-owned plants in Nigeria in 2007, with rights to expand to 100,000ha. Fri El also announced deal in 2007 for investing in 180,000ha OP dev in Nigeria.</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>Atama Plantations</td>
<td>180,000</td>
<td>Concession agreement signed in December 2010. Total area covered is 470,000ha, of which 180,000ha of suitable land has thus far been identified. Land is in Cuvette and Sangha province. Planting expected to begin in 2011. Malaysian-run company currently being purchased by a Kuala Lumpur publicly listed firm. For references and additional information see Section 3.1</td>
</tr>
</tbody>
</table>
**Annex 1: Summary Information on Known Oil Palm Expansion Projects in the Congo Basin**

<table>
<thead>
<tr>
<th>Country</th>
<th>Investor</th>
<th>Acres</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Republic of Congo</td>
<td>Biocongo Global Trading</td>
<td>24,280</td>
<td>News reports in February 2012 said deal signed that month by Agriculture Minister for 60,000 acres. Plantations to be in La Cuvette and Cuvette-Ouest in NW of country. $150 million investment.252</td>
</tr>
<tr>
<td>Republic of Congo</td>
<td>Aurantia</td>
<td>Unknown</td>
<td>Spanish company Aurantia was reported in 2007 to be planning to build four palm oil mills and a plantation covering 'thousands of hectares', with the aim of producing biofuels. Feasibility studies on possible sites for the development were underway.256 No new information since, and many such projects planned during the biofuel boom year of 2007 have been shelved around the world, so it is possible that this project never came to fruition.</td>
</tr>
<tr>
<td>DRC</td>
<td>ZTE</td>
<td>100,000</td>
<td>Announced 2007, but as of 2010 development had not begun.257 Original target area was Equateur province, but later rumours named Mbundu. Original news reports mentioned much larger area.258 Deal expired in 2011, by which time ZTE had only 600ha of actual land holdings.259 ZTE has 10,000ha of oil palm in Indonesia and is in process of acquiring much larger land bank there for future expansion.260</td>
</tr>
<tr>
<td>Gabon</td>
<td>Olam</td>
<td>100,000</td>
<td>Deal signed Nov 2010. 70/30 joint venture with government; to be planted at Kango Aurantia. Unknown Spanish company Aurantia was reported in 2007 to be planning to build four palm oil mills and a plantation covering 'thousands of hectares', with the aim of producing biofuels. Feasibility studies on possible sites for the development were underway.256 No new information since, and many such projects planned during the biofuel boom year of 2007 have been shelved around the world, so it is possible that this project never came to fruition.257 Deal expired in 2011, by which time ZTE had only 600ha of actual land holdings.259 ZTE has 10,000ha of oil palm in Indonesia and is in process of acquiring much larger land bank there for future expansion.260</td>
</tr>
</tbody>
</table>

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**Annex 2: FPIC and Consultation**

**What is ‘Free, Prior and Informed Consent’ (FPIC)?**

‘Free, prior and informed consent’ as referred to in the UN Declaration on the Rights of Indigenous Peoples can be understood as follows:

- Free should imply no coercion, intimidation or manipulation;
- Prior should imply consent has been sought sufficiently in advance of any authorization or commencement of activities, and respect time requirements of indigenous consultation/consensus processes;
- Informed should imply that information is provided that covers (at least the following) the aspects:
  a) The nature, size, pace, reversibility and scope of any proposed project or activity;
  b) The rights or purpose of the project and/or activity;
  c) The duration of the above;
  d) The locality of areas that will be affected;
  e) A preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks and equitable benefit sharing in a context that respects the procedural/constitutional principle;
  f) Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others);
  g) Procedures that the project may go through;

**Consent, timing, representation and accessibility**

Consultation and participation are crucial components of a consent process. Consent should be understood as a process undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communication among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women are essential, as well as participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

FPIC should be sought sufficiently in advance of any authorization or commencement of activities, or legislative or administrative measures likely to have an impact on IPs taking into account indigenous peoples’ own decision-making processes, in the phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

Indigenous peoples should specify which, if any, representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN Agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

**What is Consultation?**

The right to consultation constitutes part of the legal framework in two countries in the Congo Basin: the Republic of Congo (through the national Indigenous Populations Law) and the Central African Republic (through the ratification of ILO Convention No. 169). In both those contexts, there is therefore a legal obligation to consult with indigenous peoples. The right to consultation outlined in these two instruments is similar to the principle of Free, Prior and Informed Consent (FPIC). It should be undertaken whenever legal or administrative measures that will have an impact on indigenous peoples are being considered. This is very broad and means that it applies not only to projects but also to legal and policy development or implementation.

As such, it should follow the following principles, as outlined in these two laws.

- It should have the objective of achieving agreement or consent;
- The process of consultation should allow for those concerned to express themselves freely, in a fully informed manner;
- It should be conducted in a form appropriate to the circumstances.

This means that the consultation process should:

- Take into account indigenous peoples’ own ways of making decisions, allowing sufficient time to be able to do this;
- Consider the location of the consultation as this should be appropriate for the people concerned;
- Be in an appropriate language;
- Provide all information, in a form that is understandable to those concerned, on the potential positive and negative impacts of a proposed action;
- Consultation should be through the representative institutions of indigenous peoples – representatives should be chosen by the groups concerned and not hand-picked by those doing the consultation. Representation is fundamental; and
- Consultation should be in good faith.

An information meeting does not constitute a consultation. Consultation is a process, giving indigenous peoples enough information and time to be able to understand the proposed actions and make a decision through their own decision making processes.
ACRONYMS AND ABBREVIATIONS

ACRONYM FULL NAME
BVI British Virgin Islands
CAR Central African Republic
CBD Centre for Environment and Development, Cameroon
CEO Chief Executive Officer
CFA (FRANC) Société d’Investissement pour l’Agriculture Tropicale
CIFOR Center for International Forestry Research
CPO Crude Palm Oil
DRC Democratic Republic of Congo
ESIA Environmental and Social Impact Assessment
FELDA Federal Land Development Authority, Malaysia
FLEGT Forest Law Enforcement, Governance and Trade
FTTCP Free, Prior and Informed Consent
GDP Gross Domestic Product
ha Hectares
HCS High Carbon Stock
HCV High Conservation Value
NGO Non-Governmental Organisation
REDD Reducing Emissions from Deforestation and Degradation
RFPK Rainforest Foundation UK
RSPO Roundtable on Sustainable Palm Oil
SEAC Socì©të́ d’Investissement pour l’Agriculture Tropicale
VAT Value Added Tax
VPA Voluntary Partnership Agreement
WRI World Resources Institute
$ US Dollars

REFERENCES

5 FAOSTAT. http://faostat.fao.org/
7 Calculated from FAOSTAT data, http://faostat.fao.org/
9 FAOSTAT. http://faostat.fao.org/
14 Assuming typical average yields of around 3.5 tonnes of CPO (crude palm oil) per hectare per year.
17 Summed from figures for the five major Congo basin forest countries from Stickler; C. et al., 2010, “Readiness for REDD: A Preliminary Global Assessment of Tropical Forested Land Suitability for Agriculture”, Woods Hole Research Center, 2007, http://libapp.mbl.edu/works/35876
21 Ibid.
24 Reuters, 2011. “Congo Republic wants $2.6 billion to replant forest”, Reuters, Brazzaville, 5 August 2011
25 Statistics for areas of forest in Congo Basin countries found to be "suitable" for oil palm based on climate and soil type. Stickler, C., et al., 2007, op. cit.
27 MECON, 2009, op. cit.
37 LOI N° 11/022 PORTANT PRINCIPES FONDAMENTAUX RELATIFS A L’AGRICULTURE, 24 December 2011
38 Reuters, 2012a, op. cit.
40 Personal communication with palm oil investors, July 2011
42 Congolese Minister of Industrial Development and Promotion of the Private Sector, Rodolphe Adada, signed the Biocongo deal in March 2012
43 Cameroon’s Minister of Economy, Planning and Regional Development, Louis Pail Motaze, signed the Herakles deal in March 2012
44 See section 3.3.2
45 Reuters, 2009, op. cit.
This research has been generously supported by Synchronicity Earth and The Anthony Rae Foundation.