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February 20, 2019

**Re : Complaint concerning IFC loan to the “Compagnie des Bauxites de Guinée” (CBG)**

Dear Vice President Gratacós,

Centre de Commerce International pour le Developpement (CECIDE), Association pour le développement rural et l'entraide mutuelle en Guinée (ADREMGUI), and Inclusive Development International (IDI) are submitting this complaint to the Office of the Compliance Advisor Ombudsman on behalf of 540 complainants belonging to the communities of Hamdallaye, Fassaly Foutabhè, Boundou Wandè, Kogon Lengué, N'danta Fognè, Bourorè, Samayabhè, Paragögö, Parawi, Parawol, Sinthiourou Lafou, Lafou Mbaila and Horè Lafou, who are suffering serious harms from CBG's mining operation located in the sub-prefecture of Sangaredi, prefecture of Boké, Republic of Guinea.

The residents of these 13 communities, all located within CBG's concession, are victims of land grabbing and destruction of their environment and livelihoods, amounting to serious violations of human rights enshrined in international law instruments,<sup>1</sup> including the African Charter for Human and People's Rights.<sup>2</sup> They have not been accorded their entitlements and protections under Guinean law and the IFC Performance Standards (PS), including PS 1, 3, 4, 5, 6 and 8. None of the objectives of these PSs have been achieved or will be achieved unless significant remedial and preventative measures are taken by CBG.

The Hamdallaye village is affected by both economic and physical displacement, and the community has been told they will be imminently resettled on a site that does not meet the requirements of PS 5, notably because this area was previously exploited by CBG and never

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<sup>1</sup> Universal Declaration of Human Rights, adopted December 10, 1948, G.A. Res. 217A(III), UN Doc. A/810 at 71 (1948); International Covenant on Economic, Social and Cultural Rights, adopted December 16, 1966, G.A. Res.2200A (XXI), 21 UN GAOR Supp. (No.16) at 49, UN Doc. A/6316 (1966) 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by Guinea in 1978; UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18.

<sup>2</sup> African Charter on Human and Peoples' Rights, see in particular Article 9 (Right to information), Articles 14 and 21 (Right to property, to benefit from natural resources and fair and adequate compensation; 24 (Right to health and a satisfying environment), Article 15 (Right to work), Article 24 (Right to a satisfactory environment), Articles 4, 5 and 6 (Right to dignity and security), Article 18 (Elimination of all forms of discrimination against women).

restored. All of the 13 complainant communities are affected by the loss of land, including agricultural land, which has resulted in drastic impacts on their livelihoods and a significant decline in their income, as well as the destruction of their natural environment, including their water resources. These violations have had particularly damaging consequences for the women of these communities. In addition, the proximity of the mining activities to the villages carries significant risks for the physical safety of the communities.

Since it began operations in 1973, CBG has progressively excavated and mined large areas of land in the area surrounding the town of Sangaredi, where its mining operations are concentrated.<sup>3</sup> For years, CBG has denied the land rights of local communities, creating immense frustration amongst the population after decades of land grabbing and natural resource destruction. CBG's current expansion project means it is now acquiring more land for new infrastructure and additional sites of exploitation, without addressing the continuing impacts from its past operations, nor significantly changing its practices on the ground vis-à-vis communities' land rights.

In 2016, the IFC provided CBG with a US\$200 million loan (\$135 million loan from IFC's own account and a \$65 million loan from IFC's Managed Co-Lending Portfolio Program) for its mining operations in Guinea, and specifically for the expansion project as described in Section 1 below.<sup>4</sup>

This complaint is structured as follows:

- Section 1: Description of CBG's project and financing.
- Section 2: Description of IFC's areas of non-compliance with applicable policy requirements.
- Section 3: Description of harms and human rights violations suffered by complainants and the failure of IFC's client, CBG, to adhere to the Performance Standards.
- Section 4: Outcomes sought by the complainants.

Due to concerns for their personal security, the complainants request that their identities are kept confidential at this time. They will consider waiving their confidentiality in the context of a CAO dispute resolution process, but only with security assurances and after providing their express consent.

Please direct all correspondence related to the complaint to:

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<sup>3</sup> Satellite imagery analyzed by Human Rights Watch shows how, having first mined a limited area to the east of Sangaredi, CBG's mines progressively expanded in the 1990s and 2000s to cover a far greater area to the northeast, southeast and eventually west of the town. See: <https://www.hrw.org/video-photos/media-interactif/2018/09/27/our-land-how-guineas-bauxite-boom-affects-human-rights>

<sup>4</sup> International Finance Corporation, CBG Expansion, Summary of Investment Information. <https://disclosures.ifc.org/#/projectDetail/SII/34203>; IFC Invests \$200 Million in Guinea's Bauxite Mining Sector to Support Broad-Based Growth. <https://ifcextapps.ifc.org/ifcext/pressroom/ifcpressroom.nsf/0/864D5DEE19FDD00985258027003A2866>

## SECTION 1: THE PROJECT

Compagnie des Bauxites de Guinée (CBG) is a bauxite mining company with exclusive rights over a 579km<sup>2</sup> mining concession in northwestern Guinea, covering parts of the Boké, Téliélé and Gaoual regions. The mined deposit is located in Sangaredi, about 370km north of the capital, Conakry.<sup>5</sup>

The project has been operational since 1973 and is currently undergoing an expansion that was expected to increase production from roughly 15 to 18.5 million tons per year by the end of 2018.<sup>6</sup> This is the first part of a two-stage expansion that will eventually lead to outputs of 27.5 million tons annually.<sup>7</sup> The current expansion includes increasing the mining extraction rate, including extraction in new areas within the CBG concession and constructing various processing facilities and associated infrastructure at the mine site; updating the railway line used to transport bauxite from Sangaredi to the port of Kamsar located at the mouth of the Rio Nunez river; and updating processing facilities at the export site in Kamsar. As of February 2018, it was estimated that about 54% of the project expansion was complete.<sup>8</sup>

The total cost for CBG's expansion project is estimated at \$795 million,<sup>9</sup> all of which has been covered by a series of loans issued in September 2016. The loans, amounting to \$823 million in total, include:

- A \$200 million loan from IFC
- A \$150 million loan from the US government's Overseas Private Investment Corporation (OPIC)
- \$473 million in loans from a syndicate of commercial banks, including Société Générale, BNP Paribas, Crédit Agricole, Natixis; the German branch of ING bank, ING-DiBa AG; and two Guinean banks, Société Générale de Banques en Guinée (SGBG) and Banque Internationale pour le Commerce et l'Industrie de la Guinée (BICIGUI), a member of the BNP Paribas group.
- \$293 million of the syndicated loan was guaranteed by the German government through the Untied Loan Guarantees program (UFG)

CBG is 49% owned by the government of Guinea and 51% by Boké Investment Company, a wholly owned subsidiary of Halco Mining Inc. Halco is a joint venture between Alcoa (through Alcoa World Alumina and Chemicals), Rio Tinto and Dadco.<sup>10</sup>

## SECTION 2: INADEQUATE DUE DILIGENCE AND SUPERVISION OF THE PROJECT BY IFC

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<sup>5</sup> International Finance Corporation, CBG Expansion, Summary of Investment Information. <https://disclosures.ifc.org/#/projectDetail/SII/34203>; and Environmental & Social Review Summary. <https://disclosures.ifc.org/#/projectDetail/ESRS/34203>

<sup>6</sup> Alcoa, Guinea operations. <http://www.alcoa.com/guinea/fr/default.asp>

<sup>7</sup> Ibid.

<sup>8</sup> Ramboll Environment and Health UK Ltd., CBG Bauxite Mine Expansion Environmental and Social Monitoring Report, February 2018. <http://www.cbg-guinee.com/download/3620/>

<sup>9</sup> Overseas Private Investment Corporation, Information Summary for the Public, CBG Expansion. [https://www.opic.gov/sites/default/files/files/PublicSummaryCBGExpansion\(1\).pdf](https://www.opic.gov/sites/default/files/files/PublicSummaryCBGExpansion(1).pdf)

<sup>10</sup> International Finance Corporation, CBG Expansion, Summary of Investment Information. <https://disclosures.ifc.org/#/projectDetail/SII/34203>

The loan to CBG is subject to the 2012 IFC Sustainability Framework, including the Policy on Environmental and Social Sustainability, defining IFC's commitments, and the Performance Standards, which define IFC clients' responsibilities for managing the environmental and social risks and impacts of the project.

Under the policy, prior to approving the loan, IFC was required to conduct environmental and social due diligence of CBG's activities proposed for its support. Approval of the loan was to be subject to obtaining legal agreement from CBG on certain measures and commitments regarding social and environmental issues consistent with IFC Performance Standards. IFC was thereafter required to monitor and supervise CBG's environmental and social performance to ensure compliance during the loan period. According to IFC policy, if the client fails to comply with its environmental and social commitments as expressed in the legal agreements and associated documents, IFC will work with the client to bring it back into compliance, and if the client fails to reestablish compliance, IFC will exercise its rights and remedies, as appropriate.<sup>11</sup>

In line with the policy, IFC classified the project as category A, "due to the potentially significant, diverse, and irreversible environmental and social risks and/or impacts inherent to a project of this nature and scale operating in Guinea." Key concerns identified by IFC relate to the "cross-cutting issues of water resources, biodiversity, community development and ecosystem services" as well as "physical and economic displacement starting in 2016."<sup>12</sup> IFC therefore required CBG to comply with Performance Standards 1, 2, 3, 4, 5, 6 and 8.

IFC was evidently broadly cognizant of the high environmental and social risks of the bauxite mining operation, particularly in a populated area, and the challenges of preventing and mitigating these risks in Guinea. In addition, it appears that the IFC was aware that CBG's previous operations had caused adverse environmental and social impacts over the years, including land dispossession and displacement, and that affected communities were aggrieved.<sup>13</sup>

IFC required CBG's pre-existing operations (prior to the expansion project commencing) to be "consistent with the intent of the IFC's Performance Standards over time."<sup>14</sup> Specifically, the scope of IFC's due diligence included, inter alia, the following pre-existing operations:

- Existing mining operations at Sangaredi
- Existing railway operation, existing project management - legacy environmental, social, health and safety management programs (baseline data, procedures, monitoring and reporting);
- Communities: Historic resettlement, grievances.<sup>15</sup>

While IFC claims to have required CBG to redress harms resulting from its pre-existing operations, including "historic resettlement," IFC selected an arbitrary year, specifically 2010, as a cut-off for which past displacement would be remedied. The 2010 cut off does not appear to have been determined based on any analysis, such as a review of particular events or after community consultation. It does not appropriately align with community time lines or experiences, as described further below, and as a consequence has not resulted in any remediation for historic displacement

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<sup>11</sup> Policy on Environmental and Social Sustainability (2012), at para. 24.

<sup>12</sup> <https://disclosures.ifc.org/#/projectDetail/SII/34203>

<sup>13</sup> EEM, "Environmental and Social Impact Assessment of the CBG Mine Extension Project," Physical Environment Study, December 2014.

<sup>14</sup> <https://disclosures.ifc.org/#/projectDetail/ESRS/34203>

<sup>15</sup> <https://disclosures.ifc.org/#/projectDetail/ESRS/34203>

whatsoever.<sup>16</sup> We submit that this constitutes non-compliance with the intent of IFC’s policy to work with clients to determine meaningful measures to remediate significant “past or present adverse impacts.”<sup>17</sup>

The severity of harms suffered to communities’ livelihoods and access to water, among other aspects of their lives, means that the spirit and objectives of the Performance Standards, such as the objective of improving, or restoring, the livelihoods and standards of living of displaced persons, cannot practically be achieved by isolating impacts going forward. For many of the complainants, years of damage from CBG’s activities, particularly loss of land and water sources, has gradually eroded living standards and economic resiliency. Any effort to improve their *existing* economic and livelihood status is therefore taking as a starting point a situation imposed by CBG’s own violations. It would be a perverse result if the Performance Standards allowed CBG, which is responsible for gradually destroying communities’ resources and productive base, to ignore that impact and move forward as if it had just arrived. Only a comprehensive plan that reflects the past and future impact of CBG’s operations can truly restore communities’ livelihoods and standards of living.

Moreover, the grievances, frustrations and distrust harbored by affected communities precludes the genuinely consultative and participatory processes required under the Performance Standards. The distrust is so deep and the harms done so severe that CBG could not, and cannot, meaningfully meet its obligations under the Performance Standards going forward without addressing pre-existing issues to the satisfaction of the communities.

IFC highlighted its environmental and social expertise as part of the value it would bring to the project, stating: “IFC has played the lead role amongst the arranging banks to assist the Sponsor in completing E&S due diligence and in developing action plans to mitigate impacts over the life of the Project.” IFC committed to continuing “to support the Company in areas such as biodiversity, resettlement and water management.”<sup>18</sup> For CBG, the IFC’s role in environmental and social due diligence and management was crucial to securing the loans needed to expand its operations, not just from the IFC itself, but also the syndicate of commercial banks, many of them Equator Principles Financial Institutions, which sought comfort from IFC’s involvement in this high-risk project. Cognizant of the need to provide strong assurances to secure financing, CBG agreed to a considerable range of environmental and social assessment and mitigation measures, including external monitoring.

However, IFC’s due diligence evidently did not address the full breadth and depth of adverse impacts and deep-seated grievances and frustrations of local communities towards the company that have festered over the years and decades. While IFC understood that there were legacy displacement and land rights issues that needed to be addressed, it either did not grasp the degree of destruction and dispossession that CBG’s operation has wrought on the local population and the environment in Boké, or chose to downplay it because of the challenges (and costs) inherent in fully addressing it. Section 3 provides a summary description of these harms.

Consequently, while IFC required a suite of assessments, action plans and monitoring reports, the limitations on their scope and failure to fully take into account community views make them

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<sup>16</sup> We believe that a more comprehensive remediation for legacy land issues could take place, involving a process of rehabilitation of mined areas coupled with a land demarcation process to map lands belonging to the 13 villages.

<sup>17</sup> Policy on Environmental and Social Sustainability (2012), at para. 26.

<sup>18</sup> <https://disclosures.ifc.org/#/projectDetail/SII/34203>

insufficient to address the depth of the social and environmental problems and violations. IFC also appears to have failed to ensure the authenticity of CBG's commitment to act in accordance with the standards.

A stark recent example is CBG's attempt in January 2019 to obtain signatures from the Hamdallaye community on an agreement that would require households to recognize that the compensation offered by the company was fair and equitable – which they do not – and agree to waive their rights to challenge it. These efforts by CBG, presumably aimed at preventing the community from filing this complaint to the CAO, came soon after our organizations sent a letter to CBG's Director-General expressing concerns about the terms of resettlement, asking a number of questions on behalf of the community, including regarding compliance with Performance Standards, and requesting a dialogue on these issues. CBG did not respond to our letter. In these actions alone, CBG showed a disregard for the Performance Standards, specifically PS 1 and PS 5, which require clients to “receive and facilitate resolution of Affected Communities’ concerns and grievances about the client’s environmental and social performance.” IFC clients should “seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible,” and it “should not impede access to judicial or administrative remedies.”<sup>19</sup>

We note IFC's public commitment to CBG-affected communities as stated on the project information portal: “Affected Communities have unrestricted access to the Compliance Advisor Ombudsman (CAO), the independent accountability mechanism for IFC.”<sup>20</sup> We do not know whether IFC ensured that its client was fully aware of affected communities’ irrevocable rights in this regard.

Despite the monitoring and supervisory steps IFC has put in place, it is clear that these measures have been insufficient for a project of this nature, which is causing such severe and widespread adverse impacts. These insufficiencies are evident from the continuing and new harms experienced by the 13 local communities, including in recent years, since IFC's involvement, that amount to blatant breaches of the Performance Standards. These are described below.

Numerous areas of non-compliance have also been reported to IFC in official monitoring reports prepared by Ramboll. We note, however, that the Ramboll reports do not capture community views to an adequate extent and that the grievances and non-compliance are much more severe and widespread than reported. In addition, in October 2018, Human Rights Watch published a report describing harms and human rights violations suffered by communities as a result of CBG's operations.<sup>21</sup> IFC does not appear to have taken adequate steps to ensure its client is taking these reports seriously and bringing the project into compliance.

While we are not privy to information about all the steps IFC has taken, based on the information available to us, it is apparent that IFC's due diligence, monitoring and supervision of CBG's operations have not been commensurate with the nature, scale and stage of the business activity, and with the level of environmental and social risks and impacts, as required by the policy.<sup>22</sup> Moreover, IFC appears to have failed to conduct with sufficient rigor its own investigation to determine whether the client's community engagement is one that involves a process of informed consultation and participation, leading to “Broad Community Support for the business activity by

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<sup>19</sup> PS1, para 35.

<sup>20</sup> IFC, CBG Expansion, ESRS, <https://disclosures.ifc.org/#/projectDetail/ESRS/34203>.

<sup>21</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, <https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

<sup>22</sup> IFC Policy on Environmental and Social Sustainability, at para 26

Affected Communities.”<sup>23</sup> As such IFC is in non-compliance with the Policy on Environmental and Social Sustainability.

We believe IFC can rectify important areas of non-compliance through constructive and active engagement in a CAO-facilitated process.

### **SECTION 3: HARMS AND CONTRAVENTIONS OF GUINEAN LAW, HUMAN RIGHTS AND IFC PERFORMANCE STANDARDS**

The harms and areas of non-compliance described in this section relate to physical and economic displacement, pollution of air and water sources, impacts on livelihoods, impacts on eco-system services and biodiversity, safety risks to affected communities, lack of informed consultations, and an ineffective grievances mechanism. Particular impacts on women are also described.

While we have attempted to provide as much detail as possible, the information below is not an exhaustive description of harms suffered by local communities or areas of non-compliance.

#### **I. Failure to avoid and minimize displacement**

Performance Standard 5 provides protections for project-affected people and communities who are physically displaced (due to relocation or loss of shelter) or economically displaced (due to loss of assets or loss of access to assets that leads to loss of income source or other means of livelihood) as a result of project-related land acquisition and/or other restrictions on land use. In recognition of the severe risks of hardships suffered by people who are displaced and the challenges of mitigating those harms, the first objective and requirement of PS 5 is to avoid or minimize physical and /or economic displacement through the consideration of feasible alternative project designs.<sup>24</sup>

While a 2014 environmental and social impact assessment refers to reductions in the duration of mining in various areas that would reduce impacts to some extent,<sup>25</sup> CBG did not explore feasible options for avoiding economic displacement in consultation with communities. CBG should have consulted affected communities and agreed on options that would allow for communities’ loss of access to land to be temporary and limited. An arrangement may have been possible, for instance, in which CBG obtained the agreement of communities to temporarily lease and mine particular agreed-upon parts of the communities’ land during a set period, before moving on to another agreed-upon area. Upon completion of the mining operation in each area, CBG should have rehabilitated the land with the original topsoil and replanted indigenous vegetation and returned it to the communities. A plan could have been developed so that areas selected to be mined over set periods would have been both operationally feasible for CBG and caused the least possible disruption to communities. CBG should then have compensated the communities for temporary lost access to land, including lost income. Meanwhile, communities could have planned for this temporary loss of limited and clearly defined areas of land and cultivated or otherwise used other areas over that period.

The Sustainable Bauxite Mining Guidelines published by the International Aluminum Association in May of 2018 provide comprehensive recommendations for mitigating bauxite mining impacts, including recommendations to ensure effective mine rehabilitation, which could be used to develop

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<sup>23</sup> Ibid, at para 30.

<sup>24</sup> PS 5, para. 8.

<sup>25</sup> EEM, “Environmental and Social Impact Assessment of the CBG Mine Extension Project,” Physical Environment Study, December 2014, at 1.4.

such a plan.<sup>26</sup> Alcoa, Rio Tinto and Dadco, CBG's ultimate private-sector owners, are all members of the International Aluminum Association.

Regarding Hamdallaye's resettlement, according to available reports,<sup>27</sup> it appears that the village may be being resettled for the purposes of expanding CBG's stockpiling area over the Parawi plateau. If that is the case, contrary to PS 5, alternatives to resettlement seem not to have been examined, allowing, for example, for the stockpiling area to be placed in an alternative location in order to avoid the immeasurable costs that the Hamdallaye families will bear as a result of physical displacement.

## **II. Failure to provide adequate replacements or compensation for losses**

Where economic displacement (i.e. from productive land) cannot be avoided, PS 5 requires IFC's client to offer affected persons with legally recognizable rights under national law replacement property (e.g. agricultural sites) of equal or greater value, or where appropriate, cash compensation at full replacement cost and other assistance to help them restore their livelihoods.<sup>28</sup> The issue of replacement property and cash compensation is discussed here. Livelihood impacts and assistance is discussed separately in subsection IV below.

In many countries in which IFC clients operate, formal land registration is incomplete and often largely absent in rural areas. This fact is recognized in PS 5, which provides three possible classifications of displaced persons: (i) those who have formal legal rights to the land or assets they occupy or use; (ii) those who do not have formal legal rights to land or assets, but have a claim to land that is recognized or recognizable under national law; or (iii) those who have no recognizable legal right or claim to the land or assets they occupy or use.<sup>29</sup> The second classification is applicable to households and communities affected by IFC clients when they do not have formal title, but claims to land, that for instance are "derived from adverse possession or from customary or traditional tenure arrangements," where such claims are recognized under national law, as explained in PS 5.<sup>30</sup>

Since commencing its operations in the region of Sangaredi, CBG has systematically minimized and negated the customary land rights of the local communities who were living there, under an organized tenure system, long before CBG arrived. In doing so, CBG, like other mining companies in Guinea, has treated rural land as state property, and ignored or negated the customary land rights of rural farmers.<sup>31</sup> Adopting this interpretation of the law, CBG has acquired land without the free, prior and informed consent of customary landowners, without following a public expropriation process, as required under national legislation,<sup>32</sup> and without the payment of fair compensation.<sup>33</sup> Even after IFC's involvement in 2015, until at the earliest 2018, CBG merely acknowledged its

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<sup>26</sup> Sustainable Bauxite Mining Guidelines, May 2018. [http://www.world-aluminium.org/media/filer\\_public/2018/05/18/170518\\_sbmng\\_final.pdf](http://www.world-aluminium.org/media/filer_public/2018/05/18/170518_sbmng_final.pdf)

<sup>27</sup> EEM, "Environmental and Social Impact Assessment of the CBG Mine Extension Project," Physical Environment Study, December 2014, at 1.2.1.1

<sup>28</sup> PS 5, para. 27.

<sup>29</sup> PS 5, para. 17.

<sup>30</sup> PS 5, footnote 19.

<sup>31</sup> Human Rights Watch, "What Do We Get Out Of It?", 2018, p. 53.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-of-it/human-rights-impact-bauxite-mining-guinea#>

<sup>32</sup> Guinean Land Code, articles 56 to 60.

<sup>33</sup> Its land acquisition practices certainly do not constitute voluntary land transactions, as defined in Performance Standard 5, para 6: "market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures sanctioned by the legal system of the host country if negotiations fail."



responsibility to compensate the occupants of land for the crops and trees they have grown, and not the land itself.

However, the land rights of the affected communities and households are recognizable under Guinean law. The 1992 land code states that property owners include occupants of land who can demonstrate “peaceful, personal, and continuous occupancy in good faith.”<sup>34</sup> As stated in a USAID review of Guinean land tenure policy and legislation, “such property rights may be formally registered, provided a level of investment has been maintained that conforms to local norms, and following completion of a public process to confirm that there are no contradictory claims on the holding (Article 39).”<sup>35</sup> The absence of formal registration – which characterizes much of rural Guinea – does not preclude the application of the full entitlements and protections of PS 5 to those persons and communities affected by IFC-supported projects, so long as they fulfil the constitutive elements of adverse possession. This is the precise purpose of the inclusion in PS 5 of a separate classification of land claims that are recognizable under national law. Under PS 5, a census is required to establish the status of displaced persons to determine their entitlements.<sup>36</sup> The land claims of the complainants have never been assessed, and instead were automatically disregarded en masse.

Guinea’s constitution states that land can only be expropriated in the public interest and with payment of fair compensation in advance.<sup>37</sup> The 2011 mining code confirms that the arrival of a mining project does not extinguish property rights and that “no right to prospect or operate is valid without the consent of the individual with property rights or his or her successors, with regard to activities involving the surface or affecting it.”<sup>38</sup> Where a mining company cannot obtain consent, the mining code does give the state the right to require mining to occur, but only after adequate compensation is paid.<sup>39</sup>

International and African human rights instruments ratified by Guinea also protect individuals and communities, including those with customary land tenure, from arbitrary interference with their rights to property and land, and require fair compensation.<sup>40</sup> For example, article 4 of the Economic Community of West African States (ECOWAS) Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector states: “Where land has been acquired for the development of a mineral resource, the owner or lawful occupier shall be paid adequate and prompt compensation (...) [C]omputation of any compensation for the acquisition of land to develop a mineral resource should take into consideration the loss to be suffered by the user of the land area, the inconveniences which can be assessed according to legal principles in monetary terms caused to the land owner or lawful occupier, the losses and damages suffered by the immovable assets and their appurtenances, the loss of revenue, including expected losses of agricultural income; and other

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<sup>34</sup> Land Code (1992), article 39.

<sup>35</sup> USAID Guinea, PRADD Pilot Program, “Policy Review: Land Tenure, Natural Resources Management (NRM), and Mining Legislation in the Republic of Guinea,” 2008, p. 5.

<sup>36</sup> PS 5, para. 17.

<sup>37</sup> Constitution of the Republic of Guinea, 2010, article 13.

<sup>38</sup> Mining Code (2011), article 123.

<sup>39</sup> Mining Code (2011), article 123.

<sup>40</sup> The Universal Declaration of Human Rights states that “Everyone has the right to own property, alone as well as in association with others and no one shall be arbitrarily deprived of his or her property,” UDHR, adopted December 10, 1948, G.A. Res. 217A(III), UN Doc. A/810 at 71 (1948), art. 17. The African Charter on Human and Peoples’ Rights also guarantees the right to property, and a right to economic, social, and cultural development. African Charter on Human and Peoples’ Rights adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, arts. 14, 20, 21, 22. Ratified by Guinea, February 16, 1982.

reasonably proven losses, by providing compensation in accordance with the best international practices.”<sup>41</sup>

The complainants have never been adequately compensated for the land taken from them by CBG over the years, including since 2015 when, in order to fulfil IFC conditions, CBG issued a new Resettlement and Livelihoods Restoration Policy Framework. In a few cases, compensation has been paid for the destruction of crops, but these payments were inconsistent, far below replacement cost, and certainly insufficient to restore living conditions and means of subsistence. Compensation standards have not been transparent or applied consistently to all communities and persons affected by displacement, as required by PS 5.<sup>42</sup> The compensation matrix was never explained or shared with the complainants. We refer the CAO to the Human Rights Watch report for an analysis of how CBG appears to have developed its inadequate compensation standards for crops.<sup>43</sup>

CBG staff told Human Rights Watch that prior to 2015, “the company had paid compensation for the value of crops and trees growing on the land, with an additional 10 percent added to the valuation to reflect the cost to farmers of obtaining new land and 10 percent for the inconvenience suffered and for the potential errors in valuation.”<sup>44</sup> Even if such payments were made and consistently applied (CBG said it could not guarantee that compensation was paid in all cases), the amount appears arbitrary and is clearly not based on an assessment of the replacement value of the lost land, as required by PS 5, or any other reasonable standard.

We note that CBG made new commitments in 2018 to provide communities or families with customary land tenure rights whose land is taken by CBG (from now on) replacement land from rehabilitated land from past mining sites, or compensation for the land.<sup>45</sup> However, given the raft of broken promises over the years, it is unclear, at best, whether these commitments will materialize. It is also noteworthy that the land to be provided as compensation was taken from the communities in the first place.

In the case of Hamdallaye, whose residents are affected by physical (as well as economic) displacement of their village, the community and its members are entitled under PS 5 to the choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and advantages of location or cash compensation where appropriate.<sup>46</sup>

The resettlement site is visibly inferior to their current village and does not meet the requirements of PS 5. Most concerning is the lack of vegetation at the site, which is left exposed to the hot Guinean sun, in stark contrast with their current lush, shaded village. It also appears that the location of the resettlement site, on top of a previously mined plateau, is not fertile, reducing the prospect for growing trees and gardens. At best, trees planted now may take 15-20 years to provide good shade.

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<sup>41</sup> ECOWAS Directive on the Harmonization of Guiding Principles and Policies in the Mining Sector entered into force May 27, 2009, Article 4.

<sup>42</sup> PS 5, para. 9.

<sup>43</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, p. 50-52 and 54.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

<sup>44</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, p. 51

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

<sup>45</sup> CBG Response to Human Rights Watch, 10 July 2018

[https://www.hrw.org/sites/default/files/news\\_attachments/cbg\\_also\\_responded\\_in\\_detail.pdf](https://www.hrw.org/sites/default/files/news_attachments/cbg_also_responded_in_detail.pdf)

<sup>46</sup> PS 5, para 21.

Below is a brief and non-exhaustive description of the situation of each complainant village regarding land loss and displacement.

### **Hamdallaye**

The village of Hamdallaye has existed for at least 200 years. The complainants state that in 2003, CBG's activities began to significantly affect Hamdallaye's ancestral farmlands, in particular on the lands of Diouria, Boundou Wandè, Pora and Idoré, all of which were agricultural and pasture land. A few years later, Hamdallaye's lands of Demouroudji, N'Bowé, Kounin'djéré and Sabéré-Hamdallaye as well as the cultivated fields around the Boundou Wandè River were destroyed during CBG survey activities. According to Human Rights Watch, satellite imagery shows that since 2005, CBG has expropriated some 10 square kilometers of Hamdallaye's ancestral farmlands, or around 40% of the land, taking land for open-sky mines and, since 2016, to build a bauxite storage area and new sections of railway and roads to expand its operations.<sup>47</sup>

In 2007, CBG officially informed the Hamdallaye community that the entire village was going to be resettled. Until 2015, and notwithstanding repeated pressure from local authorities and CBG representatives, the community of Hamdallaye always opposed resettlement.

In 2015, after lengthy negotiations, an agreement subject to conditions was reached. The community agreed to resettle provided that infrastructure and the size of houses at the resettlement site would be sufficient, alternative income-generating activities be developed, and replacement land be provided in order to enable the community to continue its economic and livelihood activities (agricultural, pastoral, etc.), as it has been doing for generations.

Although the resettlement of the Hamdallaye village is now imminent, the terms of this agreement, and PS 5, have clearly not been met. The resettlement site is situated on a barren hilltop with no trees for shade. It is immediately apparent that this site is unsuitable and does not offer, as required by PS 5, equivalent or better characteristics and advantages of location as compared with Hamdallaye's current village, which is shady and located on fertile land. In addition, the community has concerns about the adequacy of the size of housing and construction standards, and has not been informed whether land will be made available to them for agriculture and grazing – the cornerstone of village livelihoods.

The complainants state that between 2013 and 2018, CBG asked the community not to build any structures or plant crops in certain areas. Community members have suffered significant losses as a result, but these have never been compensated. In addition, the resettlement site is on the customary lands of Hamdallaye and belongs, more specifically, to the seven founding families of the village. It is expected that property rights to the plots will be transferred to each of the relocated families, without any compensation being provided to the original owners.

In February 2018, some members of the community signed compensation agreements. However, they assert that they did not understand what they were signing and were under the impression that the papers were simple inventories of their possessions. The overwhelming majority of the village cannot read or write, especially women. The literate men interviewed by CECIDE, ADREMGUI and IDI had not understood the contents of the document. The compensation rules dealing with the size of houses at the resettlement site were very technical and difficult to understand without appropriate assistance. None of the women asked by our organizations were aware of the existence of this agreement.

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<sup>47</sup> Human Rights Watch, "What Do We Get Out Of It?", 2018, p. 49  
<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

### **Boundou Wandè**

In Boundou Wandè, a village that has existed for about 160 years, CBG activities started around 1986 in the area of Bowal Boundou Wandè. The complainants state that agricultural land began to be significantly impacted in 2005, first in Boundou Wandè 1, then in Boundou Wandè 2, 3 and 4, and more recently in N'dangara East, Central and North. Up until today, CBG continues to operate on these lands, thus still affecting the community's agricultural activities in these areas.

According to the community, they have not received compensation for any of these lands, though they are vital for their livelihoods. It is only since 2016 that CBG has begun to compensate owners for the destruction of crops and trees located on the customary lands of the community. However, the complainants believe that the compensation provided was woefully inadequate and well below the amount needed to restore their standards of living and livelihoods.

Moreover, representatives of the company promised that a school, three boreholes, a mosque and a road would be given to the community, but only a school and a health post were built in 2006, which never were officially given to the community. In the absence of coordinated action by the company and local authorities to hire teachers and medical staff, the infrastructure has never delivered any benefits to the community.

### **Fassaly Foutabhè**

The community complainants state that CBG started to take Fassaly Foutabhè's lands in the late 2000s. It conducted surveys on the lands of Djölöl, Guelfeti, Kounsi Bana and Djölöl Kero, which are now no longer usable for agriculture. Lands east and west of Fassaly Foutabhè's cemetery were also damaged, including the cemetery itself.

In 2018, the agricultural lands of Fassaliwol and Kounsi Bana were taken by CBG. The company had conducted an inventory of the crops the year before, but most of the owners never received compensation, nor were they even informed prior to the destruction of their trees and crops. Only one landowner managed to obtain compensation for the loss of his assets, but the amount received was inadequate to restore the income he expected from the sale of his harvested crops. Some members of the community tried to use CBG's grievance mechanism, but this proved entirely inefficient and inadequate to address these violations.

### **Kogon Lengué**

In Kogon Lengué, a village that has existed for at least 60 years, the complainants state that CBG operations began in the early 2000s, and the company first took the lands of Didéré Lopé and Thiaboulewound (2000), Réma Foudhali (2003), N'Guéourouguél and Boundou Foulbè (2004), Didhoun Toulboun and Saami (2005), then Saami Tossokhoun (2006). Up until today, CBG continues to operate on these lands, thus restricting all of the community's agricultural activities in these areas, without ever compensating affected people for their losses.

More recently, CBG took the lands of Tountèrè (2015), Tchioun (2016), Horè and Gnoumoulouri (2017), Kansonko and Wedou Diawlé (2018). The complainants state that CBG did not compensate the community for any of these losses, including since 2015. Whilst some parcels of land had been rehabilitated to an arable condition in the mid-2000s, CBG has since stopped rehabilitating land to an arable state, leaving the landowners without any means of subsistence.

### **Lafou M'baïla**

The village of Lafou M'baïla has existed for 176 years. The complainants state that CBG began to take Lafou M'baïla's lands in 1971. CBG first took the land of Pétoun Liwè for the construction of the railway line in 2005, then Demouroudji, Saadjouma and Ségaarè, where the company conducted surveys and exploited some parts. The complainants state that none of these losses of land, including lost trees and crops, were ever compensated, resulting in massive adverse impacts on the life of Lafou M'baïla's community.

### **Bourorè**

The Bourorè village has existed since 1972. The complainants state that CBG began to grab agricultural lands from the community in early 2000s, first in Wendoubehi, then in Bowoun Kotchoun, Bowal Fetorè, Goumbambèrè and Bowal 4, for surveys. All of these lands continue to be used by the company for survey activities, which have so severely damaged arable land that agriculture on these lands is no longer possible. The complainants state that none of these land losses have ever been compensated by CBG.

In 2018, the community of Bourorè was told that these areas would soon be exploited and that the CBG would proceed with the demarcation of the lands that it will take. CBG officials told the community that only crops, not land, would be compensated.

### **N'danta Fognè**

The village of N'danta Fognè was founded in the 19th century. The complainants state that CBG started its activities on the land of Loumba Diodhò, where the village was initially located, before the community had to resettle due to CBG's operations.

The complainants state that the community of N'danta Fognè coexisted with CBG until 1986, when the company occupied 300m<sup>2</sup> of their village where it installed its water tower. The construction of that water tower deprived the community of its access to water and had a significant impact on their livelihoods, but CBG never provided remediation to the community for these impacts. The company then took the lands of Barakhoula, Gnamakoudjè, Yilotodè and Djölöl Pouridjè. The community did not receive replacements or compensation for these lands.

The complainants state that in 1986, the community was evicted and resettled at its current location in the village of N'danta Fognè. The whole village, including 80 houses, was compensated with a total amount of approximately 3 million Guinean francs (about US\$300). In 1996, additional lands were grabbed by CBG: Bohoum Lelouma, Loppè, Dhidhidji, Thia Bholèhoun, Kounsihoun Ndjérédjè, Ndounsihoun, Badon, a piece of Wéndou Djidè and Tigaya, which is located only 200 meters away from the village. These lands had belonged to the community since the 19th century but the community was never compensated for these losses.

The complainants state that since 2015, CBG has taken land near Lopè and Badon but offered no compensation, not even for the trees and crops. The landowners were not even informed prior to the destruction of their assets.

### **Paragögö**

The Paragögö village has existed since 1911. The complainants state that CBG started to grab land in the 1970s, to conduct surveys. It took most of the lands belonging to the community:

Mamagnabhè Fetörè, Bourorè, Dongölmamadjilö Kènèba, Kotékadjè, Houpilili, Woungouroukoura, Boundou Guilèguè, Wedou Pobbi, Djölöl Bahèri, Wedou Kaadjè, Thiankoun loporè, Djölöl Mowlè, Pètoun Portobè, Djölöl Soudouwötourou, Souloukoupanmè, Djölöl Babayö, Djölöl Bènè, Faourè Kounioubhè, Bowoun Kotchoun, Wendou Kékoudjè, Tchèwèrè and Kounsiwoun Madiouhou. The community was never compensated for the loss of these lands.

Since 2015, CBG has returned to all of the above lands for its survey activities, making agriculture even more difficult. Recently, damaged crops on land used by CBG have been compensated, but insufficiently.

### **Parawi**

The Parawi village has existed for 400 years. The complainants state that CBG surveys began in 1979. CBG built roads and quarries through fields and forests, which had serious impacts on agriculture and water resources. The community was neither consulted by CBG nor compensated for their losses.

The complainants state that between 2016 and 2018, CBG took the lands of Tamassao, Parawi, Kankalarè, Bafata, Goumbambèrè, N'Nani, Djolon Ciré, Djolon Kama, Lenguèrè, Hounssirè Oury, Salmana, Djolon yèra. In May 2018, CBG delineated the mining concessions and the remnants of the community's lands. The community was told by CBG representatives that Parawi would not be resettled; but the village is today entirely enclosed by CBG infrastructure and operations, thereby seriously threatening community livelihoods and safety, and making it virtually unlivable. It was not until 2018 that the community was compensated for the loss of certain crops in Bafata, Goumbambèrè, Salmana, Kankalarè, N'Ghnani, but never for the loss of land.

It should also be noted that the hamlets of Kankalarè and Bafata, located on the lands of Parawi, were both resettled. These communities refused the offer made by CBG to build them houses similar to those being built for the community of Hamdallaye and relocated to Sangaredi after receiving small amounts of cash.

CBG recently informed the community of Parawi that it will take new lands northeast of the village, where other hamlets are located. The expansion of CBG's project will therefore apparently lead to their resettlement as well.

### **Parawol**

In Parawol, a 370-year-old village, CBG built a segment of its railway line. The complainants state that in the 1970s, CBG took the lands of Telibofi, Tiguaya (shared with N'danta Fognè), Oumorèhoun, Telignalbi, Goundoupi and Faro Parawol. The community cemetery was also destroyed at this time.

Since 2017, CBG has been conducting surveys on the lands Boundou Djaba, Yörö, Hounssirè Faro, Saroudja and Tinguaya. The lands of Yörö and Boundou Djaba have been so severely damaged that they can no longer be used for agricultural purposes. The community was never compensated for these losses.

### **Samayabhè**

The Samayabhè village has existed since 1911. The complainants state that CBG started to conduct surveys in the mid-1970s and took the agricultural lands of Boundou Sangaré between 1973 and

1978. Survey and exploitation activities then continued on Daandè Pora (1977-78), Miri Djiouli (1980s), Diouria (1982), N'dangara (1993-94) and Boundou Wandé 1 (around 1997-1998). More recently, CBG took the lands of Boundou Wandé 3 (2000) and Djibö, which is right next to the city of Sangaredi. The community was never compensated for any of these lands, nor the crops that were on them.

### **Sinthiourou Lafou**

The community of Sinthiourou Lafou, which has been in the region for at least 47 years, was first resettled in 2000 due to the construction of the railway line by the CBG.

The complainants state that in 2003, CBG began to take the community's lands to conduct surveys in N'Garanké Yangata, Boundou Diouria (resulting in the pollution of the nearby water source), Hounsirè N'dangara, Karè Diouria, Miri Diouri, Mama Hinna, Hounsirè Diouria, Hounsirè Sadjo, Hounsirè Pöra, Pöra, Djölöl Wampou, Idorè, Hounsirè Piring, Bali Boko, Yra Sagalè, Demouroudji, Hounsirè Malal, Lafou Timbidi, Lafou Pétègnèdjè, Lafou Loumbirgual, Lafou Diya, Bowal Diouria and Bowal Miridjouri. Apart from Bowal Diouria and Bowal Miridjouri, which were grazing lands, all other lands were used for agriculture. All of these lands have been progressively taken by the company between 2003 and 2018 without the payment of compensation.

From 2016 to 2018, CBG has continued or resumed activities on some of these lands, including Hounsirè Pöra, Boundou Diouria, Hounsirè Diouria, Pöra, Mama Hinna, Miri Diouri, Hounsirè Sadjo, Bowal Diouria and Bowal Miridjouri. According to the community, the vast majority of its lands have been grabbed and/or damaged by CBG. Recently, CBG has started to provide compensation for the loss of crops but the complainants believe that the amounts paid were insufficient and inadequate to restore livelihoods.

### **Horè Lafou**

The Horè Lafou village has existed for two centuries. The complainants state that the first lands were taken by CBG in 1973 during the construction of the railway line. These were Lafouwol, Demouroudji, Korikori, Kalefourbalandougou and Petoun Liwèl. Between 1998 and 2000, CBG took the lands of Djolidjiga, Horè Liwè and Demouroudji for exploitation.

Gradually, the lands of Sègarè, Horè Yorö, Kouradja, Laamyhi, Djölöl Laami, Djolil Djiga, Akabaaba, Sintchourou, Djolil Takoudjè, Djolil Bahèri, Maloupan, Kounsihoun Mayatou, Kounsirè Mamasana, Hansagnèrèlami, Goröyamba, and Djolilfoyèbhè were also taken by CBG. All these lands were the community's agricultural lands, yet the community received no compensation.

The complainants state that since 2016, only a few crops have been compensated for but the amounts paid are considered insufficient by the community. No explanation was provided on the compensation matrix, despite repeated requests by the community. In addition, in order to obtain compensation, the landowners had to have identity papers issued by the local authorities, which entailed significant costs that were not taken into account in the calculation of the compensation.

### **III. Communities exposed to pollution and hazardous materials, leading to destruction of water sources and poor air quality.**

Guinea's 2011 Mining Code and 1989 Environment Code impose obligations on companies to avoid or remedy the negative social and environmental impacts of mining. The mining code

requires companies to “ensure the rational exploitation of mineral resources in harmony with the protection of the environment and the preservation of health,” as well as work for the “promotion or maintenance of the living conditions and general good health of the population.”<sup>48</sup> Guinea’s Environment Code requires that companies “take all necessary measures to manage and avoid the pollution of the environment.”<sup>49</sup>

Consistent with national legislation and international human rights instruments recognizing the rights of communities to a healthy environment,<sup>50</sup> Performance Standard 4 requires IFC’s clients to avoid or minimize the potential for community exposure to hazardous materials that may be released by the project and to water-borne, water-based and water-related diseases that could result from project activities.<sup>51</sup>

In addition, PS 3 requires that clients apply pollution prevention principles and techniques that are best suited to avoid or, where avoidance is not possible, minimize adverse impacts on human health and the environment, in line with international industry best practices, including the World Bank Group guidelines on Environment, Health and Safety.<sup>52</sup> This applies to the release of pollutants to air, water and land due to routine, non-routine and accidental circumstances.<sup>53</sup>

These standards have clearly not been met and the complainants have been denied their entitlements and protection under PS 3 and 4, especially with respect to impacts on water and air quality.

The complainants state that project activities have polluted rivers and natural springs and the company’s seizure of community lands has prevented them from accessing streams that were previously an important source of water for household uses. Water levels have also declined. As a result, women and girls, who are primarily responsible for fetching water, are forced to walk longer distances or wait in lines for longer to use overburdened sources, such as boreholes or wells.<sup>54</sup>

We note that a 2014 social impact assessment of CBG operations stated:

Given that most households use wells, natural springs, streams and rivers as sources of water for drinking and daily living activities, mining operations could well have a very high negative impact on access to water. The villages of Boundou Wandé and Hamdallaye are typical of the villages that have seen their springs and streams extensively affected by mining operations. When new pits are opened, it is likely that there will be a deterioration in access to water [...]<sup>55</sup>

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<sup>48</sup> Mining Code, article 143.

<sup>49</sup> Environment Code, article 68.

<sup>50</sup> International Covenant on Economic, Social and Cultural Rights, adopted December 16, 1966, G.A. Res.2200A (XXI), 21 UN GAOR Supp. (No.16) at 49, UN Doc. A/6316 (1966) 993 U.N.T.S. 3, entered into force January 3, 1976, ratified by Guinea in 1978. Article 12. UN Committee on Economic, Social and Cultural Rights, General Comment 14, The Right to the Highest Attainable Standard of Health (Twenty-second session, 2000), August 11, 2000, UN Doc. E/C.12/2000/4, para. 15.

<sup>51</sup> PS 4, paras. 7 and 9.

<sup>52</sup> PS 3, para. 4.

<sup>53</sup> PS 3, para. 10.

<sup>54</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, p. 70.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

<sup>55</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, p. 79.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>



CBG's operations have also affected air quality, due to the red dust generated by the mining operations.<sup>56</sup> CBG began comprehensive air quality monitoring in 2017 but has not yet released updated public data, although it told Human Rights Watch in July 2018 that its monitoring shows that air quality, including particulate matter, is within the highest-level targets established by the WHO.<sup>57</sup>

Some of these impacts felt by villages are a result of cumulative impacts of CBG's operations and those of other mining companies, in particular Compagnie de Bauxite et d'Alumine de Dian-Dian (COBAD). We wish to point out that COBAD is also a beneficiary of IFC's financing of this project, which includes the expansion of the railway from Sangaredi to Kamsar, to be used for export of bauxite by both CBG and COBAD (as well as Guinea Alumina Corporation (GAC).)

Below is a brief and non-exhaustive description of the situation of each complainant village regarding impacts on water.

### **Hamdallaye**

The complainants state that in 2015, CBG started blasting activities near the water head of Mirirè and artificially deflected it. As a result of the impacts on the water head, the streams of Diarè, Doughoubè and Tabakè dried up. A few years ago, CBG built three boreholes but today only one is functioning. One of them has been down for a very long time, and another for at least two years. With only one drinking water point, the consequences for women are very harsh because they have to queue for a very long time. Sometimes women lose patience and fetch polluted water from the source. In addition, the pumping is manual, and requires strenuous physical effort, especially for those who are weak, disabled or of ill health.

### **Boundou Wandé**

The community of Boundou Wandé has been badly affected by CBG activities, especially since the construction of a mining road in 2018. The water sources of Boundou Djolol Djinadji, Boundou Diouria and Boundou Miridjoui dried up in 2008. These sources can no longer be used for consumption or other household needs. The community now depends entirely on the water they draw from wells and boreholes.

### **Fassaly Foutabhè**

CBG's activities affected the water source of Fassaly, particularly at the end of 2017 during the construction of the stockpiling area. That same year, community representatives went to meet with the management of CBG and the company promised it would take all necessary measures to avoid the pollution of that water source. Despite these promises, dust and mudslides have polluted the water, and it has become unsuitable for consumption and household needs. CBG built a borehole in the village of Fassaly in the spring of 2018. The community believes that the water from this well is unfit for consumption and asked the company to take samples. It was not until December 2018 that a water analysis was conducted, but the results have still not been communicated to the community.

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<sup>56</sup> Human Rights Watch, "What Do We Get Out Of It?", 2018, p. 87, 90-91.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

<sup>57</sup> Human Rights Watch, "What Do We Get Out Of It?", 2018, p. 9.

<https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea#>

### **Kogon Lengué**

The water source of Rema Foudhali dried up in around 2000 and the source of N'Guéourouguél in 2002. In 2017, the community noticed that Boundou Wandè, the closest stream to the village, was drying up as well. The water level has drastically dropped, and the water seems polluted. It is now extremely difficult to find water during the dry season and restricted access to water has had a major impact on gardening and livelihoods.

### **Lafou M'baïla**

According to the community, since CBG started working in the area, the impact of pollution has been gradual. For a while, they had noticed that the water was not as clean as it used to be, but they continued to drink it nevertheless. Recently, the sources of Petoun Liwè 1 and 2 have been separated by the stockpiling area of another mining company within the IFC project's area of influence, COBAD. As a result, the water now mixes with bauxite and mud before flowing into the main stream, making it entirely unfit for consumption. As a result, the community is now forced to drink rainwater during the rainy season and dig wells near the streams during the dry season in order to access less polluted underground water.

### **Bourorè**

There are three water streams in Bourorè: Bourorè, Goubambère and Boundou Diao. The complainants state that these sources have been polluted by the dust generated by CBG activities. A pipeline was built by CBG about two years ago to evacuate wastewater, which now flows into the stream. This water is no longer drinkable or usable for household needs, so the community had to build traditional wells. The animals continue to drink this polluted water, and the village lost 42 goats in 2017 due to sickness, probably caused by the pollution. According to the community, the impact on water has significantly worsened within the last two years.

### **N'danta Fognè**

The complainants state that the stream of Badon has been significantly impacted by CBG mining activities. It used to supply the whole village with clean water and never dried up, even in the dry season. The source began to dry up in 1996 and then in February 2018 CBG destroyed what was left of it. The community organized a demonstration and CBG promised to build a road to compensate for that loss. According to the community, at least eight other water streams have been destroyed by CBG since the 1980s.

### **Paragögö**

Many water streams have been polluted or have dried up, including Boundou Guilèguè, Boundou Diowol Djinadji, Boundou Houpilili, Boundou Thiankoun Loporè and Boundou Bourorè. The complainants state that all these streams have been impacted by the operations of CBG, most notably the stream of Boundou Bourorè during the construction of the mining road by CBG in 2018. Although the water is obviously polluted, the community continues to drink it because there is no alternative. The community has noticed increasing health issues amongst its members, and suspects this is a consequence of drinking polluted water.

### **Parawi**

The community depends on the stream of Parawiwol, which used to run high all year long. Although they continue to drink that water, they believe that its taste has changed and think it is now polluted. In recent years, from February to the start of the rainy season, the stream is now dry, so they have to dig small wells to access underground water and then wait several hours for it to decant. Restricted access to water has had a tremendous impact on livelihoods and women's lives.

### **Parawol**

The impacts on the environment are enormous because most streams have either dried up or are polluted. The Parawol stream entirely disappeared in 1970 with the construction of the railway line. Boundou Djaba and Boundou Wourgnitötö have also entirely dried up. There are still several natural springs that have so far been left untouched but they are much further away from the village. Women now have to travel very long distances to fetch drinking water.

### **Samayabhè**

Many streams located on the lands of Samayabhè have been polluted. Boundou Diouria is today polluted and the stream completely dries up during the dry season. Since CBG started working in the area of Diouria in 1982, all sources have dried up or have been progressively polluted: Boundou Djölöl Djinadji, Boundou Djibö, Boundou Kankiran, Boundou Kounsihoun, Boundou Petoun Portobè, Boundou Bembilali, Boundou Sangaredi, Boundou Kènèba and Boundou Miridjouli.

### **Sinthiourou Lafou**

The complainants state that the streams of Boundou Diouria and Boundou Demouroudji have been polluted since the mid-2000s. Since CBG started operating in the area, the water mixes with mud before flowing into the Lafouwol river during the rainy season. The water is so polluted in Lafouwol that when women leave the water to decant in the evening, a few hours later they see black stains left on the basin by the water that has evaporated. The community believes that this situation has had very serious adverse impacts on the health of the community. There are more diseases amongst community members during the rainy season, and cattle have also died. During the dry season children experience stomach aches and diarrhea. Mothers were told by doctors that these diseases come from the water pollution and that they should not drink it. However, they have no access to alternative sources of drinking water.

### **Horè Lafou**

In Horè Lafou, most of the water sources have also disappeared or been polluted, mainly because of the cumulative impact of CBG and other mining companies operating on the community's lands. Indeed, the construction of mining road by the company COBAD in 2017 had major impacts on the sources of Boundou Madjiou, Boundou Djolildjiga, Boundou Görödjè, Boundou Gadhalafou, Boundou Babalafou, Boundou Dian and Boundou Liwèl. All these streams are now polluted, and the water has become unfit for consumption.

## **IV. Failure to restore livelihoods with disproportionate impacts on women**

Consistent with human rights standards, an objective of Performance Standard 5 is to improve, or at least restore, the livelihoods of displaced persons or those whose access to land has been limited or restricted. This includes restrictions on access to commonly held natural resource assets, such

as grazing land and fallow land.<sup>58</sup> For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages and other factors at least equivalent to that being lost should be offered as a matter of priority. If circumstances prevent the client from providing replacement land, they must provide alternative income earning opportunities set out in a Livelihood Restoration Plan to meet the objective of, at a minimum, restoring livelihoods.<sup>59</sup> IFC clients must provide targeted livelihood support and transitional support, based on the time needed to restore their income-earning capacity, production levels and standards of living.<sup>60</sup> Consistent with Paragraph 26 of the IFC Policy on Environmental and Social Sustainability, IFC should have worked with CBG to develop livelihood restoration measures to remediate decades of land grabbing and economic displacement caused by the company.

To date, the complainants have not been provided financial or any other type of support to restore or improve their livelihoods. For two villages, Hamdallaye and Fassaly Foutabé, a plan for the development of alternative income-generating activities has been developed but is not yet operational. The inhabitants of these two villages have serious doubts about the effectiveness of these plans and their ability to restore their livelihoods. The other 11 communities are not aware of the development of any livelihood restoration plan for their villages.

Many complainants today find themselves without any income earning capacity and are gradually falling into extreme poverty and hunger, as a direct result of CBG's operations.

### **Hamdallaye**

According to the community, and substantiated by satellite imagery obtained by Human Rights Watch, a large portion of Hamdallaye's customary land has been taken by CBG, without any compensation being paid to the customary landowners. The remaining agricultural lands are now very remote and difficult to access due to CBG mining roads and the railway line. This infrastructure and the enclosure of the village have made it very difficult and dangerous for landowners to access their lands, particularly in the absence of risk mitigating measures adopted by CBG (see below). Livelihoods and income have therefore significantly declined. Agriculture and gardening are now insufficient to meet the needs of the village.

CBG's initiatives to restore livelihoods as part of the village resettlement process have not yet been implemented, and the community is not aware of any plans to provide compensation for the loss of income during the transitional period. It is also uncertain whether the livelihood restoration plan will truly suffice to restore the community's livelihoods over the long term, and what baseline or time period CBG is using to assess restoration.

Finally, pollution of the water streams has had major consequences on the livelihoods of women, whose main economic activities previously consisted of gardening and palm oil extraction near the water streams. Today, the reduction and pollution of water resources has made these activities almost impossible; the yields have drastically decreased because of the negative impacts of CBG's activities in the area.

### **Boundou Wandè**

In Boundou Wandè, the loss of land has led to a drastic reduction of traditional agricultural activities. Pollution and dust have resulted in a significant loss of productivity of the remaining

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<sup>58</sup> IFC Guidance Note 5, Land Acquisition and Involuntary Resettlement (2012), GN60.

<sup>59</sup> PS 5, paras. 25 and 28.

<sup>60</sup> PS 5, para. 29.

agricultural lands and negatively impacted livestock farming due, according to the community, to the consumption of toxic grass and polluted water by cattle.

Agricultural activities are no longer sufficient to sustain the livelihoods of the village, and in the absence of any support from CBG, the community has been forced to turn to other income-generating activities, such as charcoal production, which contributes to deforestation in the region. Some community members now have to rent land, often in remote villages, which have not yet been affected by CBG. These activities have a negative impact on families, since community members have to leave for long periods of time, and the income generated is much lower than what the community used to earn from the exploitation of their own lands.

Despite repeated requests from the community, CBG does not have a policy aiming at training and hiring young workers from local communities, and when it does hire, the complainants state that it is limited to short-term contracts and very low wages.

There have been serious impacts on women's economic activities. Previously, women could feed the entire village with gardening and vegetable production and even sell the surplus at the market. The impact of mining, particularly water pollution, has led to a significant decline of these activities. The scarcity of water also has had important consequences on their daily lives as fetching water and performing household chores have become a lot more difficult.

### **Fassaly Foutabhè**

In Fassaly Foutabhè, the community has lost the majority of its former lands. The complainants state that only a few small portions of land can still be used by landowners for agricultural purposes. The village of Fassaly Foutabhè is completely enclosed by mining activities, which contributes to the decline in their livelihoods. Community members encounter great difficulties accessing the few remaining agricultural land areas, and even traveling to the town of Sangaredi to try to find other jobs. Despite repeated requests, CBG has refused to build a road leading up to the national road, which would allow for easier access to basic infrastructure such as hospitals. Due to this, a woman from Fassaly Foutabé was recently forced to give birth in the village, without any medical assistance.

Pollution of water points has also resulted in a significant loss of livelihoods related to livestock and agriculture. The level of the water source of Fassaly greatly decreased in 2018 and in the dry season the community will probably have to draw water from the boreholes to provide water to the animals. Animals also tend to get sick because the water is polluted.

Women from the Fassaly community reported not being meaningfully consulted by CBG. When their vegetable crops were damaged due to pollution generated by CBG activities, they received no compensation or assistance for the restoration of their livelihoods. As with Hamdallaye, CBG's initiatives to restore community livelihoods have not yet been implemented. To date, no compensation for loss of revenue during the transition period is planned and the community is not confident that the livelihood restoration plan will be sufficient to restore their livelihoods.

### **Kogon Lengué**

In Kogon Lengué, before CBG arrived, livelihoods were sufficient and the harvests from agriculture were abundant. Hunting activities also provided a regular supply of meat, in addition to livestock farming. Today, complainants state that there is only one area left to practice agricultural activities but because of air pollution and dust, the yield is very limited.

In the absence of support from CBG to compensate for the loss of almost all of the traditional income-generating activities of the community, residents of Kogon Lengué turned to charcoal production and have to rent land in villages not yet impacted by CBG activities (usually in the Téliélé area). Like the community of Boundou Wandè, which has adopted similar economic survival strategies, these new activities have a negative impact on the cohesion of families, and the income generated is much lower than what the community used to earn from the exploitation of their own lands.

As elsewhere, all of the impacts from mining have had adverse consequences on women's economic activities, which were also largely based on gardening and vegetable production. Due to pollution and dust from mining, vegetable gardens have been completely destroyed, with no compensation or assistance being provided for the development of alternative income-generating activities.

### **Lafou M'baïla**

In Lafou M'baïla, lack of compensation for the loss of land or assistance from CBG to restore income-generating activities has also led many members of the community to turn to the production of charcoal in order to survive. Despite repeated requests from the community, CBG has not adopted a local hiring policy to compensate for the loss of livelihoods. According to the community, CBG has hired a few people in response to demonstrations, but only under short-term contracts.

Mining has greatly impacted the daily life of the Lafou M'baïla community. The complainants state that harvests used to be twice as large and sufficient for both consumption and sale. Today, complainants can no longer sell crops at the market and must instead buy rice imported from Asia to eat, since rice production has become impossible due to lack of available land and pollution.

Women's economic activities are also heavily impacted, as traditional gardening activities have become impossible due to the pollution of the water points. Some of them have turned to alternative income-generating activities, such as collecting dead wood and selling gravel. These activities are very physically challenging, and the income earned is very small.

### **Bourorè**

Land loss in Bourorè, as well as pollution and dust resulting from mining, have significantly impacted the traditional agricultural activities of the community. The land has become infertile and was never restored by CBG. As a result, whereas the community used to be able to sell production surplus at the market, harvests are no longer even sufficient to feed the community.

In the absence of any land compensation policy or livelihood restoration assistance by CBG, the Bourorè community has also turned to charcoal production.

Water scarcity due to pollution has also significantly affected the lives of women, who now have to travel long distances to find drinking water. As in other communities, gardening has become impossible due to pollution of water streams. They must now travel long distances to find healthy palm trees and extract oil they can sell at the market. The community of Bourorè has repeatedly complained to the local authorities about the destruction of water resources and the impacts that this has on their livelihoods, but never received any answers from either the CBG or the local authorities.

## **N'danta Fognè**

The vast majority of agricultural land in the community of N'danta Fognè has been taken by CBG. Farmers in the community now have to travel 30 to 40 km to rent land. Due to the high price of rental, revenues are derisory, and the community has to buy almost all of its food at the market of Sangaredi. Gardening has also become impossible due to water pollution.

As in other communities, no compensation has been offered for these losses and the community's demands to promote youth employment, build wells to compensate for the scarcity of water, and to construct basic infrastructure, such as a health post and a school, have gone unanswered by CBG and local authorities.

Most complainants do not have any income-generating activity, and the remoteness of schools has made education virtually impossible for the vast majority of children because of the cost of transportation, which families can no longer afford (about 50,000 Guinean Francs per day).

## **Paragöögö**

The loss of Paragöögö's lands, in the absence of any compensation or assistance for the restoration of livelihoods has led communities to turn to charcoal production and forced them to rent land, often very far away. Women can no longer carry out their traditional gardening activities and instead accompany their husbands in fields that they manage to rent elsewhere.

## **Parawi**

The loss of agricultural lands has resulted in a drastic loss of production and decline of livelihoods. Thus, whilst the community's income falls, more food products must be purchased at the market. In addition, the complainants state that the passage of the train near their remaining agricultural land has led to fires on several occasions, in one case destroying twenty hectares of farmland belonging to one farmer, and 123 cashew plants of another landowners. Despite complaints, CBG refused to pay any compensation for these losses.

As for women, they have never been consulted by CBG since it began operations in the Parawi area. As in most communities, water pollution resulting from CBG activities has had significant consequences for women's daily lives and economic activities. Gardening activities have become unproductive due to water pollution. The number of healthy palm trees has declined considerably, which has also meant that palm oil prices have increased significantly on the market.

## **Parawol**

The loss of lands has had a major impact on the livelihoods of the community, which is no longer able to survive on its traditional agricultural activities. In the past, production was used to feed the entire village, and surplus production could be sold at the market. Today, due to the lack of compensation and assistance for alternative income generating activities, the community has had to turn to other activities, all very physically challenging, such as cutting wood, making bricks, producing charcoal and selling gravel.

Livestock farming has also been significantly impacted by the pollution of water and the construction of the railway line, with many animals killed by the passage of trains. Access to water has also become very difficult due to pollution, which has also affected market gardening and palm oil production.

### **Samayabhè**

Most of Samyabhès's lands have been taken by CBG and the remainder has been affected by air and water pollution. Livestock farming has also been heavily impacted. Traditional grazing areas are very close to the mining operations, and the grass is now covered with dust and the water sources are polluted. Due to the lack of compensation and assistance for alternative economic activities, people turned to charcoal production and the sale of gravel.

Women's income-generating activities have also been significantly impacted by pollution resulting from CBG's activities. They continue to grow vegetables near water streams, but pollution makes it very difficult. As a result, many women have abandoned gardening and now collect and sell gravel, which is a very physically strenuous and low-income activity.

### **Sinthiourou Lafou**

The loss of agricultural lands has significantly impacted the livelihoods of the community. The remaining agricultural land is less fertile and heavily polluted by dust, and insufficient to feed the village. Lack of land has led to the migration of many young people to Guinea Bissau where they rent land in the area of Kébou. The young people who stayed in the village have turned to charcoal production. The complainants state that the few young people who have been hired by CBG are paid very low salaries (no more than 800,000 Guinean francs per month (approx. US\$85)).

Livestock farming has also declined considerably due to the number of animals killed by the train passing through community lands. Traditional gardening activities have also become impossible. Women used to travel to Diouria to extract palm oil but most of the palm trees have died due to pollution. Many of them are now regularly traveling to Guinea Bissau to collect cashews. Others have turned to the sale of gravel, but the harsh work of collecting and transporting gravel under the sun has made many of them sick.

### **Horè Lafou**

As with the other communities, land loss has resulted in a significant decline in revenue. Some villagers have turned to charcoal production, but increased deforestation threatens the viability of this source of revenue on the long term. Livestock farming has also been impacted by pollution and the passage of trains, killing many animals. As a result, many members of the community go to other areas not yet impacted by CBG to offer their services to other farmers or to rent land.

The economic activities of women have also been significantly impacted, particularly because of water pollution. They can no longer fish, grow vegetables or extract palm oil for sale. Even the small gardens they have in front of their houses are covered by dust and produce very little.

## **V. Failure to prevent and mitigate impacts on ecosystem services and biodiversity**

Performance Standard 6 requires IFC clients to identify the risks and related impacts on biodiversity and ecosystem services. This process must consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient loading, and pollution. It must also



take into account the differing values attached to biodiversity and ecosystem services by affected communities.<sup>61</sup>

As a matter of priority, the client should seek to avoid impacts on biodiversity and ecosystem services. When avoidance of impacts is not possible, measures to minimize impacts and restore biodiversity and ecosystem services should be implemented. Given the complexity in predicting project impacts on biodiversity and ecosystem services over the long term, the client should adopt a practice of adaptive management in which the implementation of mitigation and management measures are responsive to changing conditions and the results of monitoring throughout the project's lifecycle.<sup>62</sup>

Complainants state they have witnessed an unprecedented decline of wildlife and even the total extinction of some species in the region. They believe that water pollution as well as the impacts of mining infrastructure, notably mining roads and the railway lines crossing fields and forests, are probably the main causes. The decline of animals and fish has also significantly contributed to the degradation of livelihoods since communities largely depended on fishing and hunting, in addition to agriculture.

Communities believe that air pollution and dust generated by mining activities has also resulted in the decline, and in some instances the total extinction, of many species of wild fruits and plants that were used by the communities for medicinal purposes. Communities believe that the disappearance of these plants is threatening traditional pharmacopoeia and endangers their health as well as to their way of life and cultural identity.

## **VI. Failure to avoid or minimize safety risks to affected communities**

Performance Standard 4 requires IFC clients to assess safety risks and impacts on affected communities and to take preventive and control measures in accordance with good international industry practice. Clients must identify risks and impacts and propose mitigation measures appropriate to their nature and magnitude. The design, construction and operation of the structural elements of the project must take into account the risks to affected communities.<sup>63</sup>

However, the construction of infrastructure, the layout of the mining roads and the installation of the storage and blasting zones by CBG clearly did not take into consideration the impact on the quality of life of the communities, nor the risks to their safety.

### Enclosure of villages by CBG infrastructure

Some villages are completely encircled by mining operations, roads and railways and the inhabitants are now forced to cross extremely dangerous zones to access their fields or to go to the city of Sangaredi.

For example, residents of the village of Fassaly Foutabhè are forced to cross the CBG stockpiling area, where no appropriate security measures have yet been implemented, in order to go to Hamdallaye for Friday prayers. Similarly, the villagers from Kogon Lengué have to cut across CBG's zone of operations to access the village of N'danta Fogné'. The complainants state that in 2017, two young men from Kogon Lengué were arrested and imprisoned simply for using this

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<sup>61</sup> PS 6, para. 6.

<sup>62</sup> PS 6, para. 6.

<sup>63</sup> PS 4, para. 6.

road. In Lafou Mbaïla, lengthy negotiations were necessary to obtain authorization from CBG to use the mining road to go to Sangaredi, although this is the only road left to get to town. In Bourorè, parents are extremely worried for their children who go to school to Hamdallaye, as they have to go through the national road, which has become very dangerous due to the increased traffic of CBG trucks. In Parawol, the railway tracks are situated only about 50 meters away from the village, and no security measures have been taken by CBG – not even a fence -- to ensure the security of community members, particularly children.

In Parawi, a young man was killed in 2017. The complainants state that the day before his death he had an argument with a CBG worker who did not let him access his land because CBG had to conduct activities there. The complainants state that the young man returned the next day to farm and was crushed by a bulldozer as he was sleeping nearby his plantation. The complainants are not aware of any criminal investigation into this accident.

### Blasting activities

All the communities also suffer enormously from the blasting activities that are carried out close to the villages: the dust invades the houses, which are now cracked, and objects fall from the blast. In some villages, stones are thrown by CBG workers into neighboring fields, without any effective safety measures being taken to avoid accidents. In Bourorè, residents found stones that had been projected all the way into their village. Some communities state that CBG activated sirens a few minutes before blasting, but that was usually not enough time to get away or make sure that children were safe.

## **VII. Failure to disclose relevant information, meaningfully consult, or establish effective grievance mechanism**

### Absence of informed consultation or consent

International human rights standards require that relevant information is disclosed and explained to people subject to eviction, and that their right to full consultation and participation be respected in the resettlement process.<sup>64</sup> The ECOWAS Mining Directive (2009) states that mining rights holders in member states “shall obtain free, prior, and informed consent of local communities before exploration begins and prior to each subsequent phase of mining and post-mining operations” and that companies “shall maintain consultations and negotiations on important decisions affecting local communities throughout the mining cycle.”<sup>65</sup>

The IFC Performance Standards also require information disclosure and effective consultation, describing them as essential to the successful management of a project’s environmental and social impacts.<sup>66</sup> PS 1 requires community consultations to be, *inter alia*, free from external manipulation, interference or coercion and intimidation, and conducted on the basis of prior disclosure and dissemination of relevant, meaningful and accessible information.<sup>67</sup> Information must be provided on the purpose, nature and scale of the project, the duration of proposed project activities, and any risks to and potential impacts on the communities as well as mitigation measures.<sup>68</sup>

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<sup>64</sup> UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18, para.38.

<sup>65</sup> The ECOWAS Mining Directive (2009), Article 16(3) and (4).

<sup>66</sup> PS 1, para. 25.

<sup>67</sup> PS1, para. 31.

<sup>68</sup> PS1, para. 29.

For projects with significant adverse impacts on affected communities, PS 1 also requires a process of informed consultation and participation, leading to the client's incorporating into their decision-making process the views of the affected communities on matters that affect them. Women's as well as men's views must be captured and reflected.<sup>69</sup> PS 5 echoes these requirements with respect to land acquisition and resettlement processes in particular.

These critical requirements have been neglected in relation to all the impacts described above. All complainants from the 13 communities stated that CBG systematically neglected to consult them before their lands were taken or impacted by mining and that no information was provided to them regarding the future activities of CBG on their lands. For example, several communities, including those of Boundou Wandè and Fassaly Foutabhè, described how even crops had been destroyed without any prior notice, including since IFC's support to the project commenced. In the rare cases where the communities have been informed of future operations that would involve the taking or the destruction of lands and crops, this was limited to CBG representatives providing a warning. CBG did not take their points of view into consideration, or integrate them into CBG's decision-making process, as prescribed by PS 1.

CBG has not provided the protections owed to the community of Hamdallaye under PS 1. Whereas PS 1 requires IFC's clients to meaningfully consult communities and ensure their informed participation and consent, the complainants instead described how, after they had opposed this resettlement project for years, the CBG finally obtained their consent through pretenses and false promises. The community accepted resettlement under a number of conditions, including that CBG would restore damaged customary lands, provide improved access to water and farming land, build sufficiently large houses, plant trees for shade, and provide alternative livelihoods and employment opportunities. All of these conditions are consistent with their most fundamental rights, as guaranteed and protected under international human rights instruments and the IFC Performance Standards. However, the complainants state that many of the promises made by CBG have not been upheld, or at least not in their entirety, leading the community of Hamdallaye to feel that they have been duped into agreeing to their resettlement on the basis of CBG's false promises. Moreover, the village is now completely surrounded by mining activities and community members have stated that because of this situation, they have no choice but to leave.

In addition, as noted above, CBG representatives went to Hamdallaye village in February 2018 and asked heads of households to sign resettlement agreements. Whilst, the overwhelming majority of the village cannot read or write, especially women, no independent assistance has been offered to them to understand what they are being asked to sign. The literate men of the village have unanimously declared that they did not understand the content of the document, the compensatory rules being very technical and difficult to understand.

None of the women were informed of the existence of this agreement.

#### Ineffective grievance mechanism

PS 1 and PS 5 require the establishment of a grievance mechanism for affected communities. The mechanism should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible.<sup>70</sup> This mechanism should enable the client to receive and address in a timely manner specific compensation and resettlement concerns, including a recourse mechanism for the impartial resolution of disputes.<sup>71</sup>

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<sup>69</sup> PS1, para. 31.

<sup>70</sup> PS 1, para. 35.

<sup>71</sup> PS 5, para. 11.

In 2015, as part of its efforts to strengthen its environmental and social management and meet the IFC's standards, CBG published a new grievance procedure, in which minor complaints are dealt with by community relations staff but serious or persistent problems are elevated to senior management.<sup>72</sup> If a complaint still remains unresolved, the grievance procedure states that complainants could take the matter to court, where they can request access to a lawyer, "to continue the procedures for the settlement of the complaint."<sup>73</sup> The grievance policy gives complainants the right to choose a lawyer, "from a selection of 10 lawyers duly recognized and accredited by the Minister of Justice and an independent accredited support NGO by the stakeholders during the formulation of the Project."<sup>74</sup>

Given that no legal aid exists in Guinea and that no attorneys are based in Sangaredi, or even in the Boké region, much of this grievance procedure is entirely ineffective and unrealistic in practice.

Although CBG's grievance policy requires the company to communicate extensively with affected communities about its new grievance mechanism, most complainants had never heard of it. Only the communities of Fassaly Foutabhè, Kogon Lengué, N'danta Fognè and Parawol were informed in 2017 that a grievance mechanism had been established within the community relations department. All the other communities said they had never heard of such a mechanism.

The complainants that are aware of the existence of the new mechanism all stated that it had never brought successful results, despite the fact that several complaints had been submitted. Other communities usually liaise with local authorities, including the Rural Commune and the sub-prefecture, but this process has also failed to resolve grievances. Complainants explain the lack of effectiveness of these procedures by the collusion – be it real or perceived – between local authorities and CBG officials, the general lack of transparency and a biased handling of complaints.

#### Protests in the absence of functional grievance mechanisms

Many community members said that, in the absence of an effective grievance mechanism, they were forced to conduct protests to air their frustrations, particularly concerning the increased scarcity of water and the absence of employment opportunities for the youth. Some community leaders said that, in organizing protests, they sometime manage to force local officials and mining companies to send a delegation to listen to their demands. In some instances, local authorities have openly threatened communities, and as a result many of them have stopped resorting to protests for fear of being imprisoned. In a few cases, protests led to some action from the company or the local government to address communities' concerns, but in most cases, complainants said that once the demonstration was over the underlying grievance remained unresolved.

## **SECTION 4: OUTCOMES SOUGHT**

The complainants are seeking full and fair redress for all the harms and losses they have suffered in line with the protections and entitlements of the IFC Performance Standards, Guinean law and international human rights law. They are also seeking to prevent future harms and receive development benefits from the project as envisioned by the Performance Standards and the Guinean Mining Code.

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<sup>72</sup> CBG, "Grievance Mechanism Procedure," September 1, 2015, p. 7.

<sup>73</sup> Ibid., p. 8.

<sup>74</sup> Ibid., p. 8.

The complainants feel that they have not been provided the opportunity to engage in a process of informed consultation and participation. They believe that when CBG has made an effort to engage with them, including through third parties, the process has not allowed them to speak freely with all necessary information at their disposal and on an equal playing field that would allow them to assert their rights and interests. They also have not been provided with any realistic mechanism to hold CBG to its promises or commitments under agreements. They do not feel that they have been offered or consulted on reasonable options to prevent, mitigate and redress adverse impacts from CBG's operations. Women in particular feel that they have been marginalized from decision-making.

They therefore have concluded that the best way to ensure that their views, rights and interests are respected and that they can participate in decision making on a more level playing field is through a neutral third-party facilitated process. They hope that this process will lay the foundation for a positive coexistence with CBG going forward.

The complainants therefore request that the CAO facilitate a process of mediation between the complainants and CBG, its majority owner Halco (owned jointly by Alcoa, Rio Tinto and Dadco), and IFC. The complainants request that IFC play an active and constructive role in the mediation process, including through the provision of expertise and resources as necessary to, inter alia, conduct assessments and implement agreements.

The complainants request that a safe and secure environment, in which they can freely express their views and put forward their positions without fear of reprisals, is created for mediations. The complainants request that CECIDE, ADREMGUI and IDI are able to freely advise and represent them throughout the mediation process as they and their advisors see fit.



**About the representing organizations:**

**Centre du Commerce International pour le Developpement (CECIDE)** is a Guinean non-governmental organization founded in 2000 whose mission is to promote and defend the social, economic and cultural rights of communities, and their involvement in the design and implementation of public policies for development.

**Association pour le développement rural et l'entraide mutuelle en Guinée (ADREMGUI)**, is a Guinean non-governmental organization founded in 2006 that works for an institutional, economic and inclusive development at the grassroots level.

**Inclusive Development International (IDI)** is an international human rights organization that works to make the international economic system more just and inclusive. IDI supports and builds the capacity of local organizations and affected communities to defend their rights and the environment in the face of harmful investment, trade and development.