

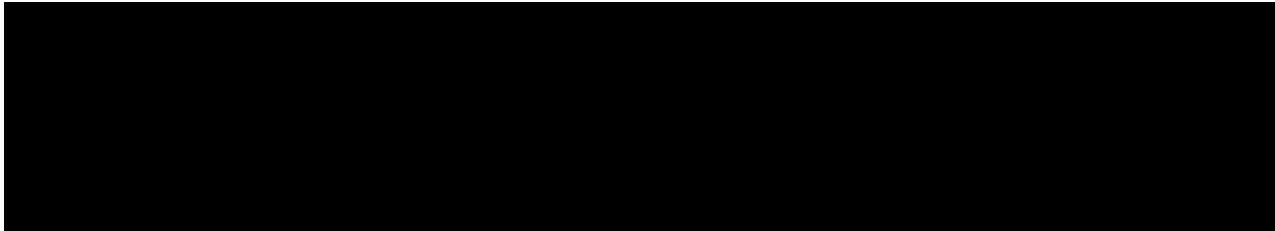
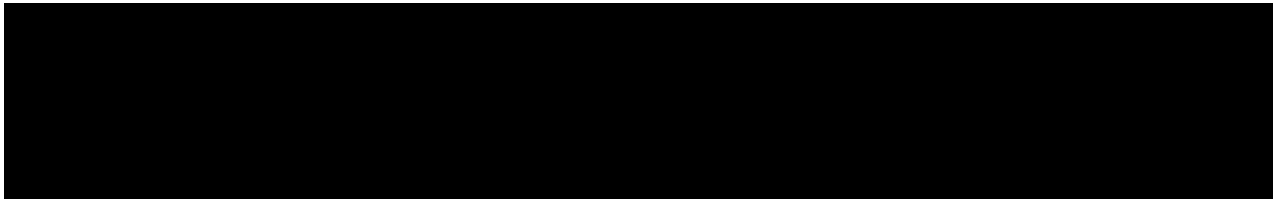
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October 13, 2021

Re: Complaint concerning IFC investment Britam Holding Plc, Project No 37294

Dear Vice President Ferretti,

The organizations listed below are submitting this complaint to the Office of the Compliance Advisor Ombudsman on behalf of people adversely affected by sub-projects of the International Finance Corporation (IFC) through its financial intermediary investment in Britam Holding Plc.



Inclusive Development International (IDI) is an international human rights organization that works to make the global economy more just and inclusive. IDI supports affected communities to defend their rights and the environment in the context of development and investment. Through research, casework and policy advocacy, IDI works to strengthen the human rights regulation and accountability of corporations, financial institutions and development agencies.

We are representing Ugandan Complainants whose lives, livelihoods, and environment have been adversely impacted or stand to be impacted by the East African Crude Oil Pipeline (EACOP), an oil refinery and the Tilenga and Kingfisher oil fields. These large-scale projects require insurance coverage to proceed, and information available to the Complainants indicates that insurance is being provided by IFC's equity client, Britam, as part of a consortium of local insurers.



[REDACTED]

The Complainants are seeking a compliance review by the CAO of IFC’s investment in Britam and its indirect support of the three interrelated sub-projects.

[REDACTED]

Overview

This complaint relates to three interrelated projects (hereinafter referred to collectively as “the oil projects”):

- Tilenga and Kingfisher, two upstream oilfields in Uganda’s Lake Albert basin, operated by France’s TotalEnergies and China National Offshore Oil Corporation (“CNOOC”), respectively;
- The Kabaale refinery, Uganda’s first planned oil refinery, led by a consortium of companies called the Albertine Graben Refinery Consortium (“AGRC”); and
- The East African Crude Oil Pipeline (“EACOP”), the export pipeline required to transport the oil out of landlocked Uganda to international markets, developed by TotalEnergies, alongside CNOOC and the national oil companies of Uganda and Tanzania.

The Tilenga and Kingfisher oil fields are located onshore on the eastern perimeter of the Lake Albert basin, which lies on the border of Uganda and the Democratic Republic of the Congo. TotalEnergies’ Tilenga field, the larger of the two sites, sits at the north end of Lake Albert while CNOOC’s Kingfisher is at the south end. As currently envisaged, two central processing facilities near each oil field would collect crude oil, which would be passed through a feeder pipeline system to the Kabaale industrial park, the site of the proposed oil refinery. There, a portion of the crude oil would be processed for domestic and regional consumption.² The bulk of the oil, however, would be transported southeast via the EACOP for export through Tanzania’s port of Tanga.³

The EACOP consists of a buried 1,443km crude oil pipeline, stretching from the town of Kabaale in Uganda to the port of Tanga in Tanzania. It also includes a storage terminal and loading jetty in Tanga. The waxy consistency of the crude oil from Tilenga and Kingfisher require the pipeline to be heated to a temperature of 50°C or more for transportation.⁴ If built, the EACOP would be the longest electrically heated pipeline in the world.

The risks and impacts already caused by the oilfields, pipeline, and refinery are immense, and have been exhaustively documented in numerous community-based impact assessments⁵ and independent

² [Directorate of Petroleum](#), “Uganda”, Accessed September 30, 2021.

³ [Climate Policy Initiative](#), “Understanding the impact of a low carbon transition on Uganda’s planned oil industry”, December 2020.

⁴ [TotalEnergies](#), “Tilenga and EACOP: acting transparently”, Accessed September 30, 2021.

⁵ [#StopEACOP](#), “Publications”, Accessed September 30, 2021; [AFIEGO](#), “Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People (2012-2020)”, October 2020; [Les Amis de la Terre](#), “Serious Breaches of the Duty of Vigilance Law: The Case of Total in Uganda,” June 2019; [Les Amis de la Terre](#), “A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania,” October 2020; [Oxfam](#), “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” September 2020; [FIDH & FHRI](#), “New Oil, Same Business?: At a Crossroads to Avert Catastrophe in Uganda,” September 2020.

expert studies.⁶ Local and global opposition to the oil projects is robust and vocal, despite the air of intimidation and fear surrounding the developments.⁷ For instance, a transnational campaign to stop the construction of the EACOP has grown over the past several years.⁸ Several legal challenges at the international,⁹ regional,¹⁰ and domestic¹¹ level have been initiated against the Tilenga, EACOP and refinery projects.

The oilfields lie in one of the most uniquely sensitive and ecologically diverse areas of the world, at the crossroads of Lake Albert, Africa's seventh largest lake and the headwaters of Africa's main basins for the Nile and Congo rivers; the Murchison Falls National Park, Uganda's largest protected nature reserve; and the Murchison Falls-Albert Delta Ramsar wetland system, a wetland protected under international law.¹² The Tilenga oil extraction site includes the drilling of 130 oil wells within the boundaries of the national park, an area which hosts several endangered and vulnerable species, and is central to Uganda's tourism industry.¹³ It is estimated that over one million people in the Murchison landscape depend upon it for fishing and water, while Lake Albert alone is the largest contributor to Uganda's fishing industry, sustaining an estimated 43% of the country's fisheries.¹⁴

The EACOP route traverses numerous diverse ecosystems and human settlements, with one third of the pipeline running alongside Africa's largest lake, Lake Victoria—a primary water source for more than 40 million people.¹⁵ The pipeline will pass through seven forest reserves, two game reserves, two game-controlled areas and one open area that supports wildlife management, covering a total of 295km of conserved and protected lands. Nearly 2,000 square kilometers of protected wildlife habitats will be negatively impacted by the EACOP.¹⁶

The government and the international oil companies have pushed their plans forward without adequately consulting local communities and without sufficient safeguards to address the ecological and human rights risks of the oil projects¹⁷ – which we believe are so extreme and vast that they are unmanageable. In September 2020, FIDH and FHRI undertook a community-based human rights impact assessment of the oilfields, pipeline and refinery. The assessment documents numerous serious

⁶ [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” June 2019; [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Resubmitted Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” p. 7-9, October 2020; [E-Tech International](#), “Tilenga Project – Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production,” December 2019; [E-Tech International](#), “Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda,” May 2019.

⁷ [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, (Section III.1: Human Rights Defenders: Violence, harassment and impunity in the Albertine Region).

⁸ [#StopEACOP](#), “Count Me In”, Accessed September 30, 2021.

⁹ [Les Amis de la Terre France](#), “Total Uganda: A First Lawsuit Under the Duty of Vigilance Law,” October 2020.

¹⁰ [East African Court of Justice](#), “Application No. 29 of 2020”, November 6, 2020; Natural Justice, “[Natural Justice joins legal challenge against the East Africa Pipeline](#)”, November 25, 2020.

¹¹ [FIDH](#), “Tilenga ESIA case” p 29, September 2020; [NewVision](#), “Oil Refinery Project Affected Persons’ Case Resumes”, December 9, 2020.

¹² [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, p. 126; [MapforEnvironment](#), “The East African Crude Oil Pipeline – EACOP, a Spatial Risk Perspective”, April 7, 2021.

¹³ [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”; [Ibid.](#) “Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline”; [Uganda Wildlife Authority](#), “Biodiversity Surveys of Murchison Falls Protected Area”, January 2015.

¹⁴ [Uganda Bureau of Statistics](#), “2019 Statistical Abstract”, p. 79, Accessed September 30, 2021; [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, pp. 6-7 & 14; [MapforEnvironment](#), “EACOP, a Spatial Risk Perspective”, April 7, 2021.

¹⁵ [Ibid.](#) “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” p. 5.

¹⁶ [Ibid.](#) “EACOP, a Spatial Risk Perspective”.

¹⁷ [Ibid.](#) “Empty Promises Down the Line [...]”; [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda.”

violations of local communities' rights, including to land, housing and an adequate standard of living, the right to health and clean water, and the right to a healthy environment that had already occurred at early stages of the projects. Numerous other expert reports and community-based assessments have documented similar ongoing abuse and risk of irreversible harm. These reports are broadly consistent with the experiences of the Complainants.

Each of the interrelated oil projects require largescale land acquisition, resulting in the physical and economic displacement of communities. Roughly 13,000 households across Uganda and Tanzania, accounting for more than 86,000 individuals, have lost or will lose land as a result of the EACOP.¹⁸ A further 4,865 households, accounting for 31,716 individuals, are directly affected by the Tilenga oilfield.¹⁹ The Kingfisher oilfield will impact 680 households, or roughly 2,949 individuals.²⁰ In sum, the oilfields and pipeline are expected to directly impact the land of roughly 120,000 individuals.

The land acquisition process for the oil refinery is the only resettlement process among the oil projects that has been fully implemented to date. According to FIDH, "The process of relocation was long and difficult," and community members "faced infringements on their rights to education, property, land, cultural development, and an adequate standard of living."²¹ The vast majority of the 1,220 displaced households (accounting for 7,118 individuals²²) were compelled to accept cash compensation due to an "intense fear" and skepticism of the resettlement process.²³ Those who selected in-kind compensation faced nearly six years of delay, during which they suffered restricted land access. When resettled into new housing, the families received no security of tenure. Several of the relocated families now face additional risk of displacement by the feeder pipeline connecting the Tilenga oil field to the refinery.²⁴ Moreover, the physically relocated communities report inadequate conditions at the resettlement site, which they describe as "being confined in a squeezed, camp-like setting."²⁵

Many of the refinery-affected households are still suffering the impacts arising from their displacement. According to data gathered by local organizations through interviews with project-affected people, 39.3% of the displaced persons reported a decline in income.²⁶ Further, many households who received cash compensation were prevented from purchasing land of an equivalent size or quality. Nearly seven years after their displacement, 13.43% of the refinery-affected people who received cash compensation have failed to replace any of the land they lost, while 19.4% have been unable to replace all of their land. According to interviews with project-affected people, this was due to under-compensation, and the lengthy delay in compensation during which land values changed. Because households faced land use restrictions beginning in 2012 that prevented them from growing

¹⁸ [Les Amis de la Terre](#), "Number of People Affected by the EACOP Project in Uganda and Tanzania", April 2021.

¹⁹ [Total et al.](#), "Tilenga Project Resettlement Action Plans: Executive Summary," p. 138 (Table 25), September 2020.

²⁰ [CNOOC](#), "Environmental and Social Impact Assessment for the Kingfisher Field Development Area, Uganda", November 2019.

²¹ [Ibid.](#), "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", pp. 57-58; [Ibid.](#), "Empty Promises Down the Line?" p. 33.

²² [Uganda Petroleum Exploration and Development Department](#), "Resettlement Action Plan", October 2012.

²³ [Ibid.](#), "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", pp. 57-58.

²⁴ [Ibid.](#), p. 58.

²⁵ Interview with complainants; [Ibid.](#), "Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People".

²⁶ [Ibid.](#), pp. 6-7.

perennial food and cash crops, many households were forced to use the eventual cash compensation to purchase food.²⁷

The ongoing land acquisition processes for the oilfields and EACOP have followed a similar course. Today, tens of thousands of oil-affected people in the Albertine region remain without access to significant portions of their land, unable to grow food for survival or income generation, prevented from burying their deceased, while awaiting delayed compensation more than two years overdue.²⁸

These serious impacts on and risks to affected people and communities are occurring in an increasingly dangerous environment for human rights defenders. Community and civil society advocates brave enough to speak out, or even conduct research, have faced threats and attacks, including harassment and arbitrary detention as a result of their efforts to challenge oil development in Uganda. In Tanzania, the security risk to human rights defenders is so severe that expressing dissent, or indeed filing a complaint to the CAO, is far too risky.²⁹ The free and open participation in decision making about the project and the avoidance and mitigation of its impacts by affected communities, including the Complainants, is impossible in this environment.

The devastating climate impacts of the oil projects have also become increasingly clear to the Complainants: at peak production, the oil exported by EACOP is anticipated to introduce roughly 34 million metric tons of additional carbon emissions to the global carbon budget per year.³⁰ This figure does not account for the full amount of oil that will be extracted and processed by the refinery, which has not been calculated. The estimate is significantly larger than the current combined emissions of Uganda and Tanzania, an amount which the planet can ill-afford. If these new oil developments proceed, history will record them as a significant contributor to the global failure to meet the Paris Agreement goals, with devastating environmental and social consequences.

The International Finance Corporation is exposed to these upstream oil projects through its equity investment in the Kenya-based insurance firm Britam Holdings Limited, which in May 2021 publicly expressed its intention to provide crucial insurance underwriting support to the oil refinery and EACOP, which are both essential to the economic viability of the oil extraction at Lake Albert. We believe that formal commitments to underwrite the projects may have already been made.

Given the unmitigable social and environmental risks of the projects that Britam is supporting, the Complainants believe that the IFC has failed to conduct adequate due diligence and supervision of its client.

Moreover, through its large equity stake in Britam, the IFC is indirectly supporting a massive expansion of new fossil fuel supply at a time when the International Energy Agency has made clear that there can be no more such investments in order to have a chance of limiting global warming to 1.5 degrees.³¹ We note in this regard that in 2017, the World Bank Group announced that it will no

²⁷[Ibid.](#) p. 28

²⁸ [Ibid.](#) “A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania”; [Tom Ogwang, Frank Vanclay](#), “Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline”, April 2021.

²⁹ [Frontline Defenders](#), “#Tanzania”, Accessed 5 October, 2021.

³⁰ ELAW Evaluation of the ESIA for the East Africa Crude Oil Pipeline Tanzanian Span, at p. 1.

³¹ International Energy Agency, “Pathway to critical and formidable goal of net zero emissions by 2050 is narrow but brings huge benefits, according to special IEA report,” May 2021; <https://www.iea.org/news/pathway-to-critical-and-formidable-goal-of-net-zero-emissions-by-2050-is-narrow-but-brings-huge-benefits>

longer finance upstream oil after 2019, in line with the bank’s support for the Paris Climate Agreement.³² In order for this commitment to be meaningful, it must extend to the World Bank Group’s financial intermediary investments, including Britam. An alternative interpretation would allow for a dangerous loophole in the Bank Group’s commitments to end its support for oil development projects and help countries accelerate their transition to sustainable energy.

This complaint is structured as follows:

- Section I: IFC’s exposure to the EACOP and oil refinery through Britam Insurance.
- Section II: IFC’s Non-Compliance with Applicable Policies
- Section III: Sub-Project Harms and Non-Conformance with IFC Performance Standards

Due to concerns for their personal security, the Complainants request that their identities be kept strictly confidential.

It should be noted that members of the Complainant group have already faced threats and attacks, including harassment and arbitrary detention as a result of their efforts to challenge oil development in Uganda. These reprisals have attracted international scrutiny, including from independent human rights experts appointed by the UN Human Rights Council.³³ As recently as May 2021, a human rights defender and a journalist were arbitrarily arrested and detained without charge whilst conducting interviews with oil-affected communities in Uganda’s Buliisa region.³⁴

Please direct all correspondence related to the complaint to:

- IDI: Coleen Scott (coleen@inclusivedevelopment.net) and Natalie Bugalski (natalie@inclusivedevelopment.net)

I. IFC is Exposed to Ugandan Oil Projects through Britam Insurance

This section explains the financial relationship between the IFC and the oil sub-projects in Uganda through financial intermediary client Britam Insurance. Subsection A sets out the active financial relationship between the IFC and the insurance companies, and subsection B describes the insurance companies’ involvement in underwriting insurance coverage for the EACOP and oil refinery. The IFC is linked to the ongoing impacts and anticipated impacts caused by the EACOP and oil refinery through these relationships. As detailed in subsection C below, the IFC is also exposed to the harms present at the Tilenga and Kingfisher oil fields as associated facilities of the EACOP. Subsection D sets out how the present complaint satisfies the CAO’s eligibility requirements with respect to the IFC’s material exposure to the sub-project(s).

A. Britam is an active financial intermediary client of IFC

³² [World Bank Press Release](#), “World Bank Group Announcements at One Planet Summit”, December 12, 2017.

³³ [United Nations Human Rights Council Special Rapporteurs](#), “Letter to Total CEO”, April 2020; “[Letter to the President of Uganda](#)”, April 2020.

³⁴ [Business & Human Rights Resource Center](#), “Uganda: Human Rights Defender Maxwell Atuhura Released on Police Bond But Faces Prosecution for ‘Unlawful Assembly’”, 27 May, 2021.

Britam Holdings Limited is a Kenyan insurance and financial services firm with operations throughout Eastern and Southern Africa, including Uganda.³⁵ The group offers a wide range of financial products and services in insurance, asset management, banking and property.³⁶

In September 2017, the IFC purchased shares in Britam Holdings Limited amounting to approximately USD\$35 million. This gave the IFC a 10.37% stake in the company, according to the IFC's disclosure of the transaction.³⁷ As of May 2021, however, Britam described the IFC's ownership stake as amounting to 8.88% of the company's shares.³⁸ According to Britam's 2020 Annual Report, IFC holds a seat on its board.³⁹

Given the nature of equity investments, it is impossible for the IFC to have applied any ring-fence or targeted use of funds for the investment. Rather, the IFC's funds were provided to Britam as general equity capital, to be used by the company however it sees fit, including by directing capital to its insurance subsidiaries throughout East Africa, including Uganda.⁴⁰

The IFC project portal disclosure for Britam clearly establishes that the investment would likely be used to support Britam's insurance operations, specifically. At the time of investment, the IFC described Britam as the "leading insurance and financial services group in East Africa," stating, "The company offers individual and corporate insurance products to clients in Kenya and other East African countries" including Uganda and Tanzania.⁴¹ It categorized the investment as within the "Composite Insurance (Life and non-Life)" sector.⁴² One of the stated goals of IFC's investment was to provide a "stamp of approval," for Britam as a "system-critical player in Kenya's and East Africa's insurance space." IFC's investment in Britam is intended to "enhance the Company's market perception and attract new investors."⁴³

Less than a month after the IFC's direct investment in Britam, IFC funds were again invested in Britam through the DFI-backed private equity fund, Africinvest III.⁴⁴ The IFC invested roughly \$24.57 million in Africinvest Fund III in 2014, accounting for roughly 20% of the fund's total commitments.⁴⁵ Following that investment, in October 2017, Africinvest III became a "strategic partner" of Britam's, and purchased a 14.3% stake in the company.⁴⁶ Because the investment was an equity stake, it would have been impossible for the funds to be effectively ringfenced; nonetheless, company representatives claimed the funds would go towards supporting Britam's insurance, property and asset management operations.⁴⁷ One year after that initial investment, the private equity fund increased its holding to 16.24% of the company's shares.⁴⁸

³⁵ [Britam](#), "Our Profile", Accessed 5 October, 2021.

³⁶ [Ibid.](#)

³⁷ [IFC](#), "Britam Kenya", Accessed 5 October, 2021. <https://disclosures.ifc.org/project-detail/SII/37294/britam-kenya>

³⁸ [Forbes Africa](#), "Uganda", p. 15, May 2021.

³⁹ Britam Holding Plc, 2020 Integrated Report and Financial Statements, p. 66; <https://ke.britam.com/documents/767267/6c91bfc6-b1b7-6de4-019e-41fd456c8db6>

⁴⁰ [Ibid.](#) IFC, "Britam Kenya".

⁴¹ [Ibid.](#)

⁴² [Ibid.](#)

⁴³ [Ibid.](#) [Under "IFC's Role and Additionality]

⁴⁴ [IFC](#), "Africinvest Fund III LLC", Accessed 5 October, 2021; [Britam](#), "Britam Plc shareholders approve Shs 5.7 billion investment by AfricInvest Equity Fund", 11 October, 2017.

⁴⁵ [Ibid.](#) IFC, "Africinvest Fund III LLC".

⁴⁶ [Ibid.](#) Britam, "Britam Plc shareholders approve Shs 5.7 billion investment by AfricInvest Equity Fund", 11 October, 2017.

⁴⁷ [Ibid.](#)

⁴⁸ [Atlas Magazine](#), "AfricInvest increases its stake in Britam Holdings's capital", January 2019.

B. Britam is Providing (or Intends to Provide) Insurance Support for Uganda’s Oil Sector

Britam has publicly expressed its intention to support the oil projects through the provision of insurance through its wholly owned Ugandan subsidiary,⁴⁹ Britam Insurance Company (Uganda) Ltd. (“Britam Uganda”). In a May 2021 Forbes Africa newsletter, Britam Uganda’s CEO, Allan Mafabi, speaks about the company’s intention to expand insurance coverage of Uganda’s growing oil and gas sector. The article reads:⁵⁰

Britam is also ready to provide services within the oil and gas sectors, having already shown capacity in areas of infrastructure in projects such as the Jinja Nile Cable Bridge and the Entebbe Expressway. “We have the largest reinsurer on our panel in Swiss RE to support these oil and gas projects,” states Mafabi. “As an industry, the regulator is putting the enabling regulations in place. We are now waiting for insurance to become gazetted as one of the local providers in the oil and gas sector.”

In the same article, Britam identifies its top shareholders as including the IFC, as well as a consortium of European development finance institutions and Swiss Re, one of the largest reinsurance companies in the world.⁵¹ Britam states, “Our shareholders are world players [...] for this reason, we are well positioned to deliver.”⁵²

Britam is also a member of the Uganda Oil and Gas Co-Insurance Consortium,⁵³ a co-insurance group established by the Insurance Regulatory Authority of Uganda and licensed local insurance companies with the explicit mandate to underwrite the oil projects.⁵⁴ The Consortium, which currently has 16 members, was created to support the implementation of the Insurance Act, which stipulates that insurance services must be provided by local insurers to the maximum extent possible before international re-insurance is sought.⁵⁵ The Consortium was formed as a means for local insurers to pool resources and increase capacity to undertake underwriting of risks for the oil and gas sector in Uganda.⁵⁶ As of September 2020, the Consortium had pooled over \$500 million in coverage capacity for the oil and gas sector.⁵⁷

The Consortium has publicly announced that it will provide direct insurance coverage for the EACOP and the proposed oil refinery.⁵⁸ It is not clear whether the Consortium will provide insurance to the Tilenga and Kingfisher oil fields themselves. As established in subsection C below, the oil fields constitute associated facilities to the EACOP.

⁴⁹ [Britam](#), “2020 Integrated Report and Financial Statements”, p. 9, Accessed 5 October, 2021.

⁵⁰ [Ibid.](#) Forbes Africa, “Uganda”, p. 15.

⁵¹ [Ibid.](#)

⁵² [Ibid.](#)

⁵³ [Facebook](#), “Uganda Insurers Association”, 18 June, 2019.

⁵⁴ [IRA Uganda](#), “The Uganda Oil and Gas Co-Insurance Consortium Guidelines, 2019”, Accessed 5 October, 2021; [Africa Business Communities](#), “[Uganda] Insurance companies team up to tap into oil and gas sector”, 15 December, 2016.

⁵⁵ [Ibid.](#) “The Uganda Oil and Gas Co-Insurance Consortium Guidelines, 2019”.

⁵⁶ [IRA Uganda](#), “Presentation to Uganda Law Society on Emerging Issues”, 27 August, 2020; [Ibid.](#) “The Uganda Oil and Gas Co-Insurance Consortium Guidelines, 2019”; [Ibid.](#) Africa Business Communities, “[Uganda] Insurance companies team up to tap into oil and gas sector” -see also- [Next Media Uganda](#), “Insurance Consortium for Oil and Gas in Uganda”, 21 September, 2020.

⁵⁷ [Ibid.](#) -see also- (2019 coverage capacity) [Facebook](#), “IRA Uganda”, 7 May, 2019.

⁵⁸ [Ibid.](#) Next Media Uganda, “Insurance Consortium for Oil and Gas in Uganda”; [Facebook](#), “Uganda Insurers Association, 18 June, 2019.

In a 2020 interview, Ronald Musoke, a representative from the technical committee of the Consortium, stated that the Consortium planned to insure three of the key major risks associated with the EACOP and refinery:⁵⁹

- Engineering risk, covering damage during the construction phase;
- Marine cargo insurance and goods in transit insurance, which protect equipment while in transit via sea, air, road or rail; and
- Public liability, which protects against harm to third parties resulting from bodily injury or damage to property.

In addition, the Consortium also planned to insure “minor risks,” including motor insurance, injury to workers, insurance of office assets, and more.⁶⁰

According to Musoke, the Consortium operates very closely with the Uganda Chamber of Mines and Petroleum, retaining representation on the Chamber’s governing council and on the Chamber’s technical committee on oil and gas.⁶¹ In Musoke’s words, “wherever you see the Ugandan Chamber of Mines and Petroleum, it’s in a way probably synonymous with insurance.”⁶² The Consortium members are involved in the Chamber’s conferences and events surrounding the promotion of oil and gas and have attended a tour in the Albertine region to visit the site of oil operations and “better understand the risks” of the sector.⁶³

Due to the opacity of the oil operations, it is impossible for us to identify clear evidence that Britam, either individually or through the Consortium, has already provided insurance or signed a contract or memorandum of understanding for the provision of insurance services to any of the oil projects. However, in May 2021, the EACOP project sponsors published a request for expression of interest for insurance/reinsurance brokerage services. The deadline for expressions of interest by brokerage firms was 19th June 2021. This suggests that the project sponsors have likely secured a broker that will be responsible for securing and finalizing the insurance package.⁶⁴ As set out above, we have strong reasons to believe that Britam is involved in this deal.

Further, EACOP General Manager Martin Tiffen stated on 3rd August 2021 that the developers were finalizing “level one contracts” for both EACOP and Tilenga, covering key procurement items as well as construction contracts for the pipeline, pumping stations and terminal. He indicated that construction materials will be delivered to Tanzania by the end of 2021, and construction of the EACOP is slated to begin by the second half of 2022.⁶⁵ If the Consortium is to provide marine insurance to protect project materials while in transit, as indicated by a Consortium spokesperson above, this coverage will be secured imminently, if it has not been already. Engineering and public liability insurance must be secured prior to the commencement of the construction phase.

C. Tilenga and Kingfisher Oilfields are Associated Facilities to the EACOP

⁵⁹ [Ibid.](#) Next Media Uganda, “Insurance Consortium for Oil and Gas in Uganda”; [Ibid.](#) IRA Uganda, “Presentation to Uganda Law Society on Emerging Issues”

⁶⁰ [Ibid.](#) Next Media Uganda, “Insurance Consortium for Oil and Gas in Uganda”

⁶¹ [Ibid.](#)

⁶² [Ibid.](#)

⁶³ [Ibid.](#)

⁶⁴ [EACOP](#), “Request for Expression of Interest for Provision of Insurance”, Accessed 5 October, 2021.

⁶⁵ [Daily Monitor](#), “Oil pipeline company starts work next month”, 3 August, 2021.

As set out above, in early 2021, Britam publicly expressed its intention to provide insurance to the EACOP and oil refinery in Uganda but did not mention the Tilenga and Kingfisher oilfields themselves. Nonetheless, the IFC Performance Standards apply to the entire area of influence of a project, which encompasses associated facilities. Associated facilities are defined by the IFC as, “facilities that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable.”⁶⁶

The upstream oil fields fall squarely within that definition. Without the upstream components of the oil development, the EACOP would not be viable; conversely, both the Tilenga and Kingfisher oil fields are reliant upon the export pipeline to transport the oil out of landlocked Uganda, without which they could not be developed because they would not be economically viable for the project sponsors.⁶⁷

Thus, the IFC Performance Standards also apply to the upstream portion of the project, which are located in an extremely biodiverse and sensitive area.

D. The IFC is Materially Exposed to the Ugandan Oil Projects Through Britam

The IFC is materially exposed to the harms arising from the three interrelated oil projects in Uganda and Tanzania through its equity investments in Britam Insurance. This section will outline each of the CAO’s eligibility requirements, including an assessment of the IFC’s material exposure to the sub-project.

The CAO establishes three eligibility criteria for complaints:⁶⁸

1. The complaint relates to an Active Project;
2. The issues raised in the complaint pertain to CAO’s mandate to address environmental and social impacts of Projects; and
3. The Complainant is or may be affected by the harm raised in the complaint.

In addition to the criteria outlined above, for complaints pertaining to financial intermediary clients, the CAO also considers whether:⁶⁹

- a) The complaint pertains to a sub-project within the scope of the financial product being offered to an FI by IFC or guarantee by MIGA under the applicable financing agreement or contract of guarantee (e.g., if IFC is providing equity or financial support of a general-purpose, or the Sub-Project is within any ringfence that IFC contractually established with the FI);
- b) There is a material link between the FI Client and its active Sub-Client that is the subject of the complaint (considering factors including the nature of the financing, the share, type, and tenor of the FI investment/debt exposure to the Sub-Project); and
- c) There are indications of a plausible link to harm or risk of harm to the Complainant related to the Sub-Project.

⁶⁶ IFC, “Performance Standards on Environmental and Social Sustainability” (Requirements, Identification of Risks and Impacts), Par. 8, pp 3-4, 1 January, 2012.

⁶⁷ Climate Policy Initiative, “Understanding the impact of a low carbon transition on Uganda’s planned oil industry,” December 2020.

⁶⁸ IFC/MIGA, “Independent Accountability Mechanism (CAO) Policy”, Para. 37, Accessed 5 October, 2021.

⁶⁹ *Ibid.*, Para. 41(a)

As outlined in the introduction, the complaint does pertain to the CAO’s mandate to address environmental and social impacts of the IFC’s investment in Britam, and the Complainants have been or stand to be adversely impacted by the harms related to the sub-project(s). Therefore, the complaint clearly satisfies criteria two and three, as well as the FI sub-criterion c.

Given the nature of the IFC’s equity investment in Britam, IFC funds are unable to be ringfenced to any particular activities of the client. As a shareholder in Britam, the IFC is exposed to all of the firm’s operations, thereby satisfying FI sub-criterion a.

The complaint relates to an active financial link between the IFC and the financial intermediary client Britam, satisfying criterion 1. Regarding FI sub-criterion b, and whether the oil projects are “active Sub-Clients”, we submit that Britam’s founding membership of the Consortium, which is established for the very purpose of providing insurance to the oil projects⁷⁰—*and is legally required to do so*—satisfies this criterion.⁷¹

Moreover, Britam has unequivocally communicated its intention to provide insurance to the oil projects as soon as they reach the insurance mobilization stage. With the deadline for expressions of interest for insurance brokerage services for the EACOP passing several months ago and the recent statements made by EACOP General Manager Martin Tiffen, the insurance mobilization stage is now underway.⁷² It may be the case that memoranda of understanding or other initiation documentation or agreements have already been entered into, but we are not privy to this information.

The IFC is materially exposed to the sub-project(s) considering the additional factors set out in FI sub-criterion b, such as the nature of the financing, the share amount, type, and tenor of the FI investment. The IFC is not a marginal or minor financial contributor to Britam. Rather, it is among the top three shareholders in Britam, with multiple ongoing holdings held both directly and indirectly through a private equity fund.⁷³ As Britam itself has commented, the IFC also played a catalytic role in allowing Britam to attract additional development finance investments, a stated goal of IFC’s investment in Britam.⁷⁴ The IFC was the first of numerous development finance institutions to invest in Britam, having invested directly in Britam in 2017, then again one year later alongside FMO, Proparco, AFD, DEG and CDC through the private equity fund Africinvest III. The private equity fund invested an additional 4.4 million one year after that.⁷⁵

In turn Britam, in an attempt to market itself as capable of underwriting the immensely risky oil and gas industry in Uganda, publicly touted its strong shareholder base, naming the IFC as among its top shareholders alongside Swiss Re and a consortium of European DFIs.⁷⁶ Britam claimed its numerous DFI investments “guarantees services at international standards,” and stated, “our shareholders are world players [...] for this reason, we are well positioned to deliver.”⁷⁷ In light of these comments, it

⁷⁰ [IRA Uganda](#), “The Uganda Oil and Gas Co-Insurance Consortium Guidelines, 2019”, Accessed 5 October, 2021.

⁷¹ Under Ugandan law, which prioritizes the provision of goods and services by local providers prior to outsourcing contracts to foreign actors, local insurance underwriting capacity must be fully exhausted before insurance can be sought outside of the country. See [Ibid.](#)

⁷² [Ibid.](#) Daily Monitor, “Oil pipeline company starts work next month”.

⁷³ See section II.a. above for a description of the IFC’s multiple financial exposures to Britam.

⁷⁴ [IFC](#), “IFC’s Role and Additionality,” Accessed 5 October, 2021; [IFC](#), “Stamp of Approval: Britam is a system-critical player in Kenya’s and East Africa’s insurance space”, Accessed 5 October, 2021; [Britam](#), “Britam Plc shareholders approve Shs 5.7 billion investment by AfricInvest Equity Fund”, 11 October, 2017.”

⁷⁵ [Atlas Magazine](#), “AfricInvest increases its stake in Britam Holdings’s capital”, January 2019.

⁷⁶ [Forbes Africa](#), “Uganda”, p. 15, May 2021.

⁷⁷ [Ibid.](#)

is clear that the IFC's investment in Britam was critical in allowing the firm to participate in the underwriting of high risk projects, in particular in the Ugandan oil sector.

Further, the nature of support to the sub-project being offered by the FI clients is extremely significant. Insurance coverage is a crucial financial service, without which none of the projects could proceed. It would not be possible for the project sponsors to secure additional equity investment, debt finance, procurement contracts or other goods and service contracts without the security that insurance will provide in insulating each actor from financial risk. While this is the case for all large infrastructure projects, it is particularly essential for projects as complex and risky as oil extraction, transport and processing. Insurance is also a long-term service that will last throughout a significant portion of the project's lifecycle. In this sense, the FI client is providing a financial service critical to the initial viability and bankability of the sub-projects, as well as their long-term operation.

II. IFC's Non-Compliance with Applicable Policies

As a financial intermediary client, the IFC environmental and social standards apply to Britam's high risk clients, including those that receive Britam's insurance products. According to the IFC Environmental and Social Review Procedures Manual, the E&S requirements for commercial banks and non-banking financial institutions are the same:

*“Commercial Banks and Non-Banking Financial Institutions: For FI investments where the FI is engaged in providing products such as equity, loans, leasing, **insurance**, guarantee products or factoring, and in the case of financial holding companies, the LESS [The Lead Environmental or Social Specialist] shall categorize the project based on the expected portfolio risk and in accordance with the Tip Sheet Compendium, and require the FI to implement a ESMS to support application of the IFC Exclusion List, List of Restricted Activities, applicable national E&S regulations, and the IFC PSs, where required, in accordance with paragraph 3.2.2.”*⁷⁸ (emphasis added)

IFC's 2016 transaction to purchase equity in Britam Insurance is subject to IFC's 2012 Sustainability Framework, including the Sustainability Policy and IFC Performance Standards. Under the Sustainability Policy, environmental and social risk management requirements apply to the entire portfolio of a financial intermediary client, originating from the time IFC becomes a shareholder.⁷⁹

IFC classified its investment in Britam as category FI-2, stating “some Britam sub-projects could potentially be high risk,” but concluding, “the overall portfolio risk is considered medium as the overall risks associated with the company's activities are considered limited.”⁸⁰ Given the extremely high risk nature of the oil projects that Britam may have already been considering underwriting at the time, this is likely to have been a mis-categorization. Because the purpose of IFC's investment was to increase Britam's capacity to underwrite larger scale projects, which were also likely to be higher risk, this should have been anticipated by IFC.

IFC is required, under the Sustainability Policy, to ensure that its financial intermediary client has in place an effective Environmental and Social Management System (ESMS) capable of managing risk throughout its portfolio. At the time of investment, the IFC identified the main E&S risks and impacts

⁷⁸ IFC, “Environmental and Social Review Procedures Manual”, par. 3.3.4, Accessed 5 October, 2021.

⁷⁹ IFC, “Policy on Environmental and Social Sustainability”, Par. 37, 2012.

⁸⁰ IFC, “E&S Categorization Rationale”, Accessed 5 October, 2021.

of its investment in Britam as relating to “the ability of the company to identify and manage the E&S risks associated with its business activities (Performance Standard 1) as well as the company’s labor standards (Performance Standard 2).” The IFC’s assessment of Britam’s risk management procedures “revealed that although E&S issues are assessed for certain transactions, the Company is working to enhance its E&S risk management processes to meet IFC’s Performance Standards.”⁸¹ The IFC implemented an environmental and social action plan (ESAP) intended to address these gaps, which included requirements for Britam’s establishment of an ESMS and staff training.⁸² Further details of the action plan are not disclosed.

Although the IFC identified gaps in Britam’s ability to identify and manage E&S risks throughout its portfolio at the time of investment and suggested it would assist in the implementation of an action plan, it appears that the IFC has since failed to ensure that Britam has developed a robust and effective ESMS system. While Britam adopted a short Environmental and Social Sustainability Policy in 2018, which refers to the future establishment of an ESMS,⁸³ we found no evidence on Britam’s website that it has actually developed such a management system. If Britam did establish an ESMS in line with the action plan, that system appears to have been functioning ineffectively at the time of Britam’s decision to support Uganda’s oil sector development, and the oil projects in particular, and contribute resources to the Insurance Consortium for Oil and Gas.

The provision of insurance services to the world’s longest heated crude oil pipeline, which will open Uganda’s largest national park to oil drilling, and a refinery with well-documented existing human rights violations—all extremely high-risk projects with multiple ongoing legal challenges and well-publicized community opposition—amount to unequivocally high-risk transactions which should have triggered environmental and social due diligence. In accordance with IFC E&S requirements, Britam should have assessed whether the oil projects are capable of meeting the Performance Standards, and given the unmanageable degree of risk, ultimately declined to consider underwriting the projects.

Although TotalEnergies has publicly committed to applying the Performance Standards in the implementation of the Tilenga and EACOP projects, due diligence beyond the company’s own self-reporting would have revealed significant controversy surrounding the projects, including a robust public campaign to stop the construction of the EACOP, and exhaustive documentation of existing and anticipated serious human rights violations at each of the three sub-project sites.⁸⁴ The reports and community-based impact assessments referenced in Section III of this complaint have been widely publicized since their publication in 2020, have been referenced by the project sponsors themselves, and have been reported in East African and global media outlets. Each of the three sub-project components are subject to ongoing and well-publicized legal challenges at the domestic, regional and international level—including the first groundbreaking lawsuit under France’s Duty of Vigilance Law. Meanwhile, reprisals against individuals or organizations that speak out against the oil projects have become commonplace.

In addition to IFC’s requirements, common practice within the insurance industry should have triggered a heightened environmental and social due diligence process by Britam. The insurance industry has increasingly begun to apply environmental and social criteria to its underwriting decisions,

⁸¹ [Ibid “Britam Kenya”](#)

⁸² [Ibid “Britam Kenya”](#)

⁸³ [Britam](#), “Environmental and Social Sustainability Policy”, January 2018.

⁸⁴ [#StopEACOP](#), “Publications”, Accessed 5 October, 2021.

including those related to human rights, biodiversity and climate change.⁸⁵ In fact, the EACOP project has already triggered environmental and social due diligence at several major financial institutions and multinational insurance firms, prompting several financiers⁸⁶ and one insurer to publicly state that it will avoid underwriting the EACOP because the project does not align with its risk appetite or climate commitments.⁸⁷ Thus, Britam should be expected to have applied the same level of due diligence in its decision to join the Consortium for Oil and Gas and contribute resources to underwrite the oil projects. Under its own Sustainability Policy, IFC should have ensured Britam's ESMS was prepared to conduct due diligence on such transactions in this manner.

Additionally, IFC should have carried out periodic review of the effectiveness of Britam's environmental and social due diligence process from the point at which the IFC invested in Britam in 2017. In order to do so, the IFC should have reviewed a sample of Britam's underwriting activities, with a focus on higher risk business operations.⁸⁸ As per IFC policy, Britam's publicly-stated intention to underwrite Uganda's oil and gas sector development should have triggered heightened supervision measures by the IFC.⁸⁹ It should have also prompted the IFC to support Britam to address the shortcomings of its ESMS.⁹⁰ There is no indication that IFC took steps of this nature, which would constitute a failure to comply with its supervisory responsibilities under the Sustainability Policy.

III. Sub-Project Harms and Non-Compliance with IFC Performance Standards

The adverse impacts of oil and gas projects have been well documented worldwide.⁹¹ The inherent risks and negative impacts of oil development are exacerbated in the high-risk country contexts of Uganda and Tanzania, two countries with poor human rights records, suppressed civic space, significant corruption, and weakened capacity to hold foreign private actors to account for cost-cutting efforts that lead to environmental and social harm.⁹² The project sponsors have faced significant delays during which the value of the oil reserves have plummeted, creating great economic incentive to move the projects forward at any environmental and social cost, and at the lowest expense possible.⁹³ In this context, the Ugandan government's ability and willingness to enforce a robust institutional and legal framework to govern oil sector developments have not been sufficient to protect against human rights and environmental impacts.⁹⁴

⁸⁵ As evidenced by recent policy developments by some of the industry's leading players. For instance, earlier this year eight of the world's largest (re)insurers launched the [UNEP-FI Net Zero Insurance Alliance](#). Similarly, the Lloyd's of London insurance market recently established ESG-related underwriting guidelines for its roughly 100 syndicate members, requiring them to halt insurance coverage for certain types of fossil fuel projects by January 2022. See: [Lloyd's of London ESG Guidelines](#) (16 December, 2020). Many major insurance firms have individually established robust E&S due diligence guidelines related to human rights and the environment. See, for instance, [Allianz oil and gas due diligence guideline](#) (29 March, 2021).

⁸⁶ [African Development Bank](#), "African Development Bank strongly rebuts claims that it plans to provide financial support to the East African Crude Oil Pipeline Project", 18 April 2020; [#StopEACOP](#), "Banks Checklist", Accessed 5 October, 2021.

⁸⁷ [Emerging Risks](#), "First insurer refuses cover for pipeline project", Accessed 5 October, 2021.

⁸⁸ [Ibid.](#) IFC, "Policy on Environmental and Social Sustainability", Par. 45.

⁸⁹ [Ibid.](#)

⁹⁰ [Ibid.](#)

⁹¹ [OECD](#), "Resource course in oil exporting countries, Economics (Department Working paper No. 1511)", 22 October, 2018. -see also- [Michael L. Ross](#), "What have we Learnt About the Resource Course?", 2015.

⁹² While many local and national civil society organizations operate in Uganda, they face significant state-sanctioned harassment, intimidation and restrictions. Within the past month, the Ugandan government has attempted to close the operations of over 50 environmental and human rights organizations, including those active in challenging the oil and gas projects that are the subject of this complaint. [AFIEGO](#), "AFIEGO and partners' response to NGO Bureau Suspension: Gov't is Targeting Critical CSOS", 20 August, 2021.] -See also- [Freedom House](#), "Freedom in the World Report-Uganda", Accessed 5 October, 2021.

⁹³ [Climate Policy Initiative](#), "Understanding the impact of a low carbon transition on Uganda's planned oil industry"; [The Africa Report](#), "Post-coronavirus: more sorrow for Africa's new oil and gas producers", 27 May, 2020.

⁹⁴ [Ibid.](#) "New Oil, Same Business?: At a Crossroads to Avert Catastrophe in Uganda," p. 6.

Due to the inherently destructive nature of the oil projects and clear community opposition set within a repressive civic space, it appears impossible for the projects to substantively meet the objectives and requirements of the Performance Standards. Already, before commercial extraction and construction of the pipeline has begun, serious ongoing human rights impacts have been documented.⁹⁵ The construction and operational phases are expected to cause additional serious adverse impacts to communities within the oil extraction and pipeline areas, including by placing at risk the water resources of over 40 million people,⁹⁶ and irremediably degrading the livelihoods of farmers, fisherfolk and tourism business owners that rely upon the region's rich natural resources.⁹⁷ The projects will also result in extensive irreversible environmental damage within Murchison Falls National Park and numerous other protected areas.⁹⁸ Moreover, the projects will enable the extraction and transport of enough oil to generate 34 million metric tons of additional carbon emissions per year at peak production, significantly more than the current combined emissions of Uganda and Tanzania.⁹⁹

Given that many of these human rights, environmental and climate risks are inherent to the project design and purpose, the Complainants consider them impossible to adequately mitigate. The companies, insurers, and financiers supportive of the projects are therefore highly unlikely to be able to meet their responsibilities under the UN Guiding Principles on Business and Human Rights,¹⁰⁰ and operate in line with the Paris Agreement.¹⁰¹

The serious ongoing impacts and future risks caused by the Tilenga, Kingfisher, EACOP and oil refinery projects have been exhaustively documented in numerous community-based impact assessments¹⁰² and independent expert studies.¹⁰³ This section will draw upon that information, as well as the experience of the Complainants, in providing an overview of the oil projects' non-compliance with the IFC Performance Standards on Environmental and Social Sustainability as well as Ugandan national law (as required by Performance Standard 1). This overview does not exhaustively cover every risk and impact of the projects or areas of non-compliance with the Performance Standards.

Shortcomings of Project-Related Assessments and Consultation Processes (PS1, PS5)

⁹⁵ [Ibid.](#), “New Oil, Same Business?: At a Crossroads to Avert Catastrophe in Uganda; [Ibid.](#), “Empty Promises Down the Line?”.

⁹⁶ [Ibid.](#), “Empty Promises Down the Line?”, p. 71; [MapforEnvironment](#), “EACOP- A Spatial Risk Perspective”, 7 April, 2021. [The extraction project puts at risk the Murchison landscape, which supports roughly 1 million people.]

⁹⁷ [Ibid.](#), “Empty Promises Down the Line”, p. 7, 58-69. [Ibid.](#), “A Nightmare Named Total”, p. 23-26.

⁹⁸ [E-Tech International](#), “Tilenga Project - Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production B.V. Uganda”, 8 December, 2019; [MapforEnvironment](#), “EACOP a spatial risk perspective”, 7 April, 2021; [WWE](#), “Safeguarding people & nature in the East Africa crude oil pipeline project”, July 2017.

⁹⁹ ELAW Evaluation of the ESIA for the East Africa Crude Oil Pipeline Tanzanian Span, at p. 1.

¹⁰⁰ [United Nations](#), “Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework”, 2011.

¹⁰¹ [United Nations](#), “Paris Agreement”, 2015.

¹⁰² [#StopEACOP](#), “Publications”, Accessed 5 October, 2021; [Les Amis de la Terre](#), “Serious Breaches of the Duty of Vigilance Law: The Case of Total in Uganda,” June 2019; [Ibid.](#), “A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania”; [Ibid.](#), “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline”; [Ibid.](#), “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”

¹⁰³ [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” June 2019; [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Resubmitted Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” p. 7-9, October 2020; [E-Tech International](#), “Tilenga Project – Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production,” December 2019; [E-Tech International](#), “Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda,” May 2019.

Performance Standard 1 requires IFC clients and sub-clients to establish and maintain a process for identifying the environmental and social risks and impacts of the project, including through an environmental and social impact assessment.¹⁰⁴ It also requires effective consultation with affected communities, stating, “The purpose of community engagement is to build and maintain over time a constructive relationship,” with communities, “free of manipulation, interference, or coercion, and intimidation, and conducted on the basis of timely, relevant, understandable and accessible information.”¹⁰⁵ Pursuant to PS1, IFC clients and sub-clients are to provide affected communities with “access to information on the purpose, nature and scale of the project, the duration of proposed project activities, and any risks to and potential impacts on such communities.”¹⁰⁶ For high-impact projects, PS1 requires that “the consultation process will ensure their free, prior and informed consultation and facilitate their informed participation. Informed participation involves organized and iterative consultation, leading to the client’s incorporating into their decision-making process the views of the affected communities on matters that affect them directly, such as proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues.”¹⁰⁷ Performance Standard 5 echoes the requirements of PS1 with respect to informed participation of affected communities on land acquisition and resettlement processes.¹⁰⁸

These requirements have not been met by sponsors of the sub-projects. The adequacy of the Tilenga and EACOP assessments are subject to multiple legal challenges, including the first lawsuit under the French Duty of Vigilance law for TotalEnergies’ failure to identify and map the risk of human rights violations and environmental harm associated with its Tilenga operations, and to effectively implement preventative and mitigation measures.¹⁰⁹ In May 2019, a legal action was filed by Ugandan non-governmental organization African Institute for Energy Governance (AFIEGO) alongside youth leaders under the umbrella organization Guild Presidents’ Forum on Governance (GPFORG). The suit was filed against Uganda’s National Environment Management Authority (NEMA) and the Petroleum Authority of Uganda (PAU) seeking the cancellation of the Tilenga ESIA certificate on the basis of alleged irregularities and illegalities that were seen prior to issuance of the Tilenga oil project’s ESIA certificate of approval.¹¹⁰ Notably, the ESIA for the Tilenga project’s feeder pipeline¹¹¹ was approved without public consultation, despite the feeder pipeline posing a major risk to Lake Albert, which serves as the biggest contributor to Uganda’s fisheries (supplying 43%).¹¹² Further, Ugandan civil society allege that the Ugandan National Environment Management Authority (NEMA) decision to issue a certificate of approval for the EACOP ESIA was illegal, as the ESIA report did not include a resettlement action plan at the time of its approval in December 2020.¹¹³

The oil project sponsors have systematically failed to adequately consult and disclose information in an accessible form to project-affected people and civil society. Oxfam’s community-based human rights impact assessment of the EACOP refers to a “generalized concern about the lack of information around issues that really matter to the communities,” including in regards to the destruction of graves,

¹⁰⁴ IFC, “Performance Standards on Environmental and Social Sustainability” (Performance Standard 1), Par. 7, 1 January, 2012.

¹⁰⁵ *Ibid.* Par. 9.

¹⁰⁶ *Ibid.* Par. 20.

¹⁰⁷ *Ibid.* Par. 31

¹⁰⁸ *Ibid.* (Performance Standard 5) Par. 9.

¹⁰⁹ *Les Amis de la Terre France*, “Total Uganda: A First Lawsuit Under the Duty of Vigilance Law,” October 2020.

¹¹⁰ *Ibid.* “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, p. 29; *AFIEGO*, “Youth and CSO Case Against Tilenga EIA Certificate set for Hearing Today”, October 2019.

¹¹¹ *Total*, “Tilenga feeder pipeline ESIA report”, February 2020.

¹¹² *Uganda Bureau of Statistics*, “2019 Statistical Abstract”, p 79, Accessed September 30, 2021. The fishing industry is one of the highest foreign exchange earners in Uganda.

¹¹³ *AFIEGO*, “The Energizer”, p. 7, April 2021.

cemeteries and other sacred sites.¹¹⁴ While project sponsors state that they have developed strategies to mitigate such risks, Oxfam confirms that, “based on information collected during community consultations, this information does not seem to have reached everyone or have been clearly understood.”¹¹⁵ Overall, the complainants point to significant information gaps that persist despite the companies’ outreach efforts, and an environment of distrust among affected communities.

Although the Tilenga, Kingfisher and EACOP Environmental Impact Assessments, Human Rights Impact Assessments, and Resettlement Action Plans have been disclosed publicly, the element of accessibility and meaningful consultation is entirely lacking. For instance, on March 8, 2021, after significant pressure from local and international civil society, TotalEnergies published a range of assessments and reviews related to the Tilenga and EACOP projects.¹¹⁶ The documents were kept confidential for years following their completion, and only disclosed after key project-related agreements had been signed. Draft versions of the reports and prompt disclosure of independent assessments were not provided for public comment, nor disclosed for the purposes of community consultation.

Transparency in line with the Performance Standards requires more than the publication of lengthy technical documents online. It requires, in addition, accessible explanations to affected communities of the risks and prevention or mitigation measures for the purpose of meaningful consultation. All reports from affected communities indicate that this has not occurred. Rather, consultations undertaken by the project sponsors have been ineffective and largely intended to legitimize the projects and attract international financing, rather than seek the informed input of affected communities. The Tilenga ESIA certificate is currently subject to a legal challenge in Uganda for procedural violations, including the flawed consultation process.¹¹⁷

The ESIA’s for the Tilenga, Kingfisher and EACOP projects have also been heavily criticized as insufficient by independent experts, including the Netherlands Commission for Environmental Assessment (NCEA) and engineering firm E-Tech International, which found numerous gaps and shortcomings in the risk assessment and mitigation plans.¹¹⁸ In response to the EACOP’s initial ESIA non-technical summary and executive summary, NCEA notes, “Positive impacts seem to be presented (far too) rosy. The negative impacts are only mentioned in a very superficial and reassuring way (unspecified numbers of negative impacts only), without explaining why the reassurance is justified. The negative (cumulative) impacts have been downplayed,” and concludes that the assessment is overall “not fit for purpose.”¹¹⁹ In its follow-up assessment of the revised and resubmitted ESIA, NCEA determined that these shortcomings were only partially or insufficiently addressed.¹²⁰

¹¹⁴ [Ibid.](#), “Crude risk: Risks to banks and investors from the East African Crude Oil Pipeline”, p 4; [Ibid.](#) “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” p. 56.

¹¹⁵ [Ibid.](#)

¹¹⁶ [TotalEnergies](#), “Tilenga & EACOP: Two projects rigorously researched and assessed”, 8 March 2021.

¹¹⁷ [Oil in Uganda](#), “Tilenga ESIA Certificate: CSOs Want Court to Strike Out NEMA’s Evidence,” November 2019; [Ibid.](#), “Youth and CSO Case Against Tilenga EIA Certificate set for Hearing Today”, October 2019.

¹¹⁸ [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” June 2019; [E-Tech International](#), “Tilenga Project – Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production,” December 2019; [E-Tech International](#), “Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda,” May 2019; [E-Tech International](#), “Review of Adequacy of ESIA Environmental Mitigation for the CNOOC Kingfisher Oil Development Project”, 12 May, 2019.

¹¹⁹ [Ibid.](#), “Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” p. 4, 6.

¹²⁰ [Ibid.](#), “Advisory Review of the Resubmitted Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline,” p. 7-9.

Additional expert reviews of the Tilenga, Kingfisher and EACOP ESIA's have documented TotalEnergies' and CNOOC's failure to utilize industry "best available techniques" to avoid, mitigate and offset their environmental impacts. The expert reviews find that, in many respects, both companies have prioritized low production costs over the utilization of best available technique.¹²¹ See section below on Performance Standard 6 for more detail on these shortcomings.

In relation to all sub-project components (EACOP, Tilenga, Kingfisher and the oil refinery), affected communities have not been meaningfully informed of the land evaluation and acquisition process or timeline, including the project start dates. Affected communities, including the Complainants, report significant confusion, fear and anxiety as a result of gaps in communication of this information. See the section below on Performance Standard 5 for more detail on this issue.

PS1 also requires IFC clients and sub-clients to establish effective operational-level grievance mechanisms capable of receiving project-related complaints and facilitating resolution to affected communities' concerns.¹²² Although the sub-clients claim to have established an operational-level grievance mechanism for the EACOP, Tilenga and Kingfisher projects, the Complainants make clear that no effective grievance mechanism exists to address the complaints of affected community members. The mechanism that exists is not accessible, independent, or equipped to resolve the serious human rights abuses present. Community members report that those receiving the complaints are often the individuals perpetrating harm, including oil companies' community liaison officers and project sub-contractors. They report a lack of accessibility, with individuals not being able to record complaints; and lack of timeliness, transparency, and effectiveness, causing complainants to abandon the multi-level process. In these instances, where complainants give up or decide not to contest a resolution, the complaints are marked resolved in the project sponsors' internal documents. Moreover, community members whose land is being acquired for the EACOP project have reported being intimidated when they report grievances.¹²³

Finally, the project sponsors and Ugandan and Tanzanian governments have failed to disclose several major contracts and project-related documents for public scrutiny. During the first half of 2021, several binding contracts to progress the EACOP project were signed, including Host Government Agreements with Uganda and Tanzania, the Shareholders Agreement and the Tariff and Transportation Agreement. None of these agreements have been made public. The "EACOP Bill," or enabling legislation for the EACOP project has also not been disclosed.¹²⁴ This lack of transparency has been vocally criticized by Ugandan lawyers and civil society organizations, including the Complainants, and is now the subject of a legal challenge.¹²⁵ The Complainants contend that these failures are not in accordance with the Ugandan government's commitments within the Extractive Industries Transparency Initiative (EITI).

¹²¹ [E-Tech](#), "Tilenga Project - Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production B.V. Uganda", 8 December, 2019; [E-Tech](#), Review of Adequacy of ESIA Environmental Mitigation for the CNOOC Kingfisher Oil Development Project", 12 May, 2019.

¹²² [Ibid.](#) "Performance Standards on Environmental and Social Sustainability" (Performance Standard 1), Par. 35.

¹²³ [Uganda Radio Network](#), "CSOs Decry Intimidation of EACOP Affected Persons in Masaka", April 2021.

¹²⁴ [Ugandan and DRC CSO](#) "Communique rejecting secret Tilenga, Kingfisher and EACOP oil deals", April 2021.

¹²⁵ [AFIEGO](#), "Ugandan and DRC CSOs' Communique Rejecting Secret Agreements Signed For The Lake Albert Oil Project in Uganda", p. 1, 5, April 2021. [Lawyer Male Mabirizi has requested disclosure of the documents under Uganda's Access to Information Act, but his request was denied. Mabirizi has since filed an application before the Mengo Chief Magistrates Court seeking to compel the government to disclose the documents in question.] See: [The Independent](#), "Don't disclose oil pipeline agreement contents, solicitor general warns government", 31 August, 2021.

Risks Associated with Improper Handling of Hazardous Waste and Oil Spills (PS3; PS4)

Performance Standard 3 requires IFC clients and sub-clients to avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities. The standard calls upon sub-clients to apply resource efficiency and pollution prevention principles and techniques tailored to the hazards and risks associated with the nature of the project and consistent with good international industry practice.¹²⁶ Performance Standard 4 requires clients to avoid or minimize the risks and impacts to community health, safety and security that may arise from project-related activities, including by addressing impacts on ecosystem services that may result in adverse health and safety risks to affected communities.¹²⁷ PS4 reinforces the requirement of PS1 to establish and publicly disclose all emergency preparedness and response plans in collaboration with affected communities, local governments and other relevant parties.¹²⁸

Independent expert reviews of the Tilenga, Kingfisher and EACOP ESAs document the project sponsors' failure to apply "best available techniques" to prevent and mitigate degradation of ecosystem services at the project site, choosing to employ low-cost technology for oil drilling and water crossings.¹²⁹ These failures create foreseeable risk to the health and safety of community members. See the section below on non-conformance with PS6 for more detail on these shortcomings.

The prospect of an oil spill or leak from the EACOP poses a significant risk to water resources in the region. The pipeline route traverses numerous bodies of water relied upon by local communities, and puts at risk the groundwater that local communities use to meet their daily needs.¹³⁰ About one third of the pipeline (460km) will run along the western and southern perimeter of Lake Victoria, Africa's largest lake, which directly supports the livelihoods of more than 40 million people in the region.¹³¹ The risk of oil spills or leaks is compounded by the fact that the pipeline will traverse an area of particularly high seismic activity, the Rift Valley.¹³² A technical review of the pipeline ESIA confirmed, "EACOP oil spills will occur over the lifetime of the project."¹³³ Despite this, the EACOP ESIA does not contain a robust oil spill emergency response plan, including measures to support communities whose drinking water would be contaminated in the case of a spill. TotalEnergies has stated that the oil spill response plans will be "finalized prior to commissioning of the pipeline when hydrocarbons are introduced into the system." However, the companies should make these plans public and consult stakeholders well before the pipeline is given a green light.¹³⁴ This failure creates foreseeable risk to the health and safety of community members and demonstrates clear non-conformance with PS3 and PS4.

¹²⁶ [Ibid.](#) "Performance Standards on Environmental and Social Sustainability" (Performance Standard 3), Par. 1-5.

¹²⁷ [Ibid.](#) (Performance Standard 4), Par. 1, 8.

¹²⁸ [Ibid.](#) (Performance Standard 4), Par. 11.

¹²⁹ [E-Tech International](#), "Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda," May 2019; [E-Tech](#), "Tilenga Project - Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production B.V. Uganda", 8 December, 2019; [E-Tech](#), "Review of Adequacy of ESIA Environmental Mitigation for the CNOOC Kingfisher Oil Development Project", 12 May, 2019.

¹³⁰ [Ibid.](#) "Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline"; [WWF and CSCO](#), "Safeguarding People & Nature in the East African Crude Oil (EACOP) Pipeline Project, A preliminary environmental and socio-economic threat analysis," 2017, p. 1.

¹³¹ [Banktrack](#), "Crude Risk", p. 5, November 2020.

¹³² [Ibid.](#); [MapforEnvironment](#), "EACOP a special risk perspective", 7 April, 2021.

¹³³ [E-Tech International](#), "Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda," May 2019.

¹³⁴ [Total](#), "Total's Reaction to Oxfam Report", September 2020.

Where hazardous waste generation cannot be avoided, PS3 requires clients and sub-clients to “reduce the generation of waste and recover and reuse waste in a manner that is safe for human health and the environment. Where waste cannot be recovered or reused, the client will treat, destroy or dispose of it in an environmentally sound manner [...] when hazardous waste disposal is conducted by third parties, the client will use contractors that are reputable and legitimate enterprises licensed by the relevant government regulatory agencies,” or consider alternative disposal options.¹³⁵ Safeguards to this effect have not been effectively established at both the Tilenga and Kingfisher oil field projects, where independent experts found that both projects are resorting to low-cost options for hazardous waste disposal, including through the outsourcing of waste disposal to inexperienced local sub-contractors.¹³⁶ TotalEnergies has defended its decision to outsource waste disposal to local contractors despite the fact that, “there is no history in Uganda of successful operation of hazardous waste landfills at a standard necessary to process drilling wastes from the Tilenga Project,” as noted in the project’s ESIA technical review.¹³⁷

Moreover, recent studies conducted in 2021 by Makerere University researcher, Abraham Mwesigye, found that poor oil waste disposal and management in the Albertine Graben has already led to the contamination of soil and two water bodies, impacting agricultural livelihoods.¹³⁸

Retaliation Against Human Rights Defenders (PS4)

PS4 also requires appropriate identification and mitigation of safety risks.¹³⁹ This standard is not being met with regard to the risks facing community members that express criticism of the project, community members who report grievances in the land acquisition process, and human rights defenders seeking to challenge the project through litigation and non-legal means.¹⁴⁰ Community members, human rights defenders, environmental defenders and journalists critical of the oil projects have experienced harassment, intimidation, security threats, and retaliation, including arbitrary arrest and detention. Community members who attempt to assert their rights in the face of unfair compensation for land have also been subject to similar treatment.¹⁴¹ Community members have expressed fear of retaliation that prevents them from speaking freely and openly about the projects and engaging meaningfully in consultation with the project sponsors and has led to the coercion of landowners during the land valuation and acquisition processes.¹⁴²

Despite claiming to engage in consultation with affected communities, the project sponsors TotalEnergies and CNOOC have failed to effectively address these risks. The risks facing human rights defenders in relation to the oil projects have prompted the scrutiny of several United Nations Special Procedures, who in 2020 wrote letters to TotalEnergies, and to the French and Ugandan governments.¹⁴³ As recently as May 2021, a human rights defender and journalist were arbitrarily

¹³⁵ [Ibid.](#), “Performance Standards on Environmental and Social Sustainability” (Performance Standard 3), Par. 12.

¹³⁶ [E-Tech](#), Review of Tilenga ESIA; [E-Tech](#), Review of Kingfisher ESIA.

¹³⁷ [Ibid.](#)

¹³⁸ [Abraham Mwesigye](#), “Impacts of oil exploration and waste disposal on the environment and livelihoods in the Albertine Graben”, 2021.

¹³⁹ [Ibid.](#), “Performance Standards on Environmental and Social Sustainability” (Performance Standard 4), Par. 5-6.

¹⁴⁰ [United Nations Human Rights Council Special Rapporteurs](#), “Letter to Total CEO”, April 2020;

“[Letter to the President of Uganda](#)”, April 2020; [Ibid.](#), “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline”; [Les Amis de la Terre](#), “A Nightmare Named Total”;

¹⁴¹ See, e.g., [FIDH](#), “Uganda: Arbitrary detention of a HRD and a journalist working on impacts of Total projects”, 26 May 2021.

¹⁴² [Les Amis de la Terre](#), “A Nightmare Named Total.”

¹⁴³ [United Nations Human Rights Council Special Rapporteurs](#), “Letter to Total CEO”, April 2020;

arrested and detained without charge whilst conducting interviews with oil-affected communities in Uganda's Buliisa district.¹⁴⁴

Civil society organizations and journalists working with oil-affected communities have also been subject to harassment and retaliation. Within the past month, the Ugandan government has attempted to close the operations of over 50 environmental and human rights organizations, including those active in challenging the oil and gas projects that are the subject of this complaint.¹⁴⁵

As with the oil fields and pipeline, the refinery project has also been carried out in an environment characterized by repression, intimidation, and reprisals against environmental and human rights defenders, as well as local community members in the affected area.

Improper Land Valuation, Acquisition and Compensation Processes and Significant Land Use Restrictions (PS5)

Recognizing that involuntary resettlement and displacement, including both physical and economic displacement, can cause long-term hardship and impoverishment, IFC PS 5 requires projects to avoid resettlement whenever possible and to minimize resettlement and mitigate adverse impacts whenever it is unavoidable.¹⁴⁷ According to TotalEnergies, the Tilenga and EACOP projects will require the acquisition of 6,400 hectares of land, upon which the primary residences of 723 households are located.¹⁴⁸ This number significantly downplays the scale of land loss resulting from the interrelated oil projects, including the economic displacement of farming communities. As detailed in the introduction to this complaint, the oilfield and pipeline projects will result in the loss of land for more than 120,000 individuals.¹⁴⁹

¹⁴⁴ ["Letter to the President of Uganda"](#), April 2020.

¹⁴⁴ [Business & Human Rights Resource Center](#), "Uganda: Human Rights Defender Maxwell Atuhura Released on Police Bond But Faces Prosecution for 'Unlawful Assembly'", 27 May, 2021.

¹⁴⁵ [AFIEGO](#), "AFIEGO and partners' response to NGO Bureau Suspension: Gov't is Targeting Critical CSOS", 20 August, 2021.

¹⁴⁷ [Ibid.](#), "Performance Standards on Environmental and Social Sustainability" (Performance Standard 5), Par. 2.

¹⁴⁸ [Total](#), "Uganda and Tanzania: Total Acts in Transparency on Social and Environmental Stakes of the Lake Albert Resources Development Project," March 2021.

¹⁴⁹ Roughly 13,000 households across Uganda and Tanzania, accounting for more than 86,000 individuals, have lost or will lose land as a result of the EACOP. A further 4,865 households, accounting for 31,716 individuals, are directly affected by the Tilenga oilfield. The Kingfisher oilfield will impact 680 households, or roughly 2,949 individuals. In sum, the oilfields and pipeline are expected to directly impact the land of roughly 120,000 individuals. [See: [Les Amis de la Terre](#), "Number of People Affected by the EACOP Project in Uganda and Tanzania", April 2021; [Total et al.](#), "Tilenga Project Resettlement Action Plans: Executive Summary," p. 138 (Table 25), Sept. 2020; [CNOOC](#), "Environmental and Social Impact Assessment for the Kingfisher Field Development Area, Uganda", November 2019.

PS5 calls upon clients and sub-clients to anticipate, avoid and/or minimize adverse social and economic impacts resulting from land acquisition or restrictions on land use by, inter alia, (i) providing replacements or replacement cost compensation for loss of assets, and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation and the informed participation of affected communities.¹⁵⁰ By contrast, the land valuation, acquisition, and compensation processes for the oilfields, pipeline and refinery projects have been carried out in a way that has exacerbated, rather than mitigated, negative impacts. As a result, community members have faced and are currently facing increased impoverishment, livelihood disruption, economic hardship, food insecurity, and other cumulative impacts.

Tilenga and EACOP land acquisition processes

A December 2020 impact assessment by Les Amis de la Terre France and Survie documents how the mishandled resettlement processes for Tilenga and EACOP have led to the infringement of a number of rights including those to property; to an adequate standard of living; to food; to education; to health; to adequate housing; to life, liberty and security; to freedom of expression, association and peaceful assembly; and to free, prior and informed consent.¹⁵¹

Despite the preparation and publication of lengthy Resettlement Action Plans, TotalEnergies and CNOOC have not demonstrated that their land acquisition, resettlement and livelihood restoration programs are consistent with IFC standards. Overall, in the development of the RAPs the companies have failed to allow for meaningful consultation and community participation on draft plans and have not disclosed in an appropriate and accessible form plans for the resettlement and livelihood restoration programs. Significant confusion, anxiety and fear surrounding the land acquisition and relocation processes for Tilenga and EACOP persist throughout affected communities, who remain largely uninformed of project timelines, location of replacement land, and plans for livelihood restoration programs. These processes are in clear non-conformance with PS5.

Land use restrictions, cut off dates and delayed compensation

In the Tilenga concession area, affected communities whose land has been earmarked for acquisition have faced years-long delays in compensation and relocation, while suffering from restricted access to their land.¹⁵² As of May 2021, only about one fifth of Tilenga-affected people had received compensation, after more than two years of land use restrictions following the valuation of property and establishment of cut-off dates.¹⁵³ Similar hardships resulting from land demarcation without compensation is being carried out in relation to EACOP, as detailed below. Community members report either being partially or totally deprived from accessing their land to grow crops, repair their houses, and bury their dead while awaiting compensation. In some instances, communities have been permitted to grow seasonal crops, but these are not sufficient for income generation or survival.¹⁵⁴

Beginning in 2017, TotalEnergies began establishing cut-off dates for the use of land by project-affected peoples impacted by the company's first Resettlement Action Plan (RAP1) for the Tilenga

¹⁵⁰ [Ibid.](#) "Performance Standards on Environmental and Social Sustainability" (Performance Standard 5).

¹⁵¹ [Ibid.](#) "A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania", p. 7.

¹⁵² [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", p. 125; [Les Amis de la Terre](#), "A Nightmare Named Total."

¹⁵³ See [Total, written answers during the AGM](#), pp. 66-67, Accessed 5 October 2021.

¹⁵⁴ [Ibid.](#) "A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania", p. 11.

oilfield. At that time, communities were told that they must stop using the land. Due to delays in the project's implementation phase, the communities have been stuck in a state of "limbo," having received no compensation for the land they are not permitted to use. In the years since, the same issue has impacted project-affected peoples under Tilenga project's four subsequent RAPs.¹⁵⁵

Although TotalEnergies has claimed in some forums that the cut-off dates were not intended to restrict use of land, the company has made contradictory claims in other instances. For instance, in response to inquiries by Oxfam, TotalEnergies explained that after cut-off dates, community members "should not add or improve anything to the land, and planting of new perennial crops is considered an improvement."¹⁵⁶ Such contradictory claims demonstrate TotalEnergies' failure to ensure project-affected people have access to complete, timely, and easily understandable information.

Further, despite the company's contradictory statements regarding land access, the Complainants assert that TotalEnergies employees and those of its contractors have actively prevented communities from accessing their land and have retaliated, sometimes violently, against landowners that have sought to use their land for agricultural or other purposes after the establishment of cut-off dates. These instances, which are still ongoing, are systematically documented in the impact assessments by international NGOs and in at least one academic assessment.¹⁵⁷ According to FIDH, the "companies [have] set cut-off dates without a clear timeline in which effective compensation will take place." Where PAPs are permitted to grow seasonal crops, the company has made clear that should the project move forward, along with attendant need to seize the land, PAPs will not be compensated for any crops planted after the cut-off dates. Because the project's timeline has faced continual delays, and the companies have failed to meaningfully inform and update community members of the timeline for land acquisition, landowners have been left in a state of speculation and anxiety, fearful that any seasonal crops they plant could be destroyed at any moment and they would be prevented from recovering their short-term investments. This anxiety is compounded by the fact that many community members whose agricultural livelihoods have been impacted are facing extreme financial hardship.¹⁵⁸

These issues are also present along the EACOP route.¹⁵⁹ Although construction of the pipeline has not yet commenced, the route planning and land demarcation process has already caused adverse impacts to local communities through the establishment of cut-off dates for compensation in mid-2019.¹⁶⁰ To date, those whose land underwent valuation and demarcation have suffered restricted access to land and have not received compensation. An assessment in the Energy Research and Social Science academic journal concluded with reference to IFC PS 5 that, "[I]t is very evident that the

¹⁵⁵ [Ibid.](#) pp. 7-12.

¹⁵⁶ [Ibid.](#) "Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline"; [Les Amis de la Terre](#), "A Nightmare Named Total."

¹⁵⁷ [Ibid.](#) "A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania"; [Tom Ogwang, Frank Vanclay](#), "Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline," 2021.

¹⁵⁸ [Les Amis de la Terre](#), "A Nightmare Named Total," p. 12.

¹⁵⁹ [Ibid.](#) "Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline"; [Tom Ogwang, Frank Vanclay](#), "Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline"; [Ibid.](#) "The Energizer" newsletter.

¹⁶⁰ [Ibid.](#) "Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline," pp. 34, 37, ("In Uganda, the land valuation process began in early 2017 and concluded between June and August 2018 for the priority areas.", & "Between April and June 2019, cut-off dates for the pipeline corridor were issued.")

EACOP project has failed in relation to its obligations to minimize the time between cut-off date and compensation/resettlement.”¹⁶¹

According to the Complainants, and as documented in a report based on interviews with EACOP-affected communities, similarly to those affected by Tilenga, populations along the pipeline route have been prevented from growing perennial food and cash crops or making any improvements to their properties. This has led to economic displacement for households who rely upon agricultural livelihoods.¹⁶² Community members report frustration resulting from restricted land use access, including being unable to bury family members on their property, and being prevented from refurbishing their properties including, in some cases, fixing facilities relied upon by families, like kitchens.¹⁶³

The effects of land loss and restricted access to farmland in a region where the majority of people depend upon the subsistence economy cannot be overstated. The loss of agricultural land and delayed compensation have had a crippling effect on tens of thousands of individuals in the region, creating food insecurity, driving families further into poverty and resulting in cumulative adverse impacts such as sharp increases in school dropout rates. Many of these impacts disproportionately harm the rights of women and girls.¹⁶⁴

The years-long restriction of communities’ access to land through the establishment of cut-off dates demonstrates an unambiguous violation of PS5 requirements. This issue is addressed in the IFC PS5 guidance note, which states:

*“Establishment of restrictions on activities such as construction, agricultural activities, and home improvements after the establishment of cut-off dates can represent a moderate to severe hardship for affected households and communities. Often there are delays between the cut-off date (and the subsequent establishment of restrictions) and the development of the project, including compensation for losses and resettlement of affected households and communities. **The time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client.** The client should also consider ways to minimize impacts from cut-off restrictions such as planning development activities, so that affected farmers can harvest crops prior to displacement. Also a firm timetable should be adhered to or the client must be prepared to pay compensation for the delay. For example, when communities do not plant crops in anticipation of a move, which is then delayed, the community may need assistance in meeting their food needs because they did not have a harvest that year.”¹⁶⁵ [emphasis added]*

A gap of over two years between the establishment of cut-off dates and provision of compensation is clearly not in line with this standard. Further, the project sponsors have failed to adhere to a firm

¹⁶¹ [Ibid.](#) “Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline”.

¹⁶² [Ibid.](#) “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” p. 59.

¹⁶³ [Ibid.](#) “The Energizer” newsletter.

¹⁶⁴ [Ibid.](#) “A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania”, pp. 10-16; [Les Amis de la Terre](#), “Serious Breaches of the Duty of Vigilance Law: The Case of Total in Uganda,” 2019; [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, pp. 52-70, 101-119; [Julius Niringiyimana, William Muhumuza and Rutanga Murindwa](#), “Oil Politics and Land Tenure Changes in Uganda: Understanding the Curse of Dispossession in the Albertine Region,” pp. 30-32; [Ibid.](#) “Cut-off and forgotten?: Livelihood disruption, social impacts and food insecurity arising from the East African Crude Oil Pipeline”.

¹⁶⁵ [IFC](#), “International Finance Corporation’s Guidance Notes: Performance Standards on Environmental and Social Sustainability”, p. 12 (GN33), 1 January, 2012.

timetable for the land acquisition and compensation process, leaving communities in continuous fear of abrupt eviction. TotalEnergies stated publicly at its Annual General Meeting that compensation will now include a 30% uplift to account for the delays experienced by communities.¹⁶⁶ However, this is insufficient to bring the compensation process back in line with PS5 because it does not account for the initial insufficient valuations and compensation rates (detailed below); it does not account for the full revenue loss and the increase in land values since the initial valuations; and does not effectively compensate for the cumulative negative impacts experienced by communities as a result of the delays and restricted land use, such as food insecurity and malnutrition, inability to access health services due to economic hardship, increased school dropouts, moral trauma, and more.

Additional issues related to valuation and compensation

The Complainants and their communities claim additional shortcomings in the land acquisition process for the EACOP and Tilenga projects. They allege that the assessment and valuation of land and crops are incomplete or inaccurate; that compensation rates are insufficient; that they have not been able to freely choose between monetary compensation and compensation in-kind; and that they have no knowledge of or choice in where they are to be resettled.¹⁶⁷

Communities report inaccuracies in the cadastral surveys and valuation processes carried out in relation to both Tilenga and EACOP. In several instances, valuation forms were signed under duress, or valuation was carried out while property owners were not present. Community members report facing pressure from TotalEnergies and its subcontractors to sign valuation forms, including incomplete forms.¹⁶⁸ In relation to EACOP, the Complainants claim that, in contravention of Uganda's 1998 Land Act, project-affected people were never consulted on the compensation rates used for crops and buildings of a none-permanent nature, resulting in inadequate rates and undervaluation of property in several districts.¹⁶⁹ Project-affected people who have sought to challenge insufficient asset valuations have reported ongoing harassment and intimidation from security agents and individuals associated with the EACOP and Tilenga projects, including the Resident District Commissioners and District Police Commanders.¹⁷⁰

In accordance with PS5, economically displaced people whose livelihoods are land-based should be offered alternative land of equal size and quality, alongside the option of replacement cost cash compensation.¹⁷¹ Compensation (in-kind or cash) should be provided prior to any acquisition or land use restrictions. Despite public statements by the project sponsors that communities are offered the option of monetary or in-kind compensation, communities claim that that the companies and their subcontractors have employed tactics of intimidation and manipulation of affected landowners that compel them to accept monetary compensation over compensation in-kind.¹⁷²

¹⁶⁶ [Total](#), "Responses aux questions ecrites", p. 66.

¹⁶⁷ [Ibid.](#), "A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania", p. 8.

¹⁶⁸ [Business and Human Rights Resource Centre](#), "Uganda: Locals to be displaced by oil pipeline oppose land valuation process; includes Total's comments", 28 May, 2019.

¹⁶⁹ [Ibid.](#), "The Energizer" newsletter.

¹⁷⁰ [BankTrack](#), "The East African Crude Oil Pipeline: New Risk Developments," August 2021, p. 3; [Uganda Radio Network](#), "CSOs Decry Intimidation of EACOP Affected Persons in Masaka", 10 April, 2021.

¹⁷¹ IFC PS5 paragraph 9, 21, 27.

¹⁷² [Ibid.](#), "Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline," p. 41; [Ibid.](#), "A Nightmare Named Total: An Alarming Rise in Human rights Violations in Uganda and Tanzania", p. 17.

Those who have received monetary compensation report inadequate and outdated compensation rates that do not meet replacement cost, effectively leaving families without an economic base to earn a living and grow food.¹⁷³ Those who have requested or intend to request replacement land fear being relocated to land that is of lesser value and fertility, and where agricultural productivity is low. The project documentation validates this concern, stating:

“There is increasing scarcity of land and replacement land for economically displaced individuals may not be as productive as previous land holdings. The impacts will be very long-term and will affect some households within the PACs. Due to their large magnitude and very high sensitivity, before mitigation the impacts are considered significant.”¹⁷⁴

The majority of affected communities have not yet been informed of the location of replacement land and remain skeptical that the project sponsors can adequately mitigate the impacts of economic displacement.

Oil Refinery Land Acquisition Process

The land acquisition process for the oil refinery is the only resettlement process among the three oil sub-projects that has been fully implemented to date. According to the community-based impact assessment conducted by FIDH, “The process of relocation was long and difficult,” and community members “faced infringements on their rights to education, property, land, cultural development, and an adequate standard of living.”¹⁷⁵ The vast majority of the 1,220 displaced households opted to receive cash compensation and left the area, while only 73 families opted for in-kind compensation. According to a report based upon interviews with affected families, the decision to accept cash compensation was based on an “intense fear” that they “would be relocated far away into environments they were unfamiliar with,” and skepticism that the government could effectively handle the relocation process.¹⁷⁶

The families that selected in-kind compensation faced six years of delay before being resettled into new homes, during which they faced land use restrictions similar in nature to those currently experienced by communities displaced by the oil fields and pipeline, including restrictions which resulted in food insecurity.¹⁷⁷ Following this lengthy delay, the families were moved to replacement housing for which they received no formal title or other form of security of tenure. As a result, the families have lived with tenure insecurity and fear of additional displacement.¹⁷⁸ Children of these families experienced significant gaps in schooling while awaiting resettlement. Following two years of no schooling, the children resumed schooling under precarious conditions at the resettlement site, where the school was left unfurnished and without teaching staff.¹⁷⁹

¹⁷³ [Ibid.](#)

¹⁷⁴ [EACOP Project](#), “Uganda ESIA,” Section 8, Impact Identification and Evaluation, February 2020, p. 8-203; [Ibid.](#) “Empty Promises Down the Line?: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” p. 60, 69.

¹⁷⁵ [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, p. 57.

¹⁷⁶ [GRA](#), “Acquisition of Land for the Oil Refinery: Tracking Process in Resettling Project Affected Persons Who Opted for Land Compensation”, p. 4, 2020.

¹⁷⁷ [Ibid.](#) p. 5.

¹⁷⁸ [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, p. 57-8; [Ibid.](#) “Acquisition of Land for the Oil Refinery: Tracking Process in Resettling Project Affected Persons Who Opted for Land Compensation”, p. 4; [AFIEGO](#), “Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People”, p. 30, Accessed 5 October, 2021.

¹⁷⁹ [Ibid.](#) “New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda”, p. 58.

Seven of the relocated families now face additional risk of displacement, as the feeder pipeline connecting the Tilenga oil field to the refinery will cross through their new land. These families are now included within Resettlement Action Plan 4 (RAP4) of the Tilenga project being carried out by TotalEnergies. Because of the government's failure to comply with tenure restoration laws in the original resettlement process, the families fear they will not be adequately compensated for the loss of their land. Indeed, when their land was surveyed under TotalEnergies' RAP4, the families were identified only as land users, rather than landowners.¹⁸⁰

The design of the resettlement sites themselves are wholly inadequate and threaten the communities' cultural practices and traditional ways of life.¹⁸¹ Prior to resettlement, land was owned collectively, and houses were arranged so that family members were in close proximity, contributing to the protection of cultural practices and livelihoods. At the resettlement site, homes are allocated randomly, and in close proximity to one other. The Complainants describe life at the resettlement site as, "being confined in a squeezed, camp-like setting."¹⁸² The allocated land does not always correspond to the size of families' original properties and does not allow sufficient space for additional construction. For instance, children over 10-12 years of age would traditionally have left their parents' homes but remain close to the family. As this is not possible at the resettlement site, single homes are over-occupied with extended family. Additionally, the density of the resettlement site has created hygiene and sanitation problems, with open-pit latrines in close proximity to kitchens and other families' property. There is not sufficient space for new latrines to be dug. No trash disposal infrastructure was created at the resettlement site, resulting in pollution and littering of the surrounding area.¹⁸³ Additional cultural impacts have been expressed by affected people, including the loss of sacred cultural property and the disruption of communities' burial practices at the resettlement site.¹⁸⁴

Furthermore, agricultural land and areas meant to provide water and other natural resources are located farther away from the housing area than in their former villages. Women who are responsible for farming and collecting water and food, are required to travel further distances and spend additional time away from home, which has modified family dynamics. The Complainants claim that the replacement land is of lesser quality, adversely affecting their agricultural livelihoods and ability to sustain their families.¹⁸⁵

According to data gathered through interviews with project-affected community members, incomes among displaced people, including both those who received in-kind and cash compensation, declined roughly 39.3%.¹⁸⁶ reduction in land sizes and household income has had cumulative impacts, including a significant decline in enrollment rates among primary and secondary school aged children.¹⁸⁷ Further, many of those who opted for cash compensation have been unable to replace the land they lost with land of equivalent size, resulting in diminished incomes.¹⁸⁸ This is a result of under-valuation, inflationary pressures, insufficient compensation rates, and significant delays in compensation during which communities faced land use restrictions. Because many families were prevented from farming

¹⁸⁰ [Ibid.](#)

¹⁸¹ [Ibid.](#) "Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People", p. 37-39.

¹⁸² Interview with complainants. See also: [Ibid.](#) "Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected".

¹⁸³ [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", p. 58.

¹⁸⁴ [Ibid.](#) "Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People", p. 37-39.

¹⁸⁵ [Ibid.](#) pp. 32-34; [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", p. 58.

¹⁸⁶ [Ibid.](#) "Assessing the Impacts of the Oil Refinery Land Acquisition and Resettlement Project on the Affected People", [p. 32](#)

¹⁸⁷ [Ibid.](#) p. 34-35.

¹⁸⁸ [Ibid.](#) p. 32

their land following the establishment of cut-off dates in 2012, they were forced to use the eventual compensation money to purchase food.¹⁸⁹

Overall, the Complainants' accounts and human rights impact assessments clearly demonstrate that the oil refinery resettlement process caused a range of harms related to delays in relocation; a failure to consider and account for communities' way of life in the design of resettlement sites; the construction of inadequate water supply and waste disposal infrastructure systems; the provision of low quality replacement land; and the failure to provide security of tenure.¹⁹⁰ These cumulative impacts have impacted the communities' right to land, right to an adequate standard of living, the children's right to education, and threatened their socio-economic stability of the communities.¹⁹¹

Impacts and Risk of Irremediable Harm to Protected Areas and Natural Resources (PS6)

Performance Standard 6 recognizes that protecting and conserving biodiversity, maintaining ecosystem services, and sustainably managing natural resources are fundamental to promoting sustainable development.¹⁹² The standard applies to critical habitats, which are areas with high biodiversity value, including those of significant importance to endangered species.¹⁹³

The oil projects pose immense environmental risks and impacts, including both direct impacts to biodiversity as a result of the project placement and design, as well as indirect risks posed by the threat of oil spills in protected and sensitive areas.¹⁹⁴ The inherent design and location of the Tilenga, Kingfisher and EACOP projects mean that they will have extensive and irreversible adverse impacts upon critical habitats and protected ecosystems. The projects entail drilling over 130 oil wells into Uganda's largest national park and constructing the world's longest heated crude oil pipeline through numerous protected ecosystems critical to the preservation of endangered species. In the opinion of experts, and the Complainants, the significant biodiversity risks are so inherent to the project designs that they are impossible to adequately mitigate.

Tilenga and Kingfisher environmental risks and inadequate mitigation measures

The Tilenga and Kingfisher oilfields are located in the Albertine Graben, one of the richest natural habitats in the world. According to the Sensitivity Atlas for the Albertine Graben that was produced by Uganda's National Environment Management Authority, "species biodiversity of the Albertine rift is unparalleled on the African continent."¹⁹⁵

While TotalEnergies and CNOOC have committed to apply the IFC Performance Standards and utilize industry "best available techniques" to avoid, mitigate and offset their environmental impacts, expert assessments have found that this is not, in fact, the case. In many respects, both companies have prioritized low production costs over the utilization of best available technique in project design.¹⁹⁶

¹⁸⁹ [Ibid.](#)

¹⁹⁰ [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", p. 71.

¹⁹¹ [Ibid.](#) pp. 124-5.

¹⁹² [Ibid.](#) "Performance Standards on Environmental and Social Sustainability" (Performance Standard 6), Par. 1.

¹⁹³ [Ibid.](#) Par. 5, 16.

¹⁹⁴ [MapforEnvironment](#), "EACOP a spatial risk perspective", 7 April, 2021.

¹⁹⁵ [NEMA](#), "Albertine Graben Sensitivity Atlas", 2013.

¹⁹⁶ [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda".

According to an external review of the Tilenga ESIA, TotalEnergies' plans to develop ten well pads within Murchison Falls National Park does not represent "best available technique" and will result in irremediable impacts on wildlife within the park.¹⁹⁷ Since 2019, the technical expert has recommended that TotalEnergies employ an alternative drilling technique which would allow it to reduce the number of well pads within the National Park to one, and lead to significantly less disturbance of the surrounding area.¹⁹⁸ Nonetheless, TotalEnergies has opted for the lower-cost option of horizontal drilling, and has maintained its plan to develop ten well pads located within the park, corresponding to over 130 wells.¹⁹⁹ TotalEnergies has cited "operational constraints" as justification for this decision. The expert review confirms that TotalEnergies "has chosen a least-cost, high impact development model for the Tilenga Project in the face of the profitability risks associated with the venture," and "is not applying BAT" [Best Available Technique].²⁰⁰ Similarly, TotalEnergies' decision to outsource responsibility for hazardous waste management to sub-contractors with insufficient technical expertise and capacity represents another failure to utilize best available technique in favor of low-cost options.²⁰¹

CNOOC has also failed to employ best available technique in the project design of its Kingfisher project by deciding to locate its central processing facility and well pads on the shores of Lake Albert, directly within the sensitive area of Buhuka Flats.²⁰² An expert review of Kingfisher ESIA finds similar failures to use best available technique with respect to disposal of drilling waste, handling of water, the mitigation of noise and visual impacts, and a variety of other aspects of project design and management. The expert review recommends changes to project design that would enable CNOOC to prevent a range of environmental and social impacts, but the company has not adopted the recommendations.²⁰³

EACOP environmental risks and inadequate mitigation measures

There are at least 13 species "of conservation importance" within the EACOP's area of influence, including at least 10 plants of conservation importance at risk.²⁰⁴ Six of these are on the IUCN Red List of Threatened Species.²⁰⁵ In total, nearly 2,000 square kilometers of protected wildlife habitats, including 500 square kilometers of wildlife corridors for the Eastern Chimpanzee and African Elephant—species considered endangered by IUCN, and which have already disappeared in several African countries—are expected to be severely degraded by the construction of the pipeline.²⁰⁶ In Tanzania alone, the pipeline corridor will traverse seven forest reserves, two game reserves, two game-controlled areas and one open area that supports wildlife management. The pipeline will impact at least four forest reserves in Uganda, as well as several sacred natural sites, and will cross 32 kilometers of the Wembere Steppe in Tanzania, a Key Biodiversity Area.²⁰⁷ At the port in Tanga, Tanzania, where

¹⁹⁷ [E-Tech International](#), "Review of Adequacy of ESIA for the TEP Uganda Tilenga Oil Development Project", 27 November, 2019.

¹⁹⁸ [Ibid.](#)

¹⁹⁹ [#StopEACOP](#), "#StopEACOP Alliance Statement in Response to Total's Recent Disclosures", 12 April, 2021.

²⁰⁰ [E-Tech International](#), "Tilenga Project - Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production B.V. Uganda", 8 December, 2019.

²⁰¹ [Ibid.](#), "Review of Adequacy of ESIA for the TEP Uganda Tilenga Oil Development Project".

²⁰² [E-Tech International](#), "Review of Adequacy of ESIA Environmental Mitigation for the CNOOC Kingfisher Oil Development Project", 12 May, 2019.

²⁰³ [Ibid.](#); -See also- [Ibid.](#) "New Oil, Same Business? At a Crossroads to Avert Catastrophe in Uganda", p. 111. (for anticipated impacts on water resulting from both Kingfisher and Tilenga.)

²⁰⁴ [Total](#), "Uganda ESIA: EACOP Project Executive Summary," p. 8, February 2020.

²⁰⁵ [Ibid.](#)

²⁰⁶ [WWF and CSCO](#), "Safeguarding People & Nature in the East African Crude Oil (EACOP) Pipeline Project", p. 1, 2017;

²⁰⁷ [Ibid.](#), p 14.

the oil will be transferred offshore, two Ecologically or Biologically Significant Marine Areas (EBSAs), the Pemba-Shimoni-Kisite site and the Tanga Coelacanth site, are at high risk of degradation. These two EBSAs host numerous Marine Protected Areas, Mangrove Forest Reserves, ecologically significant coral reefs, and other wildlife.²⁰⁸ In reviewing the proposed pipeline route, renowned environmentalist Bill McKibben commented that it, “looks almost as if it were drawn to endanger as many animals as possible.”²⁰⁹

EACOP poses a significant risk to water resources in the region, including several Ramsar Wetlands of International Importance.²¹⁰ The risk of an oil spill impacting Lake Victoria alone threatens the health and livelihoods of over 40 million people that rely upon the lake as a primary source of freshwater.²¹¹ Despite these risks, expert technical reviews of the EACOP ESIA state that Total and CNOOC have opted for the lowest-cost option for almost all water crossings, rather than employing best available technique. The reviews state that the risk of damage to water sources “seems to be ignored” in the project’s ESIA, which “does not make clear that the proposed technology [for water crossing] is acceptable and for what reasons.” The reviewers state that “the issue is strongly underrated, and specific plans and alternatives should be presented.”²¹²

Risks to ecosystem services that support livelihoods

Performance Standard 6 recognizes the benefits that ecosystem services provide to people, including businesses. To this end, a core objective of PS6 is to maintain the benefits of ecosystem services and promote the sustainable management of natural resources through the adoption of practices that integrate conservation needs and development priorities.²¹³

In addition to those whose livelihoods have been or will be adversely impacted by the projects due to the acquisition of farmland or degradation of fishing resources, local business-owners in the tourism industry fear that their livelihoods will be adversely impacted by the oil sub-projects. One of the Complainants, who we shall refer to here as Mr. X, is a businessowner in the tourism industry, and represents the interests of this community.

[REDACTED]

Mr. X fears for the future of his livelihood, as the oil projects are expected to severely disrupt numerous protected areas, including Murchison Falls, the country’s oldest and largest national park. According to Mr. X, over 80% of Uganda’s tourism sector relies upon the Albertine Rift, where the oil extraction will occur. Prior to the pandemic, tourism accounted for about 23% of the country’s foreign exchange earnings. Mr. X expects this to drop significantly should the oil operations progress.

²⁰⁸ [BankTrack](#), “Finance Risk Briefing”, November 2020; [WWF and CSCO](#), “Safeguarding People & Nature in the East African Crude Oil (EACOP) Pipeline Project”, p. 1, 2017;

²⁰⁹ [The New Yorker](#), “With a New Pipeline in East Africa, an Oil Company Flouts France’s Leadership on Climate”, 10 September, 2020.

²¹⁰ [MapforEnvironment](#), “EACOP a spatial risk perspective”, 7 April, 2021.

²¹¹ [Oxfam](#), p. 70; [E-Tech International](#), “Review of Adequacy of Environmental Mitigation in the ESIA for the East African Crude Oil Pipeline in Uganda,” May 2019.

²¹² [Netherlands Commission for Environmental Assessment](#), “Advisory Review of the Environmental and Social Impact Assessment of the East Africa Crude Oil Pipeline (EACOP)”, 27 June 2019.

²¹³ [Ibid.](#) “Performance Standards on Environmental and Social Sustainability” (Performance Standard 6), Par. 2-3.

TotalEnergies' decision to drill oil within Murchison Falls National Park has been called into question by experts who claim that tourism could provide a greater source of economic development to the country than oil, while also serving a conservationist role within the area. By contrast, experts theorize that the oil project will irreversibly damage the national park's environment while simultaneously negatively impacting the growth of the tourism industry.²¹⁴ Although commercial extraction has not yet occurred, preliminary activities for the Tilenga project within Murchison Falls National Park has already had an enormous impact on biodiversity within the park.

Moreover, as indicated earlier in this complaint, indigenous communities working in the fisheries sector have already been negatively affected by oil exploration as they could no longer access fishing grounds at Lake Albert. Impacts to the fisheries sector is expected to worsen as rivers, lakes, wetlands and various water resources across Uganda are affected by the Tilenga, Kingfisher and EACOP oil projects. These risks and impacts have transboundary reach to the Democratic Republic of Congo.

Furthermore, the destruction of the few remaining high tropical rainforests such as Bugoma in the Albertine Graben has been linked to oil exploitation efforts in the area. Since oil exploitation efforts commenced, instances of land grabbing have increased, including the seizure of Bugoma forest land for the benefit of the sugar industry.²¹⁵ District leaders, local communities and civil society, including the Complainants, attribute the land grabbing and subsequent destruction of Bugoma forest to the land pressures created by oil activities in the region. Moreover, biodiverse forests such as Budongo²¹⁶ and Wambabya²¹⁷ are also at risk of degradation from the oil projects' road infrastructure and from the EACOP itself.

The fear associated with the oil project's negative impact on the tourism, agriculture, fisheries, clean energy and other industries that are the biggest employers of Ugandans has prompted the formation

[REDACTED]

[REDACTED] seeks to challenge the narrative that the oil sector offers the country important economic and developmental benefits, and advocates for a cleaner, more inclusive, and more sustainable economic future and development path that does not contribute to climate change.²¹⁸

²¹⁴ [Netherlands Commission for Environmental Assessment](#), "Review of the Environmental and Social Impact Assessment (ESIA) Report for the Tilenga Project", 2018, p. 10.

²¹⁵ [Netherlands Commission for Environmental Assessment](#), "Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline," June 2019.

²¹⁶ [The Guardian](#), "A shame for the world: Uganda's fragile forest ecosystem destroyed for sugar", 18 June, 2020.

²¹⁷ [NTV Uganda](#), "UNRA to be conscious of environment, wildlife during construction of oil roads", 9 May, 2021.

²¹⁸ [Netherlands Commission for Environmental Assessment](#), "Advisory Review of the Environmental and Social Impact Assessment for the East African Crude Oil Pipeline (EACOP)", 27 June, 2019.

²¹⁹ [REDACTED]