

RSPO Grievance

against the US company Herakles Farms and it's national subsidiary Sithe Global Sustainable Oils Cameroon, members of the RSPO

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Complainants

			
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<p>Pro Wildlife is a charity based in Germany (charity number VR 16423, district court Munich) and having a focus on the increase, implementation and enforcement of conservation laws. Since many years Pro Wildlife is supporting several conservation projects in South West Province of Cameroon to protect the unique biodiversity in this region and to reduce poaching for bushmeat and illegal trade in ivory, furs etc.</p>	<p>SAVE is a nonprofit foundation that specifically promotes the global and sustainable nature conservation and biodiversity. SAVE campaigns against the extinction of species and destruction of natural habitats. Besides being actively involved in projects, our work focuses strongly on raising awareness for nature conservation and promoting ecological involvement as well as research.</p>	<p>Rettet den Regenwald (Rainforest Rescue) is a registered non-profit organisation in Germany. Founded in 1986 in Hamburg, we are taking actions in order to preserve tropical rainforests for future generations. We organize protest actions and email protests against rainforest destruction by loggers, palm oil, oil and mining companies and other destructive projects. We support NGOs in Africa, Asia and Latin America.</p>	<p>KRCS is a local NGO based in Mundemba, Cameroon. It focuses on maintaining the rich biodiversity of the Korup National Park and surrounding areas by trying to involve local communities in forest resources management through education, benefit sharing and capacity building in order to foster a feeling of ownership, reduce conflicts between the park and locals and improve livelihoods. KRCS has been involved in several education campaigns and formation of clubs and village forest management committees in the Korup area.</p>

Name of RSPO member:

The US investment company Herakles Farms¹ itself was not a member to RSPO, although it claims to be so – e.g. its media release of June 15, 2011², where it is written: “Herakles Farms is an active member of the Roundtable on Sustainable Palm Oil (RSPO).” Herakles Farms is now a approved Member since October 10, 2011, months after this press release³. However, Herakles Farms runs a national subsidiary in Cameroon, SG Sustainable Oils Cameroon (SG SOC), which is a member to RSPO since March 2008⁴.

Nature of grievance against Sithe Global Sustainable Oils Cameroon and Herakles Farms:

Herakles Farms and SG SOC are planning to establish a plantation of about 70,000 hectares with oil palms in one of the most ecologically sensitive areas in Africa – belonging to one of the 25 biodiversity hot spots on earth⁵, the Guinean Forests of West Africa. The earmarked areas, which are mostly covered by species-rich canopy forest, are located between four protected areas. Clearing of these areas would disrupt migration routes of highly endangered and strongly protected species and subspecies and would boost poaching in the region. Cameroonian law requires a Environment-Social-Impact-Assessment (ESIA) to be made.

The Government of Cameroon approved the projects ESIA in September 2011, yet the company had prior to this date already cleared at least 28 hectares of forest. This is unlawful under Cameroonian legislation and non compliant with RSPO Principles and Criteria.

> The activities of SG SOC and Herakles Farms are both in violation of the Cameroonian law and also in violation of the RSPO Principles and Criteria:

Criterion	Activities of SG SO / Herakles Farms	Evidence
Principle 1: Commitment to Transparency Criterion 1.1 <i>Oil palm growers and millers provide adequate information to other stakeholders on environmental, social and legal issues relevant to RSPO Criteria</i>	<p>On March 28, 2011, an informal meeting by SG SOC with stakeholders took place in Limbe. During this meeting, detailed information was lacking – e.g. maps of the planned concession did not include information on the exact demarcation of limits of the concession, data on numbers and locations of village settlements, community farmlands, roads and other land uses, of the finally earmarked area, which makes a Social Impact Assessment almost impossible. Presented information also ignored the value of the biodiversity in the region, including endangered species. Participants also found fault with the quality of field research data.</p> <p>The German Federal Minister for Economic Cooperation and Development also criticized the lack of transparency, after having consultations with the Government of Cameroon.</p> <p>Transparency with local communities and the public at large has been one of the biggest issues with this project; it has been discussed directly with the company on numerous occasions. At the point in time when the summarized ESIA was distributed to a few villages for public consultation none of these documents were available to the communities. The communities have never been given any copies of the key documents on which to make decisions such as the full ESIA, studies on wildlife, flora, a socio-economic needs assessment, HCV assessment etc.</p> <p>The international NGOs have been asking for these</p>	<p>For brief notes on the meeting □ see Annex SGSOC ESIA Limbe March 2011 (Pages 1-6)</p>

1 <http://www.heraklescapital.com/agriculture.html>

2 http://www.heraklescapital.com/docs/PressRelease_%206_%2015_2011.pdf

3 <http://www.rspo.org/?q=om/2356>

4 <http://www.rspo.org/?q=om/264>

5 Assessment by Conservation International

http://www.biodiversityhotspots.org/xp/hotspots/west_africa/Pages/default.aspx

	<p>documents to be put into the public domain.</p> <p>The Environmental Certificate issued by the Government to SGSOC / Herakles laying down some of the alterations required on the project has never been released by the company.</p>	
<p>Criterion 1.2 <i>Management documents are publicly available, except where this is prevented by commercial confidentiality or where disclosure of information would result in negative environmental or social outcomes.</i></p>	<p>The required management documents are not publicly available yet. Data presented by SG SOC at the stakeholder meeting in Limbe (mentioned under Criterion 1.1.) were declared confidential, pending final approval.</p>	
<p>Principle 2: Compliance with applicable laws and regulations Criterion 2.1 <i>There is compliance with all applicable local, national and ratified international laws and regulations</i></p>	<p>According to the Cameroonian Forest Law, the Environment Act N°96/012 and Decree N°2005/0577 of 23 February 2005 the existence of an Environmental Impact Assessment is mandatory as an integral part of the planning and decision-making processes⁶. Such projects then need an authorization by the Cameroonian Government: "According to the law no project, may be implemented without obtaining a certificate of environmental conformity."⁷</p> <p>In mid July we have been informed by the German Minister for Developmental Aid, that the authorization procedure by the Cameroonian Government has not been finished yet. This was confirmed by an email, dated July 22, 2011, of Bruce Wrobel, CEO of Herakles Farms and SG SOC, who declared: "All of our reports are nearing final editing stage and we are expecting to submit all of them to the government before the end of August. We will let you know as soon as those studies are complete."</p> <p>Also the company H & B consultant, mandated for conducting the EIA, confirms that the EIA Study is still ongoing (website viewed August 10, 2011).</p> <p>The laws of Cameroon Article 12(1) of decree no 2005/0577/ PM of 23 Feb 2005 lays down the modalities for the public hearing of the ESIA. These were not followed by the project and the communities wrote asking for a postponement so that the rules could be followed.</p> <p>SGSOC cleared at least 28ha of forest to establish 3 nurseries before they had been issued with their environmental certificate. This is clear violation of Cameroonian law.</p> <p>Nevertheless, photos taken in January, May and June 2011 clearly show that SG SOC has long ago begun clearing forested areas and establish palm oil nurseries. With this the clearing activities of SG SOC and Herakles Farms</p>	<p>□ see Annex HandB EIA website (screenshot) (Page 7)</p> <p>□ see Annex Letter 26Aug11 to MINEP (Pages 8-13)</p> <p>□ see Annex photo evidence SG SOC Activities (Pages 14-16)</p>

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www.unep.org/dec/onlinemanual/Enforcement/InstitutionalFrameworks/PublicParticipationProcesses/Resource/tabid/1034/Default.aspx

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"Procedure for the conduct and approval of Environmental Impact Assessments and Environmental Audits" by the Government of Cameroon, Ministry of Environment and Protection of Nature (April 2010).

	<p>appear to be in violation of the national law.</p> <p>There are two on-going court cases related to this project. 1) The community representatives for the eastern section of the project area filed a case in the High Court in Bangem. It was rejected but is currently under appeal. 2) An NGO in the western section filed a court action against the project. The court issued an injunction (Date 31th August 2011) on SGSOC to halt all activities. SGSOC appeal that the judge was biased and continued with activities. The appeal was approved and the judge changed. The new judge has held his hearing and has upheld the injunction (Date 27th February 2012) on the project that all activities must be stopped until all the legal requirements under Cameroonian law are fulfilled.</p>	<p>□ see Annex Injunction ruling from 2011-08-31 (Pages 17-24)</p>
<p>Principle 5: Environmental responsibility and conservation of natural resources and biodiversity Criterion 5.2 <i>The status of rare, threatened or endangered species and high conservation value habitats, if any, that exist in the plantation or that could be affected by plantation or mill management, shall be identified and their conservation taken into account in management plans and operations</i></p>	<p>The earmarked areas belong to one of the 25 biodiversity hotspots of the world – the Guinean Forests of West Africa. They are located next to vital protected areas, such as the Korup National Park, one of Africa’s oldest and richest rainforests in terms of floral and faunal diversity⁸, as well as the Rumpi Hills Forest Reserve, the Banyang Mbo Wildlife Sanctuary, and the Bakossi National Park. The whole region is characterized by a very high plant and animal species endemism.</p> <p>This region is a vital refuge for highly threatened species such as the drill (<i>Mandrillus leucophaeus</i>, Endangered), the Nigeria-Cameroon chimpanzee (<i>Pan troglodytes ellioti</i>, the rarest chimpanzee subspecies), Preuss’s guenon (<i>Cercopithecus preussi</i>, Endangered), Preuss’s red colobus (<i>Procolobus preussi</i>, Critically Endangered) and forest elephants (<i>Loxodonta cyclotis</i>, being much rarer than savannah elephants).</p> <p>More than half of the area designated for the palm oil plantations is presently covered by high-canopy secondary rain forests, which are providing an ecological buffer to and connectivity between the surrounding protected areas. This has been confirmed by scientists, who are very familiar with the biodiversity of the earmarked area.</p> <p>Clear-cutting and industrial plantations in this area would have also a negative impact on biodiversity within the surrounding protected areas: Without these forests vital migration routes for wildlife will be irrevocably lost and</p>	<p>List of scientific papers □ see Annex References (Page 25)</p>

	<p>threatened species will lose essential retreats. It is anticipated that poaching pressure will inevitably increase in the surrounding protected areas. Existing oil palm plantations in the area have already led to increased bushmeat hunting in Korup National Park as described in the “Programme for the Sustainable Management of Natural Resources in the South West Province” by the GTZ⁹.</p>	
<p>Principle 6: Responsible consideration of employees and of individuals and communities affected by growers and mills Criterion 6.1 <i>Aspects of plantation and mill management, including replanting, that have social impacts are identified in a participatory way, and plans to mitigate the negative impacts and promote the positive ones are made, implemented and monitored, to demonstrate continuous improvement.</i></p>	<p>According to reports from local people they rely on collecting non-bushmeat, NTFPs from the surrounding forests for their livelihoods, especially after other parts were occupied by the Korup National Park since 1986.</p> <p>Clear-cutting for large-scale industrial plantations would have a serious impact on the 37 local communities; clearly, many affected people have not been adequately informed: Local communities and tribes have formally complained that they have not been adequately, if at all, involved in the negotiations between Herakles Farms/SG SOC and the Cameroonian Government.</p> <p>For example, several formal complaint letters have been sent to the Government of Cameroon on behalf of the various different ethnic groups in the region. These letters indicate that the Government has already taken away land from villagers and now no land remains to give to Herakles Farms and SGSOC. The local people fear that they will lose the little remaining land that they have.</p>	<p>Letters of different local communities and tribes □ see Annex Complaints Local Communities (Pages 26-47)</p>
<p>Principle 7: Responsible development of new plantings Criterion 7.1 <i>A comprehensive and participatory independent social and environmental impact assessment is undertaken PRIOR to establishing new plantings or operations, or expanding existing ones, and the results incorporated into planning, management and operations.</i></p>	<p>This criterion has been clearly ignored by SG SOC and Herakles Farms:</p> <p>Environmental and Social Impact Assessments are not finished yet. In his email of July 22, 2011 (to Lars Gorschlueter of SAVE), Bruce Wrobel, CEO of Herakles Farms and Sithe Global, declared: “All of our reports are nearing final editing stage and we are expecting to submit all of them to the government before the end of August. We will let you know as soon as those studies are complete.”</p> <p>Nevertheless, the companies have already started months ago with destructing forested areas: Photos, taken in January and February 2011, show that SG SOC has already established a huge palm oil nursery in the locality of Talangaye village (at the road between Ngouté and Manjemen), for which forested areas have been cleared and where thousands of palm seedlings were already been put in place. In mid of June 2011, bulldozers of this company have started to clear forested areas next to Fabe (GPS points for SGSOC nursery in Fabe village: N 0507765; E 00898096; Elevation: 340m), obviously to establish a second palm oil nursery.</p> <p>Both activities have been clearly conducted long before the mandatory EIA has been finished.</p>	<p>□ see Annex Email Bruce Wrobel July 2011 (Pages 48-49)</p> <p>□ see Annex photo evidence SG SOC Activities (Page 14-16)</p>
<p>Criterion 7.3 <i>New plantings since November 2005, have</i></p>	<p>Although SG SOC in its recently updated portrait at the RSPO website claims that “No planting on primary forest or high conservation value forest (HCVF) will be done”¹⁰, this is</p>	

9 http://cameroun-foret.com/system/files/11_03_401.pdf

10 www.rspo.org/?q=om/264

<p>not replaced primary forest or any area required to maintain or enhance one or more High Conservation Values.</p>	<p>not the case:</p> <p>The earmarked areas are not necessarily primary forests, but ecologically highly valuable forests, with the majority being species-rich canopy forest - belonging to one of the biodiversity-richest areas in Africa (see also information under Criterion 5.2). Some areas in the concession contained licensed selective logging sites in the past (see Annex), but the majority of the western part of the concession was obviously never logged before. The planned clear-cutting would disrupt vital migration routes and would seriously damage the livelihood of local communities, which have already lost land, when the surrounding protected areas were established. So far the requested HCV assessments have not been published yet - and regarding the enormous ecological value of the region it can be doubted that a reliable HCV assessment could be achieved.</p> <p>From our point of view, the earmarked area meets the definition of HCVF:</p> <ul style="list-style-type: none"> • HCV1. Forest areas containing globally, regionally or nationally significant concentrations of biodiversity values (e.g. endemism, endangered species). • HCV2. Forest areas containing globally, regionally or nationally significant large landscape level forests, contained within, or containing the management unit, where viable populations of most if not all naturally occurring species exist in natural patterns of distribution and abundance. • HCV5. Forest areas fundamental to meeting basic needs of local communities (e.g. subsistence, health). <p>This site is part of an ecological landscape, already globally recognized as a Biodiversity hotspot. Clearly therefore this huge landscape, including the 4 protected areas and the concession in the middle is HCV1.</p> <p>The concession area is HCV1.1 because it overlaps with the legal buffers of 4 protected areas.</p> <p>It is HCV1.2 because there are IUCN red listed species inside the concession area such as forest elephants, nigerian chimpanzee, drill etc.</p> <p>SGSOC reports confirms the presence of <i>cercocebus torquatus</i> – a species IUCN listed as vulnerable.</p> <p>HCV1.3 Nobody has completed a rigorous survey of the area to know whether or not there are any endemics – but there is evidence that there are endemic plants and animals in all 4 adjacent protected areas. There probably are, but the company must fund truly independent research in the area to ascertain beyond any reasonable doubt that this is the case. Since the flora and fauna studies of SGSOC have not been out in the public domain we cannot comment on their methods or finds. Since SGSOC have not made the full HCV assessment public is impossible to comment on; however the results found in the summary seem to contradict what the experts have been saying. Given the uniqueness of the site and the global importance to biodiversity the HCV assessment in full should be made public for open consultation.</p>	<p>□ see Annex Map of the Concession with previous loggings (Page 50)</p>
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We hereby provide the following actions to be fulfilled

- stop all activities regarding this palmoil plantation. This area is too sensitive to build a commercial-size oil palm plantation.
- The RSPO should reprimand SGSOC/Herakles and The Ghana Wildlife Society for violating RSPO guidelines, violating Cameroon law, and submitting a highly inadequate HCV assessment.
- RSPO should also remove Herakles/SGSOC from the membership list as their project can't be sustainable for the people and the endangered species in Cameroon
- The development can be done in direction to assist smallholder farmers and the PSMNR-SWR through designing sustainable development projects