



The Global Initiative
for Economic, Social and Cultural Rights

**JOINT PARALLEL REPORT TO THE UNITED NATIONS
HUMAN RIGHTS COMMITTEE**

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Submitted by:

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and

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I. Introduction

1. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.
2. The International Human Rights Clinic at Western New England University School of Law is a non-profit educational endeavor committed to advancing human rights across borders.
3. The Global Initiative for Economic, Social, and Cultural Rights and the International Human Rights Clinic at Western New England University School of Law would like to bring to the attention of the Human Rights Committee emblematic factual situations dealing with the extra-territorial obligations of the State Party to respect and to ensure Covenant rights abroad, including within inter-governmental organizations and by ensuring corporate human rights responsibility.
4. This Parallel Report should be read in conjunction with the legal analysis submitted in the Parallel Report of the Global Initiative for Economic, Social and Cultural Rights submitted to the Committee in July 2013.

II. U.S. Corporate Accountability Abroad

A. Herakles Farms, LLC's Corporate Human Rights Violations in Cameroon

5. The United Nations Special Rapporteur on the Right to Food notes that the right to food can be threatened by large-scale biofuel plantations which displace food production in developed and developing countries, raising local food security concerns, and pushing agriculture into new areas ó putting an additional strain on the environment and ecosystems.¹ Growth of the palm oil industry, which öproduces 50 million tons of edible oils and biofuels a year,² means companies are developing plantations in more areas of the world, leading to an increase in human rights violations in those locations. Cameroon is no exception. Existing palm oil operations are expanding while companies are developing additional palm oil projects.³

¹ Biofuels, Olivier De Schutter: United Nations Special Rapporteur on the Right to Food, <http://www.srfood.org/index.php/en/areas-of-work/food-production-and-resources/biofuels> (last visited April 23, 2013).

² Pratap Chatterjee, *Cameroon Palm Oil Plantation Withdraws Sustainability Application*, CORPWATCH BLOG (Sept. 6, 2012), <http://www.corpwatch.org/article.php?id=15781>.

³ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

6. One company developing a project is United States agriculture corporation Herakles Farms, LLC. Herakles Farms, LLC is a Delaware-incorporated⁴ and New York-based agriculture company that is an affiliate of Herakles Capital.⁵ The company, founded in 2009, runs large-scale sustainable agricultural projects in Africa, which include palm oil plantations.⁶ In 2009, Herakles Farms took complete ownership of Sithe Global Sustainable Oils Cameroon, Ltd. (SGSOC) from Sithe Global.⁷ The subsidiary SGSOC is located in Douala, Cameroon in Africa.⁸

7. SGSOC is developing a large palm oil project in Cameroon that is threatening the land and livelihood of local populations. Herakles Farms' quest for biofuels in Cameroon is resulting in land grabbing, displacement of indigenous people, and the destruction of Cameroonians' livelihoods. Local villages and both local and foreign non-governmental organizations are fighting back against these human rights violations and demanding that the people of Cameroon be treated fairly. The sprawling palm oil plantation in Cameroon will produce commercial grade crude palm oil [], palm kernel oil [] and biodiesel for domestic and export sales.⁹ The entire palm oil project; which includes palm tree nurseries, planting fields, palm oil mills, and infrastructure for operations and employees;¹⁰ is estimated to cost about \$750 million.¹¹ In 2009, SGSOC signed an establishment convention with the Government of the Republic of Cameroon, represented by the Minister of the Economy, Planning and Regional Development.¹² The convention allows SGSOC to develop a large industrial palm oil plantation and refinery.¹³ The establishment convention includes a land lease for a term of 99 years¹⁴ for land in the N'dian and Kupe-Manenguba divisions.¹⁵

⁴ Entity Details: Herakles Farms Limited Liability Company, DELAWARE DEPARTMENT OF STATE: DIVISION OF CORPORATIONS, (Sept. 8, 2009), <https://delecorp.delaware.gov/tin/controller>.

⁵ Agriculture, HERAKLES CAPITAL, <http://www.heraklescapital.com/agriculture/> (last visited April 22, 2013). "Herakles Capital is a New York based venture-financing, mezzanine investing and business-incubation company with a primary focus on emerging and developing countries," according to the company's website. Who We Are, HERAKLES CAPITAL, <http://www.heraklescapital.com/> (last visited April 22, 2013); Herakles Farms Develops Sustainable Palm Oil Plantations in Cameroon and Ghana (June 15, 2011), <http://heraklesfarms.com/docs/PressRelease6-15-2011.pdf>.

⁶ HERAKLES FARMS: ABOUT (2001), <http://heraklesfarms.com/about.html>.

⁷ *Understanding Land Investment Deals in Africa: Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon*, The Oakland Institute 3 (Sept. 2012), http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf.

⁸ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 4 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

⁹ HERAKLES FARMS: LOCATIONS (2011), <http://heraklesfarms.com/locations.html>.

¹⁰ This includes housing facilities for workers, medical facilities, administrative buildings, warehouses, repair shops, . . . an integrated power station, and logistics infrastructure for the transportation and storage of the . . . biodiesel. ESIA Annexes; SG Sustainable Oil Cameroon, Limited 11 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

¹¹ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 4, 8, 11, 20 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>. Monetary amounts are in U.S. dollars unless otherwise noted.

¹² Establishment Convention by and between The Republic of Cameroon and SG Sustainable Oil Cameroon PLC. (Sept. 17, 2009), <http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/SGSOC%20Convention%20with%20the%20Government%20of%20Cameroon.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Pratap Chatterjee, *Cameroon Palm Oil Plantation Withdraws Sustainability Application*, CORPWATCH BLOG (Sept. 6, 2012), <http://www.corpwatch.org/article.php?id=15781>.

SGSOC agreed to pay a rent annually of \$1.00 per hectare for developed land and \$0.50 per hectare for undeveloped land.¹⁶

8. According to some, SGSOC began its development of the plantation in 2010 without the Cameroonian government's approval.¹⁷ The Ministry of Forestry and Wildlife (MINFOF) claimed the company did not notify the government before beginning to log in the concession area, nor did it receive a Presidential Decree to begin work.¹⁸ Herakles Farms maintains that there was simply a misunderstanding and that it gave prior notice to the Ministry.¹⁹ In February 2012, a court ruled the company complied with all local regulations and could begin operating in the country. The ruling was later reaffirmed.²⁰ Recently, the Government of Cameroon's Ministry of Forestry & Wildlife ordered Herakles Farms to cease all operations in Cameroon for the time being. The company claims it is working with the government so that it may continue its work.

9. Though the company claims its palm oil project will provide significant benefits relating to poverty reduction [and] food security,²¹ in reality, the project is threatening the villagers's ability to support themselves and their food security. Cameroon law requires studies of the environmental impact of agro-industrial projects.²² An Environmental & Social Impact Assessment of the project found that the [c]onstruction of the nurseries, plantations, mills, and infrastructure will affect the livelihoods of local populations because [c]learing of land for the plantation can take land currently used for traditional livelihood activities such as agriculture, collection of NTFPs, and hunting.²³ Because this impact was designated to be of high intensity with a long-term duration, the report lists it as a negative consequence of major importance.²⁴

1. Concession Area

10. The concession area is being developed in the southwest region of Cameroon, including the Ndian and Kupe-Manenguba Divisions and Nguti, Mundemba, and Tiko in the Fako Division.²⁵ According to Herakles Farms, "Upon full implementation, the Herakles

¹⁶ Establishment Convention by and between The Republic of Cameroon and SG Sustainable Oil Cameroon PLC. 26 (Sept. 17, 2009), <http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/SGSOC%20Convention%20with%20the%20Government%20of%20Cameroon.pdf>.

¹⁷ Understanding Land Investment Deals in Africa: Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon, The Oakland Institute & Greenpeace International 3 (Sept. 2012), http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf#page=9&zoom=89,35,752.

¹⁸ *Id.*

¹⁹ Herakles Farms Frequently Asked Questions (FAQs) by General Public 3 (Feb. 28, 2013), <http://heraklesfarms.com/docs/GeneralPublicFAQFeb2013.pdf>.

²⁰ *Id.*

²¹ HERAKLES FARMS: SUSTAINABILITY (2001), <http://heraklesfarms.com/sustainability.html>.

²² ESIA Annexes; SG Sustainable Oil Cameroon, Limited 8 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

²³ SG Sustainable Oils Cameroon Limited: Environmental & Social Impact Assessment xxiii (Aug. 2011), <http://www.heraklescapital.com/docs/SGSOC%20ESIA.pdf>.

²⁴ *Id.*

²⁵ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 4, 8 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

Farms palm oil investment [in West and Central Africa] will be one of the largest commercial palm oil operations in Africa.²⁶

11. The development of the project will be in four phases with each phase expected to be completed in roughly one year.²⁷ As of February 2013, Herakles Farms reported that there were four nurseries in Talangaye, Fabe, Lipenja and Nguti and that the company started planting trees outside of Talangaye in October 2012.²⁸ The company will soon begin planting trees in Manyemen, Ayong, Sikam, Sambaliba, Ebanga, and Ekita.²⁹

2. Land Grabbing and Displacement: ICCPR Articles 17 and 27

12. The project is estimated to take up roughly 70,000 hectares of land, but the estimated hectares of land only includes land for planting.³⁰ Though the government has designated that land for commercial activities,³¹ and considers it to be available agricultural land,³² the SGSOC's concession area includes village settlements and farmlands.³³ It is estimated that there are 40 villages within the concession area and nearby that will be impacted by the project.³⁴ The villagers in this area primarily farm for their livelihoods.³⁵ SGSOC is engaging in land grabbing in the villages of the concession and displacing indigenous peoples, leading to destruction of Cameroonians' livelihoods.

13. Herakles Farms promised locals that villages on the company's property would not be forced out of the area. In a September 22, 2010 public consultation, Dr. Isidore Timti of SGSOC told attendees that the villagers have been assured they do not have to move from the area.³⁶ The company said, however, that it may negotiate with individual farmers to move their farms off of the plantation but that the discussions would be fair, [] farmers involved [would] not feel coerced, and that they [would be] compensated accordingly.³⁷ The company's representatives promised to use participatory mapping, in which people from the company and villages identify the current village farming lands and areas that villages

²⁶ Agriculture, HERAKLES CAPITAL, <http://www.heraklescapital.com/agriculture/> (last visited April 22, 2013).

²⁷ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 3 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ HERAKLES FARMS: LOCATIONS (2001), <http://heraklesfarms.com/locations.html>.

³¹ Herakles Farms Frequently Asked Questions (FAQs) by General Public 1 (Feb. 28, 2013), <http://heraklesfarms.com/docs/GeneralPublicFAQFeb2013.pdf>.

³² SG Sustainable Oils Cameroon Limited: Environmental & Social Impact Assessment xvii (Aug. 2011), <http://www.heraklescapital.com/docs/SGSOC%20ESIA.pdf>.

³³ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 9 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

³⁴ Herakles Farms Frequently Asked Questions (FAQs) by General Public 6 (Feb. 28, 2013), <http://heraklesfarms.com/docs/GeneralPublicFAQFeb2013.pdf>.

³⁵ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 23 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

³⁵ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 4 (July 2012),

³⁶ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 86 (July 2012),

<http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

³⁷ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 9 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

would like to expand to ensure the palm plantation did not interfere with this land.³⁸ When asked what would happen to a village that did not want to participate, the company said those villages are free to make that choice and are excluded from the project.³⁹

14. Unfortunately, the company did not keep its promise to Cameroonians. Though the company promised to not force resettlement of villages, the convention gives SGSOC the exclusive right to farm within the concession.⁴⁰ Herakles Farms has taken full advantage of that right and continued development in the village of Fabe despite local opposition.⁴¹ When the company would not cease developing a nursery in the village, the village held a demonstration against the company, leading to the arrest of four locals by Cameroon enforcement officials.

Herakles Farms claims those protesting were outsiders and that the village has since asked the company to stay in the area,⁴² but many Fabe villagers do not support the company's invasion.

Herakles Farms claimed it would sign agreements that would lay out the village's land and the land for the plantation.⁴³ However, the company is neglecting to develop formal agreements with villagers, such as the Fabe villagers.

15. Fabe farmer Steven Orume told of the company taking village land:

They have just forced themselves there. We don't understand, no agreement, nothing. So we want them to go away because, we will have change inside the village of Fabe. It has forced itself into the village, imposing us to give it the number of hectares it needs. Nobody has allowed it to set up in our village, so we want it to go away and leave us alone.⁴⁴

16. Even when there are verbal agreements, SGSOC fails to follow through with its obligations. For instance, the company boasted about its charitable work in a September 14, 2011 press release, saying it "launched [a] social infrastructure program with the drilling of its first freshwater well in the village of Fabe."⁴⁵ Herakles Farms did follow through in building a well, but the villagers feel it "built [a well] as a way to buy the agreement of the villagers for the plantation," and "[i]n 13 months, it [] never worked."⁴⁶

³⁸ Herakles Farms Frequently Asked Questions (FAQs) by General Public 4 (Feb. 28, 2013), <http://heraklesfarms.com/docs/GeneralPublicFAQFeb2013.pdf>.

³⁹ *Id.*

⁴⁰ Understanding Land Investment Deals in Africa: Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon, The Oakland Institute & Greenpeace International 3 (Sept. 2012), http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf#page=9&zoom=89,35,752.

⁴¹ Herakles Farms Frequently Asked Questions (FAQs) by General Public 5 (Feb. 28, 2013), <http://heraklesfarms.com/docs/GeneralPublicFAQFeb2013.pdf>.

⁴² *Id.*

⁴³ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 4 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

⁴⁴ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁴⁵ Herakles Farms Releases Environmental & Social Impact Assessment, Launches Social Infrastructure Program, HERAKLES FARMS (Sept. 14, 2011), <http://www.heraklescapital.com/docs/Herakles%20Farms%20Press%20Release%20-%202011.14.2011.5.pdf>.

⁴⁶ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

17. Gabriel Ngoe, Fabe farmer, said SGSOC broke its promises to the village:

I have to say that we made a big mistake when we let the company set up its nursery in our village. But the company told us if we give it land for its nursery, it will build us houses, it will bring light and water, it will build us a hospital. But since then, 13 months today, nothing has been done inside the village.⁴⁷

18. Steven Mbote, a member of the traditional council of the Village of Fabe, tells about how Herakles Farms misled the village and is taking advantage of them:

This company which came here in Fabe, up until today, it has not done anything for us. It just comes and tells us we must give it our land. Why must we give it our land? We told it that we had given our land in the past . . . to create the national park. . . The land that is left here is not much. This company, when it first came, we asked it if it would respect any agreement we would come down to. They said yes! We thought it was an honest company, but now, we deeply regret to having trusted it. As it fooled us, we want it out of our village.⁴⁸

19. Herakles Farms has begun to mark its territory in other villages without their support, as well. Markers have been set up in the Village of Ekita. The following is farmer Peter Munguø account of the company marking his land:

This is my farm that my father died and left to me. So SGSOC has already given me a boundary that I cannot pass. As you can see, this is my farm that people come and give me limit, a point that I should not cross. . The day they came to do this thing I was not around. I was not inside the farm. Now they want to come and ground it and do not give me anything. I donø know how I will keep myself, and I have my mother, my children, my brother. And my sisters, my cousin with me.⁴⁹

20. Dotor Ekola, a cocoa farmer from the Village of Toko, discussed why locals are not supportive of the company:

We are protesting to tell governor know [sic] that we are young people coming . . . What shall we have to use tomorrow? That is why we donø want to use the land for them. We donø have land to give to anybody.⁵⁰

21. When the governor visited the Toko Village, the villagers held a banner saying, øMr. Governor, Welcome to Toko Municipality. We say no to SGSOC/Herakles Farms.ø⁵¹

22. Herakles Farms is taking land of Cameroonø indigenous peoples without compensation and displacing villages. The company continues to mark off villagesø land in the concession area, which will lead to villagesø inability to utilize their land for agriculture and other forms of livelihood. This will threaten food and water security for Cameroonians.

⁴⁷ *Id.*

⁴⁸ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

3. Food and Water Security: ICCPR Articles 6 and 27

23. Herakles Farm's website says the company is "[c]ommitted to addressing the complex issues of food security through sustainable agricultural initiatives."⁵² However, its land grabbing in Cameroon is hurting food security for the country's peoples. Losing land means villages cannot engage in traditional livelihood activities, such as farming, gathering, and hunting for food, which SGSOC admits will probably be practices at a lower intensity in the project area.⁵³

24. Herakles Farms said its project will increase low-cost access to palm oil for consumption by locals. It claims that prices for palm oil are high in Cameroon because the country imports much of its oil and that the company will provide palm oil at a lower cost to Cameroonians.⁵⁴ This palm oil for consumption will not replace the food villages grow and the crops they sell to support their families.

25. Locals have expressed their concern for sustaining their livelihood. Nature Cameroon President Dominic Ngwesse said the following:

We have to concern with what should be the livelihood of the people. In the first place if you have to give out 70,000 hectares of land to a single . . . company, what land is left for the communities?⁵⁵

26. Deputy Mayor and a member of the Mundemba Council Peter Okpo Wa Namolongo also expressed concern about how villagers will support themselves:

We are saturated with palms. . . They have [] big palm estates, which are of course not beneficial to us. Coming to take . . . land which was given to the people for farming is incredible.⁵⁶

27. A report by the Oakland Institute and Greenpeace International found that the "SGSOC plantation will undoubtedly have a negative impact on the local population's food security as they lose farmland and access to non-timber forest products and wildlife."⁵⁷

28. While the cost to locals is great, Herakles Farms leased the land for a very economical price. The land Herakles Farms bought from the government was incredibly undervalued.

⁵² HERAKLES FARMS: ABOUT (2001), <http://heraklesfarms.com/about.html>.

⁵³ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 86 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

⁵⁴ HERAKLES FARMS: ABOUT (2011), <http://heraklesfarms.com/palm-oil-faqs.html>.

⁵⁵ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁵⁶ *Id.*

⁵⁷ Understanding Land Investment Deals in Africa: Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon, The Oakland Institute & Greenpeace International 4 (Sept. 2012), http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf#page=9&zoom=89,35,752.

The company paid \$0.50 per hectare of land when farmers can make much more money off of that land.⁵⁸

29. Ekita Farmer Peter Mungu had the following to say about the value of his land:

I will harvest about 15 bags of cocoa from here, which we use to sell to our buyer and sustain our life from there. A bag of cocoa is about [\$131.39]. I am wondering, how can you pay somebody's farm worth a million, you pay only about [\$2.50] to the government?⁵⁹

30. That means Peter Mungu earns roughly \$2,314 annually from the five hectares of land, which is US\$2,312.50 more than Herakles Farms is paying for the same land in one year.⁶⁰

31. Water security is at risk, as well. The company claims to have a water management plan that contains policies and procedures to prevent water contamination.⁶¹ There is high risk to water, though, due to the many chemicals large plantations generally use.⁶² This threatens drinking water, as well as fish eaten by locals.⁶³ The plantation will continue to displace villagers by taking their land. When companies create what is called "involuntary resettlement," they must compensate those they displace. The company must also "promote alternative livelihoods activities." However, it seems that SGSOC's only real alternative activities for the population are jobs with the company.⁶⁴

4. Employment

32. SGSOC argues that its plantation will create employment for local Cameroonians and that any negative effects of the plantation will be overcome by the employment opportunities. The company "believes that large-scale investment provides the most rapid path to job growth in sub-Saharan Africa."⁶⁵ Though the company boasts the opportunity for huge job growth the plantation will bring, only .05% of Cameroonians could be hired at full capacity.⁶⁶ Moreover, it seems this "job growth" is unwelcome in Cameroon.

⁵⁸ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁵⁹ *Id.*

⁶⁰ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁶¹ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 13 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

⁶² Understanding Land Investment Deals in Africa: Massive Deforestation Portrayed as Sustainable Development: The Deceit of Herakles Farms in Cameroon, The Oakland Institute & Greenpeace International 3 (Sept. 2012), http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Land_deal_brief_herakles.pdf#page=9&zoom=89,35,752.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Agriculture, HERAKLES CAPITAL, <http://www.heraklescapital.com/agriculture/> (last visited April 22, 2013).

⁶⁶ ESIA Annexes; SG Sustainable Oil Cameroon, Limited 96 (July 2012), <http://www.heraklescapital.com/docs/Cameroon/ESIA/Final%20SGSOC%20ESIA%20Combined%20Annexes.pdf>.

33. Locals in the film *‘The Herakles Debacle’* make this clear. ‘Plantation jobs have always been modern day slavery,’ said Joshua Osih of the Social Democratic Front, Cameroon’s main opposition party.⁶⁷

34. Okie Bonaventure Ekoko, a cocoa farmer from Mboko village, said the following about job opportunities from Herakles Farms:

Everybody here is self-employed. There is [sic] no advantages that the people here will have [from Herakles investments]. We don’t need them, we are fine.⁶⁸

35. In addition, only villages that have signed memoranda of understanding with the company receive job announcements, meaning villages have to give Herakles Farms what it wants, land, to benefit from job opportunities.⁶⁹ Though Herakles Farms may provide jobs for some locals, ‘independent farmers can make four times as much when managing their own land and growing crops sold on local markets than they do working for an agro-industrial company.’⁷⁰

36. Christina Njonki, a farmer in Ntale Village, does not believe the plantation will help locals. She had the following to say:

It is our group farm . . . then why should I need SGSOC to come in our land? . . . We have everything in our village: cassava, cocoa farm, palm oil, mace, bush mango that we sell, kola nuts, bita kola. We don’t have only one thing in our land. We have so many things that give us money, so we don’t need people to come and disturb us. This is nine month cassava, so how [can] we say we are suffering; we are not suffering in our land. . . We don’t need you.⁷¹

37. For those like Okie Bonaventure Ekoko who wish to continue farming on their land, SGSOC plans to sell them plants to grow palm trees as long as the farmers commit to sell the fruit to the company.⁷² However, locals have experienced the same types of project before. ‘We’ve seen a lot of industrial plantations develop around this area and nothing, absolutely nothing, has happened positively to the population,’ said Joshua Osih.⁷³

5. Accountability

38. Currently, Herakles Farms and the Cameroonian government are in discussion regarding the continuance of the palm plantation. Though the country’s government may

⁶⁷ Pratap Chatterjee, *Cameroon Palm Oil Plantation Withdraws Sustainability Application*, CORPWATCH BLOG (Sept. 6, 2012), <http://www.corpwatch.org/article.php?id=15781>.

⁶⁸ Pratap Chatterjee, *Cameroon Palm Oil Plantation Withdraws Sustainability Application*, CORPWATCH BLOG (Sept. 6, 2012), <http://www.corpwatch.org/article.php?id=15781>.

⁶⁹ Herakles Farms Frequently Asked Questions (FAQs) within the Concession 12 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

⁷⁰ *Film: The Herakles Debacle*, Oakland Institute (Sept. 5, 2012), <http://www.oaklandinstitute.org/film-herakles-debacle>.

⁷¹ *Id.*

⁷² Herakles Farms Frequently Asked Questions (FAQs) within the Concession 7 (Feb. 4, 2013), <http://heraklesfarms.com/docs/CommunityFAQFeb2013.pdf>.

⁷³ Pratap Chatterjee, *Cameroon Palm Oil Plantation Withdraws Sustainability Application*, CORPWATCH BLOG (Sept. 6, 2012), <http://www.corpwatch.org/article.php?id=15781>.

hold it accountable for some of its human rights violations, it is imperative that the United States possess the tools to hold the corporation accountable for its wrongdoings, as well.

39. It is also imperative that climate change mitigation strategies are grounded within the human rights framework in order to ensure that rights are not violated in the context of implementation of such strategies and to ensure that any climate change mitigation strategies truly benefit all affected rights-holders and their environments.

B. Tahoe Resources Inc. and Goldcorp, Inc.'s Corporate Human Rights Violations in Guatemala

40. Extractive industries have always preyed on countries with histories of violence and repression to increase profits and escape punishments for human rights violations. Latin America is a particularly popular area for extractive industries, and Guatemala is the hot spot for silver and gold mining in recent years. This exploration and exploitation in the country has led to unrest, resistance, and violence, as companies push locals out of their land and threaten food security.

41. Tahoe Resources, Inc. (Tahoe Resources) is a silver exploration and development company⁷⁴ incorporated in Canada with one headquarter in Nevada. Tahoe Resources is the owner of the Escobal silver project in Southeast Guatemala.⁷⁵ Goldcorp, Inc. is a shareholder of Tahoe Resources and has been involved in and collaborated on some of its mining projects, including those in Guatemala. Goldcorp and Tahoe Resources are very intertwined, as Tahoe Resources CEO Kevin McArthur is a former CEO of Goldcorp.⁷⁶ Goldcorp owns 40% of the Escobal mining project.⁷⁷ The Escobal silver and gold deposit was discovered in 2007, Tahoe Resources acquired the area in June 2010,⁷⁸ and the company received approval for exploration from the Guatemalan environmental agency in early 2011.⁷⁹ At this time, the company also acquired all rights to the land.⁸⁰ The full project was approved on October 21, 2011.⁸¹ Construction of the project costing \$326.6 million began shortly thereafter.⁸² Completion of the project is expected in July 2013⁸³ and was at 80% at the end of March

⁷⁴ Tahoe Resources Inc.: Investor Fact Sheet, Q1 2013, <http://www.tahoeresourcesinc.com/wp-content/uploads/2013/01/TRIFactSheet2013Q1.pdf>.

⁷⁵ *Id.*

⁷⁶ *Tahoe Resources Inc.*, STREETWISE REPORTS: THE GOLD REPORT (2013), <http://www.theaureport.com/pub/co/2687>.

⁷⁷ *Mining resistance in Guatemala: James Rodriguez*, Viewpoint (May 24, 2013), <http://www.viewpointonline.net/mining-resistance-in-guatemala-james-rodriguez.html>.

⁷⁸ *Tahoe Resources Announces New Drilling, Extends Mineralization*, TAHOE RESOURCES INC. (Sept. 20, 2010), <http://www.tahoeresourcesinc.com/tahoe-resources-announces-new-drilling/>.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Tahoe Resources Inc.: Investor Fact Sheet, Q1 2013, <http://www.tahoeresourcesinc.com/wp-content/uploads/2013/01/TRIFactSheet2013Q1.pdf>.

⁸² Tahoe Resources Inc.: Investor Fact Sheet, Q1 2013, <http://www.tahoeresourcesinc.com/wp-content/uploads/2013/01/TRIFactSheet2013Q1.pdf>; Tahoe Resources Inc.: Escobal (2013), <http://www.tahoeresourcesinc.com/escobal/>.

⁸³ *Tahoe Resources Inc.*, STREETWISE REPORTS: THE GOLD REPORT (2013), <http://www.theaureport.com/pub/co/2687>.

2013. The "world class Escobal project"⁸⁴ is located near the town of San Rafael las Flores, inhabited by 3,000 locals.⁸⁵

42. In April 2013, Tahoe Resources signed the Escobal Royalty Agreement, which requires that Tahoe Resources pay a 5% royalty for mine products sold by the company.⁸⁶ Forty percent of the royalties paid will be given to the town of San Rafael, 20 percent will be given to other nearby communities that may be affected by the mining, and the government will keep the remaining 40 percent of the royalties.⁸⁷ According to Tahoe Resources, "[t]his new royalty structure is seen as a very positive development for Guatemala and for the regions surrounding the Escobal project." As of 2010, CEO Kevin McArthur said the company was "receiving positive feedback from local and federal authorities in [its] planning and permitting efforts."⁸⁹ He also commented that the company was working to minimize community impacts of the project. "It is our intent to responsibly build this mine for the benefit of all stakeholders – governments, employees, communities and shareholders," he said in 2010.⁹⁰

1. Displacement and Food Security: ICCPR Articles 6, 17 and 27

43. Though Tahoe Resources claims it helps local communities, in reality, it forces Guatemalans to move from their land and threatens food security for local towns. Tahoe bought 250 hectares of land in Guatemala from the government, but much of the land was owned by locals. Tahoe claims that locals who owned the land the company bought will be paid one-half percent of royalties "from the production of minerals at the mine."⁹¹ The former owners were also given "an option to re-purchase the land at the end of the mine life."⁹² The majority of landowners in the area moved, but there is one Guatemalan who refuses to leave his land. Clodoveo Rodriguez will not give his land over to Tahoe Resources and Goldcorp for the Escobal mine.⁹³ Due to this, "his home has been fenced-in by the neighboring Escobal silver mine."⁹⁴

44. The Escobal mine project approval report by the Ministry of Environment and Natural Resources claimed "there [was] no one living within 500 meters of the mine even though Rodriguez lives roughly 10 meters from the company's fence."⁹⁵ The report included his

⁸⁴ Tahoe Resources Inc.: Investor Fact Sheet, Q1 2013, <http://www.tahoeresourcesinc.com/wp-content/uploads/2013/01/TRIFactSheet2013Q1.pdf>.

⁸⁵ *The Goldcorp Arts Centre in the Woodward's Building: Site of Displacement and Shame*, VANCOUVER MEDIACOOP, GOLDCORP OUT OF GUATEMALA (Sept. 23, 2010), <http://goldcorpoutnews.wordpress.com/2010/09/23/the-goldcorp-arts-centre-in-the-woodwards-building-site-of-displacement-and-shame/>.

⁸⁶ *Tahoe Reports 2013 First Quarter Results: Updates Escobal Project and Five-year Plan*, TAHOE RESOURCES INC. (May 10, 2013), <http://www.tahoeresourcesinc.com/tahoe-reports-2013-first-quarter-results/>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Tahoe Resources Received Environmental Permit to Commence Underground Development*, TAHOE RESOURCES INC. (Feb. 16, 2011), <http://www.tahoeresourcesinc.com/tahoe-resources-receives-environmental-permit-to-commence-underground-development/>.

⁹² *Id.*

⁹³ *Mining resistance in Guatemala: James Rodriguez*, Viewpoint (May 24, 2013), <http://www.viewpointonline.net/mining-resistance-in-guatemala-james-rodriguez.html>.

⁹⁴ *Id.*

⁹⁵ *Id.*

land—even though the mining company does not own the land.⁹⁶ The companies were given access to his land in their exploitation license for the mine.⁹⁷

45. Rodriguez said, “The only thing I have left is this plot of land I inherited from my family and my cows, and so he refuses to sell his land to Tahoe Resources and Goldcorp.”⁹⁸ The mining companies are making this incredibly difficult for him, though. His health has seriously deteriorated in recent months due to constant dust and the incessant noise, and [h]e suffers from a chronic cough and acute conjunctivitis in his eyes. Rodriguez refuses to let the companies win, though, saying they will acquire his land “only over his dead body.”⁹⁹ In addition to taking locals’ land, the mining project threatens local food security. Though Tahoe Resources claims the project will employ roughly 500 people in Guatemala,¹⁰⁰ most residents are fearful of the effects of the Escobal mine on their livelihoods, according to Oscar Morales, vice-president of the Commission in Charge of the Community Consultation regarding Mining Activities in San Rafael Las Flores.¹⁰¹

46. Residents of nearby communities support themselves by agricultural and livestock endeavors.¹⁰² Contamination of water used for these activities is a major threat to towns in the area.¹⁰³ Many use the Ayarza Lagoon for clean water, and a recent report found there is only a “thin layer of rock barely 200 meters thick that divides underground aquifers from the lagoon.”¹⁰⁴ Mining projects tend to produce acid drainage, which can contaminate the lagoon.¹⁰⁵

2. Accountability

47. While local Guatemalans impacted by the Escobal mining project are resisting the project and trying to hold the companies accountable for their actions, it is the government of Guatemala, as well as the Canadian and United States governments, that have the responsibility to protect the locals. Action is needed soon because it appears the resistance against the Escobal mine will continue, and possibly intensify. Morales Garcia said the following:

Tahoe’s silver, minerals and gold in San Rafael are now stained with blood. It may be true that the government authorized an exploitation license, but what would be called a social license for Minera San Rafael doesn’t exist here. It doesn’t exist and it never will. . . . You don’t have a social license. The resistance is just beginning. And we’re in it for the long haul.¹⁰⁶

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Mining resistance in Guatemala: James Rodriguez*, Viewpoint (May 24, 2013), <http://www.viewpointonline.net/mining-resistance-in-guatemala-james-rodriguez.html>.

⁹⁹ *Id.*

¹⁰⁰ Tahoe Resources Inc.: Escobal (2013), <http://www.tahoeresourcesinc.com/escobal/>.

¹⁰¹ *Mining resistance in Guatemala: James Rodriguez*, Viewpoint (May 24, 2013), <http://www.viewpointonline.net/mining-resistance-in-guatemala-james-rodriguez.html>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Sandra Cuffee, *State of Siege: Mining Conflict Escalates in Guatemala*, Upside Down World (May 2, 2013), <http://upside-downworld.org/main/guatemala-archives-33/4270-state-of-siege-mining-conflict-escalates-in-guatemala>.