

Herakles Farms / SGSOC: the chaotic history of a destructive palm oil project in Cameroon

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The Herakles Farms oil palm plantation in the South West Region of Cameroon is one of the best-documented examples of land grabbing on the African continent.¹ Indeed, the project's implementation is a showcase in predatory corporate misbehavior of Herculean proportions.

In 2009, US based Herakles Farms — through its local subsidiary, SG Sustainable Oils Cameroon (SGSOC) — signed an Establishment Convention with the Cameroonian government represented by the Minister of Economy.² The Establishment Convention's contents, the company's numerous violations of Cameroonian law, the plantation's huge negative ecological impacts, the lack of Free Prior and Informed Consent (FPIC) of local communities and the lack of respect of customary land rights generated significant controversy in Cameroon and internationally.³ Yet, in November 2013, SGSOC received a three-year provisional land lease from the Cameroonian government to develop its oil palm plantation project.⁴

In 2015, SGSOC was acquired by new investors and Jonathan Johnson-Watts, a British national, became the Chief Operations Officer.⁵ The company's provisional land lease expires in November 2016. Thus Mr. Johnson-Watts' urgent task is to secure a long-term land lease of up to 99 years by Presidential Decree.

Meanwhile, opposition to the project continues.

Communities in the project area whose lands were taken without FPIC are demanding their lands be ceded back to them. People whose farms were destroyed are asking for compensation.

Given the huge environmental cost of the project, the company's many misdeeds and its failure to realize its promises, recapitulated in this briefing, Greenpeace believes the Cameroonian government should refrain from giving SGSOC a long-term land lease.

SGSOC's Illegal Establishment Convention

SGSOC's 2009 Establishment Convention contains a number of abhorrent clauses that contravene Cameroonian and international law and are simply not necessary for the production of palm oil.

For example, Section 9.3 grants SGSOC the right to “[...] search, apprehend, detain, exclude and evict unauthorized persons [...]” from the plantation area.⁶ This clause could be applied to restrict the free movement of communities on their ancestral lands. It likely violates the Universal Declaration of Human Rights, the African Charter of Human and Peoples Rights and the International Covenant on Economic, Social and Cultural Rights.⁷



The Convention also allows for SGSOC's employees to be paid according to "[...] minimum wage scales fixed on the basis of productivity and efficiency criteria [...]", instead of stating that they should benefit from Cameroon's minimum wage protections, and to freely dismiss employees in violation of Cameroon's labor laws.⁸

The Convention's fiscal provisions also contravene Cameroonian law. According to the terms, SGSOC will benefit a total exemption from customs duties for the duration of the project, 10-year total tax exoneration, and a reduced corporate tax rate "[...] not to exceed 15%."⁹ These are fiscal incentives afforded to companies establishing industrial "Free Zones" in a "fenced geographic area."¹⁰ Companies must apply for a Free Zone designation and cannot benefit from such a tax regime by contract alone.

Furthermore, the Convention provides that the company will pay 0.5 USD per hectare per year in land rents for undeveloped land and 1 USD per hectare per year in land rents for developed land.¹¹ However, Cameroon's 1990 Finance Law fixes the rate at 10,000 FCFA (21.94 USD at September 2009 exchange rate) per hectare per year for agricultural concessions.¹²

It would appear that the US based investors behind SGSOC knew that the contents of its Establishment Convention violate Cameroonian and international law. Thus, the company attempted to reorder the hierarchy of legal norms in Cameroon by inserting the following clause: "[...] in the event of a conflict between this Convention and any Law, except for the Constitution of Cameroon, as in effect as of the date hereof, the rights, obligations and duties of a Party shall be deemed to be those set forth in this Convention."¹³

It would also appear that SGSOC knew the Minister of Economy does not have the authority to grant wide-ranging derogations from Cameroonian law without parliamentary approval. Yet, that did not stop the parties from inserting a warranty into the Convention that the Minister of Economy "[...] has all necessary power and

authority to execute and deliver this Convention."¹⁴

SGSOC's Establishment Convention is the primary legal instrument backing its land grab. It was clearly artfully designed to provide generous exemptions to the company while violating human rights and Cameroonian laws. It should be annulled immediately.

The project's wild start

SGSOC's Cameroon plantation was the first in the company's history and its inexperience in plantation development revealed itself very early on. According to Cameroon's land tenure laws, agricultural companies wishing to lease more than fifty hectares of land classified as National Lands must obtain a Presidential Decree.¹⁵ SGSOC, however, argued that its Establishment Convention "[...] provides the rights to SGSOC to lease the land for 99 years".¹⁶ It thus occupied lands in the Nguti and Mundemba Subdivisions on that basis beginning in 2010. The company's illegal occupation lasted over three years until it finally obtained a provisional concession for approximately 20,000 hectares by Presidential Decree in 2013.¹⁷ Leaked internal documents from SGSOC's former parent company Herakles Farms show it was lying to investors by telling them it had secured all necessary operating permits.¹⁸

In addition to illegally occupying National Lands, the company began clearing forest and implanting its palm nurseries prior to completing a social-environmental impact assessment, in violation of Cameroonian law.¹⁹ In 2012, the EU-funded Independent Forest Observer busted SGSOC for illegal logging.²⁰ Then in 2013, Cameroon's Ministry of Forestry and Wildlife (MINFOF) temporarily suspended SGSOC's right to clear the forest. Yet SGSOC violated the suspension order by continuing to clear the forest and later purchased a front company called Uniprovince to continue to illegally log the area.²¹



Corruption Allegations

There have been numerous allegations that SGSOC has used bribery or the promise of future benefits to certain individuals to obtain support from local communities and administrative authorities. A 2013 MINFOF report alleged that land negotiations were conducted “[...] with lot of intimidation and bribery, targeting the chiefs and some few influential decision-making members of the communities.”²³

The French newspaper Le Monde reported that Hamilton James, SGSOC’s Director of Operations at the time, promised to secure employment for family members of a high-level employee of the Ministry of State Property, Surveys and Land Tenure (MINDCAF).²⁴

Greenpeace International and the Oakland Institute, an independent policy think tank, published a report including details of SGSOC’s use of cash gifts and bribery. An SGSOC high-level staff, responding to a question about corruption allegations, stated “Of course envelopes were distributed [...] that’s how you facilitate your way.” The same employee added that the former Herakles Farms Plantation Director “[...] distributed a good number of envelopes and huge sums of money.”²⁵

The US Embassy in Cameroon turned a blind eye to corruption allegations.²⁶ The embassy reported in official diplomatic cables that it was “aware of allegations that

SGSOC representatives may have violated the Foreign Corrupt Practices Act.” Despite possessing information in the early days of 2013 that Herakles “may have” violated US corruption laws, the US Ambassador and high-ranking State Department officials continued lobbying the Cameroonian Government on behalf of the company through the end of May 2013 (and possibly beyond). Deputy Assistant Secretary in the Bureau of African Affairs at the State Department Cynthia Akuetteh told Cameroonian President Paul Biya she “hoped that the government could resolve its dispute [with SGSOC]”—referring to the fact that Cameroon had temporarily suspended SGSOC’s right to clear forest and had yet to grant the company a land lease. Akuetteh further warned Cameroon’s Prime Minister in a separate meeting that “Cameroon should act quickly and avoid [investor] arbitration.” Adding “failure to act could [...] have a chilling effect on future foreign investment.” These are not so subtle remarks in favor of a company facing numerous bribery allegations.

Two Cameroonian NGOs —Network to Fight against Hunger (RELUFA) and the Center for Environment and Development (CED)— filed a complaint with the US government’s National Contact Point for the OECD guidelines on multinational enterprises concerning the SGSOC bribery allegations.²⁷

The complaint has led to a mediation process, for which monitoring by the US government is ongoing.²⁸



SGSOC's contempt for the Cameroonian Judiciary

Since arriving in Cameroon, SGSOC has repeatedly shown disdain for the Cameroonian judicial system. Referring to court cases brought by a former employee, on 29 September 2015 Jonathan Watts, SGSOC's new Chief Operations Officer, wrote a letter to the Secretary General of the Presidency of Cameroon "[...] appealing to the Government to intervene in stopping these cases so that the company can focus in its core business of clearing; planting and producing palm oil".²⁹ Needless to say, demanding executive intervention in the judicial system—regardless of the cases merits—is highly inappropriate and in violation of the principle of the separation of powers. One might assume that Jonathan Johnson-Watts was scared to lose these cases: in May 2016, the Court of First Instance in Mundemba ordered SGSOC to pay the amount of 6.5 million FCFA to Illorh Emobe Ingeke - a former employee of SGSOC - who had filed a "wrongful termination of employment" suit against the company. In a recent development, over 40 former workers whose employment was also wrongfully terminated recently filed labor complaints at the labor office in Mundemba against SGSOC.

This was not SGSOC's first run in with the law. On 8 August 2011 a local Cameroonian NGO called Struggle to Economise Future Environment (SEFE) filed a motion at the High Court of N'dian Judicial Division in Mundemba to put an injunction to stop SGSOC's activities citing the possibility of irreparable damage or injury to local communities if the project were to continue. As a result, the court imposed a work-stop order on SGSOC with a penalty of 500,000 FCFA (around 1,080 USD at August 2011 exchange rate) per day in case the injunction were to be violated.³⁰ Not only did SGSOC violate the injunction while appealing the decision; the company CEO completely denied it ever existed in an open letter.³¹ Illegal behavior is one of SGSOC's defining characteristics.

Environmental Impact

SGSOC has branded itself as an environmentally friendly company from day one. The reality couldn't be further from the truth.³² The company's land concession is located in the Guinean Forests of West Africa biodiversity hotspot and is surrounded by four protected areas. Scientists found numerous endemic and endangered species within SGSOC's concession area including chimpanzees and new species of fish.³³

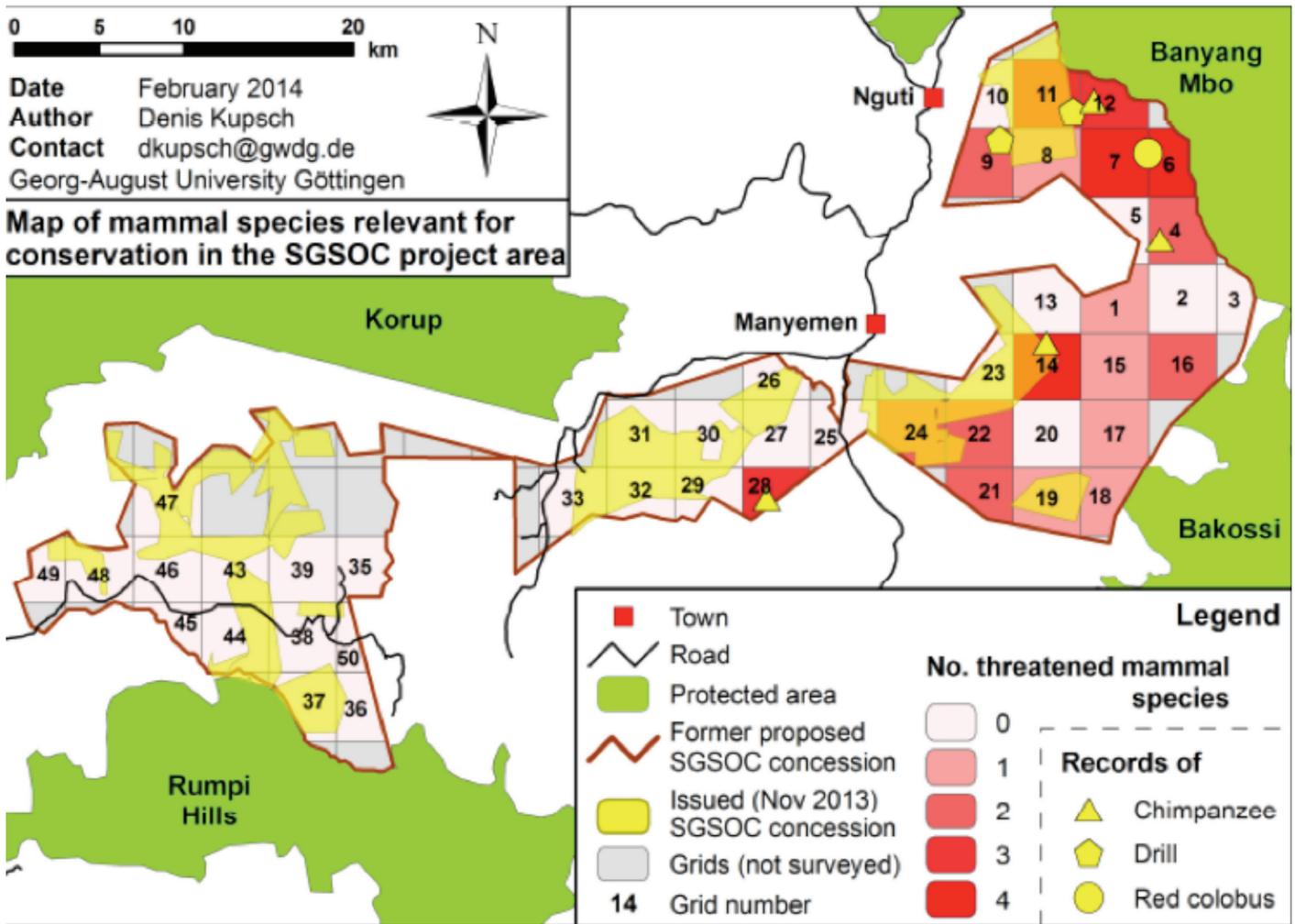


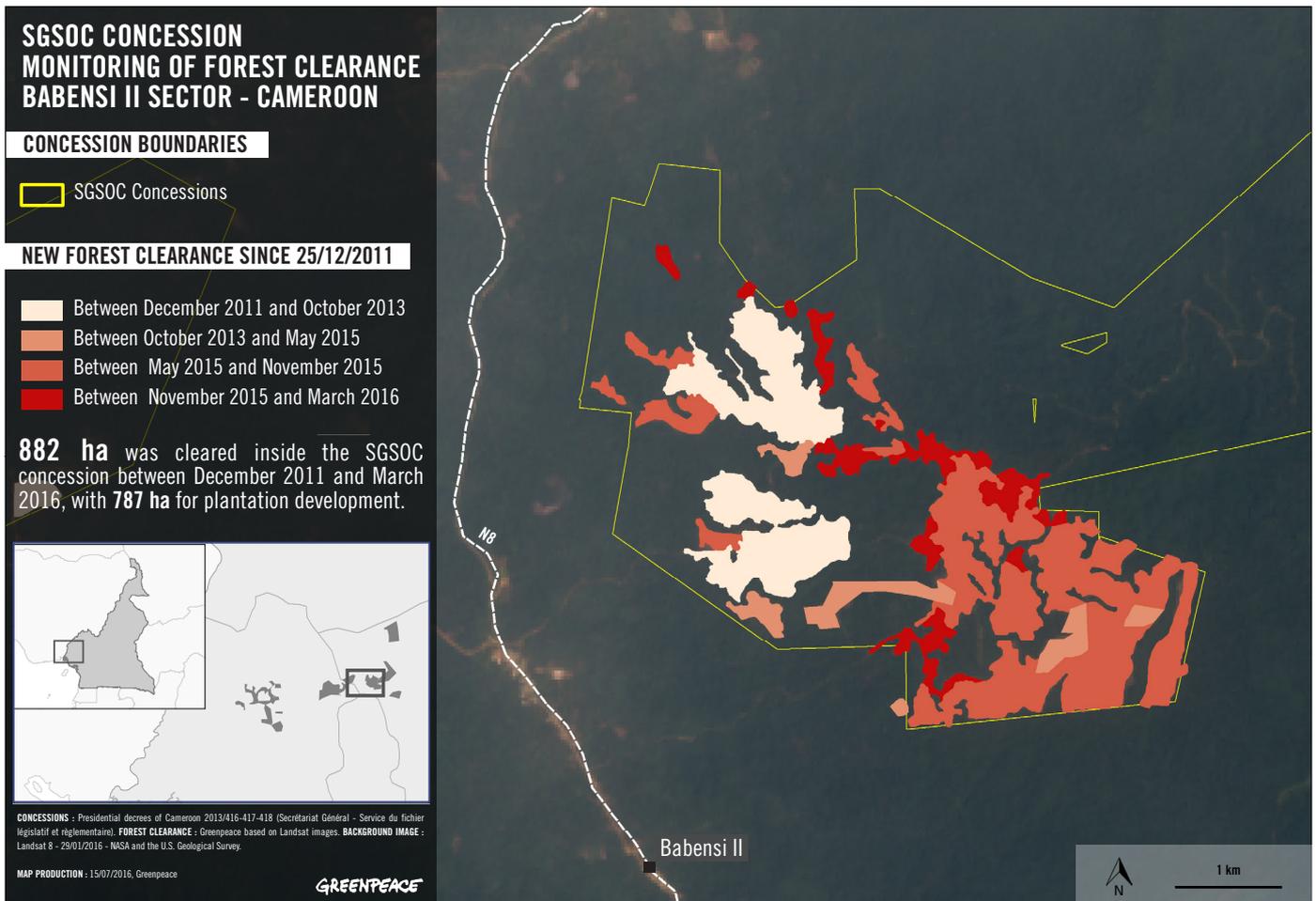
Figure: sample grid and locations of 2 km transects sampled for large mammals, birds and vegetation, inside the planned palm oil concession. The red outline portrays SGSOC's original plan to occupy 73,000 hectares, while the yellow shapes represent the provisional land concession of 20,000 hectares granted by Presidential Decree in 2013.³⁴

Greenpeace analysis of satellite images showed that by March 2016, 882 hectares of forest were cleared inside the SGSOC concession. According to estimates by scientists, if the entire concession were converted from forest into oil palm, it would result in net carbon emissions of 20.9 MtCO₂e.³⁵

SGSOC and Communities

International law and certification schemes like RSPO require companies to obtain Free, Prior and Informed Consent (FPIC) from local communities affected by their projects.³⁹ An FPIC process should allow communities to accept or reject a project in part or in its entirety.

SGSOC has denied communities' rights to FPIC by engaging in allegedly corrupt land negotiation processes and demarcating its plantation boundaries without consent from locals.⁴⁰ According to an analysis by Samuel Nguiffo, the minimal consultation requirements set out by Cameroonian law were violated by SGSOC



Furthermore, SGSOC apparently did not seriously study the environmental impacts of its project. RELUFA and CED accused the company of manipulating the contents of its environmental impact assessment to hide the plantation's true impacts.³⁶ The company's high conservation value assessment was panned by a panel of experts.³⁷ Complaints by Cameroonian and international NGOs forced SGSOC to withdraw its application from the Roundtable on Sustainable Palm Oil (RSPO).³⁸ Overall, the company has a dismal environmental sustainability record.

when holding meetings of the Land Consultative Board in Nguti Subdivision.⁴¹ Some villages in the land concession have very little land relative to their population size meaning the project could create acute land scarcities for local food production.⁴²

In Nguti, a farmer named John Nya Eyabi, told Greenpeace campaigners that people from SGSOC came and said they wanted to settle in their region. "We told them they could take all the forest they wanted, but respecting a 5 km buffer zone beyond our farms. They never came back, and one day we saw red marks





on trees with the name SGSOC, very close to the village. My farm and many others are included within this SGSOC area [...] if we accept SGSOC to come, how much will they pay me? For how many years will this money last, compared to the living I get from this farm? If they take this forest, where will I stay with my children, with my family? I'm not employed; this farm means everything to me."⁴³

Adolf Ngbe Ebong, a 62 years old retired policeman living in Babensi II, owned a four hectares farm, which was cleared between 2013-2014. "SGSOC came in Nguti, they said they wanted to open a palm plantation, and we all vehemently refused. One day, I came in my farm and I found out that everything has been felled down, they bulldozed everything, and my four hectares were gone. It was my forest that was supposed to help me on my retirement to take care of my family but today, I have no place. We are all crying here, and we don't know how we can be rescued. We tried to meet the SGSOC people, and they said that our neighboring village gave them this land. Are they not supposed to try to find out whom this land belongs to? Everybody here knows the boundaries... I feel like dying, I have nothing else but this land."⁴⁴

Today in Babensi II, the market is mostly empty as the villagers can't grow enough food. The community feels helpless, and the tensions with their neighbors are very high. Despite not being mentioned in the Decree, the community had part of its land taken by SGSOC.



Harassment of Local NGOs

A coalition of over twenty Cameroonian and international NGOs has stood up to SGSOC's unethical and illegal behavior since 2012. Two local NGOs — SEFE and Nature Cameroon— based in the plantation area have been subjected to administrative and judicial harassment by SGSOC and the Cameroonian government for over five years.

On 11 September 2013 the Divisional Officer of Nguti Subdivision, summarily suspended Nature Cameroon's right of "[...] organizing/holding [...] any public meeting/manifestation [...] in Nguti Sub Division", citing its alleged convening of meetings "[...] not authorized by the Administration [...]" without citing the dates and locations of any of the meetings in question.⁴⁵ The suspension followed a tour of local villages whereby local chiefs invited Nature Cameroon to sensitization meetings focused on the status of Herakles Farms' application for a land lease. Nature Cameroon invited the Divisional Officer to each gathering well in advance and he took no act to declare the meetings illegal until Herakles Farms representatives lodged a verbal complaint after the tour was completed. Nature Cameroon's suspension was only lifted after intervention by a coalition of international NGOs and the European Union Delegation in Cameroon.⁴⁶

Nasako Besingi, director of SEFE, was sued by Herakles for defamation and inexplicably convicted by a Cameroonian court for writing in a private email that





he was travelling by motorbike to a village to conduct awareness-raising when he was ambushed by a group of men that SGSOC admitted were the company's service providers. The ambush was caught on camera by reporters from France24 television and broadcasted internationally.⁴⁷ Besingi has appealed the conviction.

SGSOC's New Investor Team

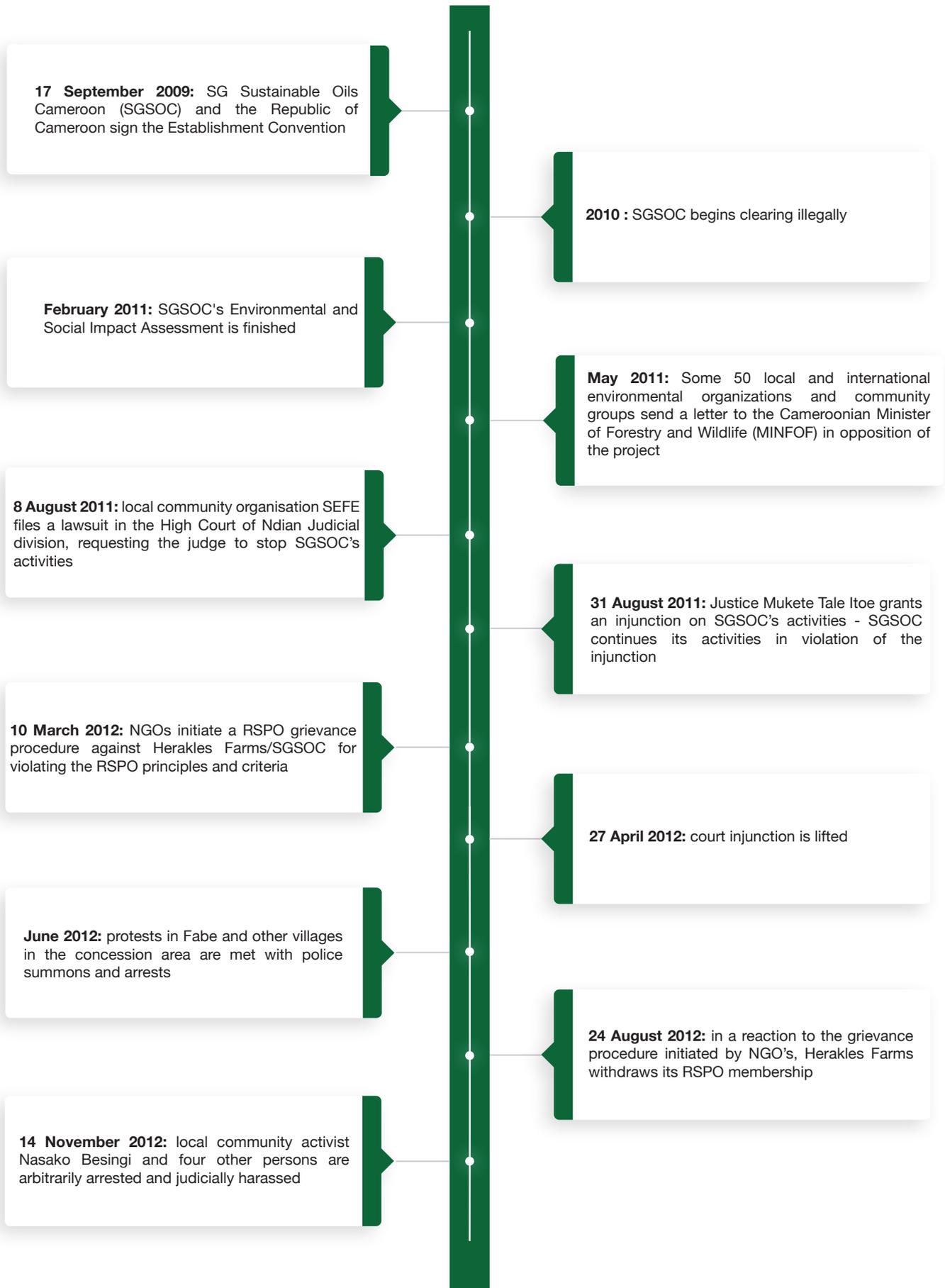
SGSOC installed Jonathan Johnson-Watts as the Chairman and General Manager in November of 2015.⁴⁸ Despite the project's abysmal social, environmental, and economic record, Herakles Farms is confirmed to have sold SGSOC to new investors. Together with his close business associate James Robert Hamish Stevenson-Hamilton, Johnson-Watts is an officer and shareholder of a number of UK registered companies,

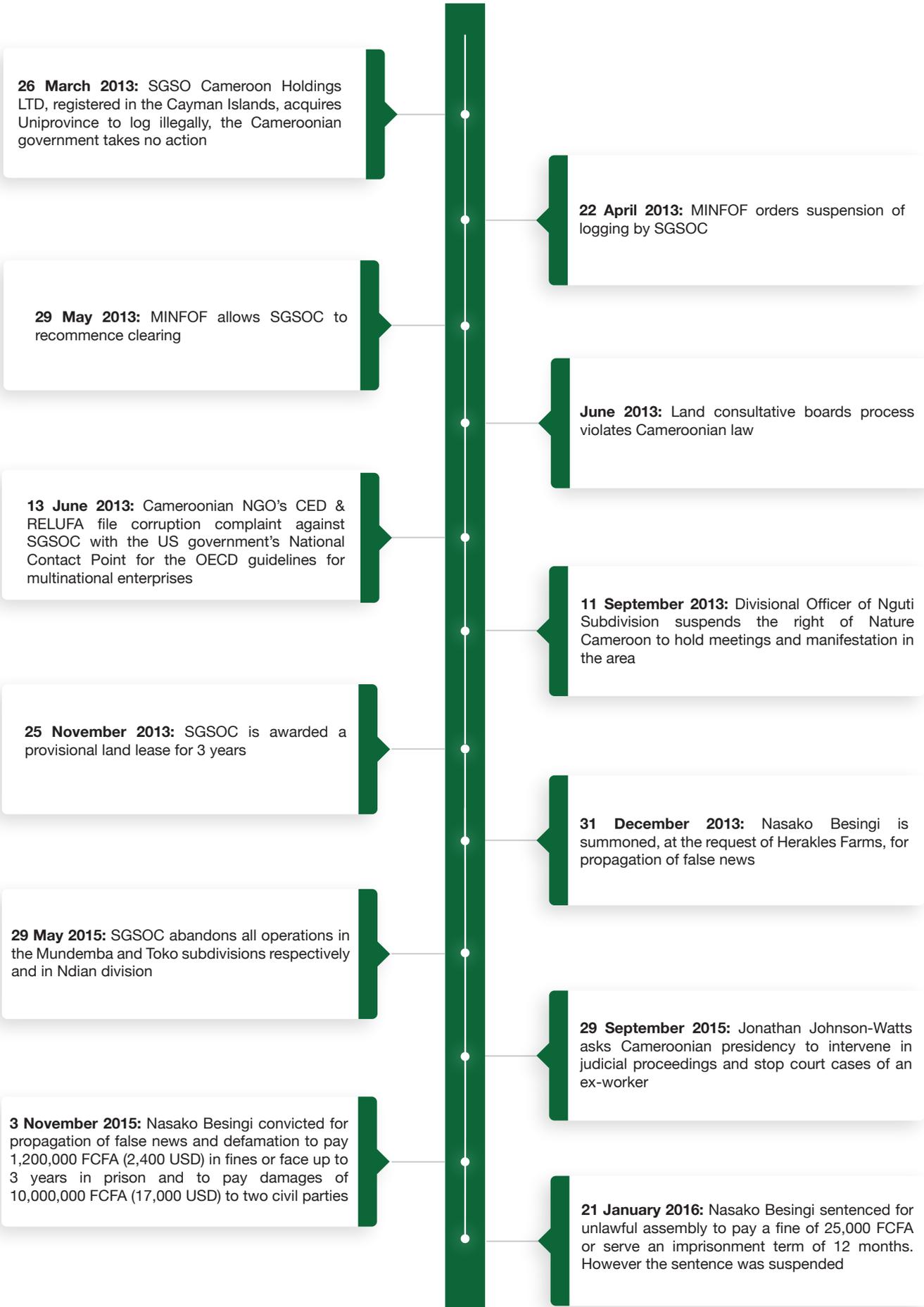
including Volta Red UK Ltd. and Wyse Environmental Ltd. Wyse Environmental Ltd., recently re-named Kadjebi Environmental Ltd., serves as a holding company for the Ghana-registered company Volta Red Ltd. which operates another former Herakles Farms palm oil plantation in Ghana's Volta Region.⁴⁹ Johnson-Watts and Stevenson-Hamilton are both also directors of Volta Red Ghana.⁵⁰

Johnson-Watts' and Stevenson-Hamilton recent business career appears to have been dedicated mostly to construction services and internal ventilation in the UK as officers of the Wyse Group and affiliated companies.⁵¹ It is unclear what role Stevenson-Hamilton plays for SGSOC in Cameroon, if any.



Herakles Farms / SGSOC project milestones







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⁴¹ Nguiffo, S. 2013. Dispossessed at all costs? Remarks on the process of allocating land to SGSOC in Nguti sub-division. CED/RELUFA. Yaoundé. Available at: http://www.relufa.org/documents/201310_Dispossessedatallcosts.pdf

⁴² Ibid.

⁴³ Greenpeace interview with John Nya Eyabi. July 2016.

⁴⁴ Greenpeace interview with Adolf Ngbe Ebong. July 2016.

⁴⁵ Sub Prefectoral decision No. 00196/SPD/G42.02/D.14/4 suspending the organising/holding of any public meetings/manifestation in Nguti Sub Division by the association referred to as Nature Cameroon based in Nguti. 11 September 2013. Available at: http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Annex_1.pdf

⁴⁶ Letter by 18 NGOs to Olivier De Schutter, John Knox and Maina Kiai, Special Rapporteurs appointed by the UN Human Rights Council. 28 January 2014. Available at: http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Letter_UN_Rapporteurs.pdf

⁴⁷ Ibid.

⁴⁸ SGSOC Declaration of Alteration. 24 November 2015.

⁴⁹ Companies House. Kadjebi Environmental Limited. <https://beta.companieshouse.gov.uk/company/06362893C> Companies House. Volta Red UK Limited. <https://beta.companieshouse.gov.uk/company/09165985>

⁵⁰ Registrar-General’s Department Ghana. 2016. Change Profile Volta Red Limited.

⁵¹ Both are officers and shareholders of Wyse (Holdings) Ltd. and Wyse Group Ltd. and officers of their respective subsidiaries Wyselabour Ltd. and Wysepower Ltd. Wyse Environment, which changed its name in Kadjebi Environment in July 2016, was dissociated from Wyse (Holdings) in 2011 and from Wyse Group in 2013. Based on: <https://beta.companieshouse.gov.uk> last accessed 16/08/2016. According to Wyse Group’s Directors’ report and consolidated financial statements for the year ended 31 March 2015: “95% of the group’s activity relates to the provision of temporary electric and temporary plumbing requirements to construction sites. [...] The group also provides other site logistics services including security and waste management services.”







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