
Compliance Investigation Report

CAO Investigation of IFC's Environmental and Social Performance in Relation to its Investment in Salala Rubber Corporation

December 4, 2023

IFC Project Number: 26510

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO is an independent post that reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org

About the CAO Compliance Function

CAO's compliance function reviews IFC and MIGA compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate.

CAO's compliance function follows a three-step approach:

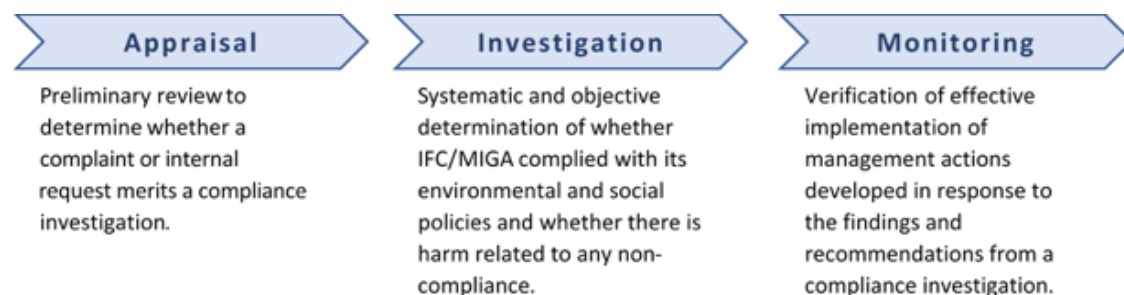


Table of Contents

Executive Summary	7
1. Background.....	14
1.1. Overview of the Salala Rubber Corporation Project and IFC's Investment.....	14
1.2. Complaint to CAO and CAO Action.....	17
1.3. Scope of the CAO Compliance Investigation.....	18
1.4. CAO Investigation Methodology	19
2. Contextual Background to IFC's Investment	20
2.1. Institutional and Economic Weakness in the Aftermath of the Civil War.....	20
2.2. Salala Rubber Operations before IFC's Investment	23
3. Analysis and Findings.....	25
3.1. IFC E&S Policy Framework.....	25
3.2. Pre-Investment Review	25
3.2.1. IFC Obligations during Pre-investment Review	26
3.2.2. Summary of IFC Pre-Investment Review and CAO Compliance Analysis	27
3.3. Investment Supervision.....	32
3.3.1. IFC Obligations during Investment Supervision	32
3.3.2. Summary of IFC Supervision of SRC and CAO Compliance Analysis	33
4. Review of IFC's Performance in Relation to Complaint Issues	42
4.1. Physical Displacement, Economic Displacement, and Loss of Livelihood.....	42
4.2. Historical Land Claims	51
4.3. Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants.....	53
4.4. Gender-Based Violence and Harassment.....	59
4.5. Assessment of Risks and Impacts to Indigenous Peoples	66
4.6. Destruction of Ancestral Graves and Sacred Sites.....	70
4.7. Water Pollution	75
4.8. Poor Employment Conditions and Labor Rights Violations	79
4.9. Limited Access to Schools and Health Facilities	82
5. Remedial and Preventative Recommendations for IFC's Consideration in the Development of Its Management Action Plan	84
6. Conclusion	88
Annex A. Overview of the CAO Investigation Process.....	92
Annex B. CAO Compliance Findings of Non-Compliance and Related Harm, and Recommendations	94
Annex C. Map C.1 of Concession Area, 1960	101
Annex D. CAO Analysis of Full Replacement Cost of Rubber Trees	102

Acronyms and Abbreviations

Acronym	Definition
AMR	Annual Monitoring Report
ARD	Alliance for Rural Democracy
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
COD	conditions of disbursement
CRC	Citizens Representative Committee (SRC stakeholder engagement team)
E&S	environmental and social
EHS	environmental, health and safety
EPA	Environmental Protection Agency (Liberia)
ESAP	Environmental and Social Action Plan
ESDD	environmental and social due diligence
ESIA	Environmental and Social Impact Assessment
ESMS	Environment and Social Management System
ESRS	Environmental and Social Review Summary (IFC Disclosure)
ESRP	Environmental and Social Review Procedure
GAI	Green Advocates International
GBV	gender-based violence
GBVH	gender-based violence and harassment
GIIP	Good International Industry Practice
GN	Guidance Note
ha	hectare
HR	Human Resources
IFC	International Finance Corporation
LAC	Liberian Agriculture Company
MAP	Management Action Plan
MIGA	Multilateral Investment Guarantee Agency
NGO	nongovernmental organization
NRWP	Natural Resource Women Platform
PPE	personal protective equipment
PS	Performance Standard (IFC)
PS1	Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts

Acronym	Definition
PS2	Performance Standard 2: Labor and Working Conditions
PS3	Performance Standard 3: Resource Efficiency and Pollution Prevention
PS4	Performance Standard 4: Community Health, Safety, and Security
PS5	Performance Standard 5: Land Acquisition and Involuntary Resettlement
PS6	Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources
PS7	Performance Standard 7: Indigenous Peoples
PS8	Performance Standard 8: Cultural Heritage
SEP	Stakeholder Engagement Plan
SMP	Sustainable Management Plan
SP	Sustainability Policy
SPI	Summary of Proposed Investment
SRC	Salala Rubber Corporation
SSV	Site Supervision Visit
ToR	terms of reference
UN	United Nations
YNCHR	Yeagbamah National Congress for Human Rights

Key Terms and Definitions

<i>Compliance/non-compliance and Harm</i>	
Compliance/non-compliance	In the context of the CAO compliance investigation discussed in this report, compliance refers to IFC's compliance with its environmental and social policies. Non-compliance refers to IFC's lack of compliance with its environmental and social policies.
Harm	The CAO Policy defines Harm as "any material adverse environmental and social effect on people or the environment resulting directly or indirectly from [an IFC/MIGA] Project or Sub-Project. Harm may be actual or reasonably likely to occur in the future." ^a
<i>Gender-based violence and harassment (GBVH)</i>	
Gender-based violence and harassment (GBVH)	An umbrella term for violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment. The definition CAO uses in this report is from IFC, European Bank for Reconstruction and Development (EBRD), and CDC Group (2020), <i>Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector</i> , available at https://bit.ly/3SjoqU6

Sexual harassment	Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. This definition is from IFC, EBRD, and CDC Group (2020), <i>Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector</i> , available at https://bit.ly/3SjoqU6
<p><i>Third-party consultants</i></p> <p>The report makes reference to three separate third-party consultants who assessed the project at different times during the lifetime of IFC's investment.</p>	
1. Third-party consultant (2008–12)	Salala Rubber Corporation (SRC) commissioned a consultant to prepare an Environmental and Social Impact Assessment (ESIA) of its plantation and expansion program.
2. Third-party consultant (2015)	IFC and SRC's parent company, Socfin, commissioned a consultant to conduct an environmental and social (E&S) due diligence of SRC's plantation. This was prepared as part of IFC's consideration in 2015 for a corporate investment in Socfin.
3. Third-party consultant (2019)	Socfin commissioned a consultant to review the operations of the SRC plantation in light of allegations raised by stakeholders and, in particular, in the Bread for All report (February 2019). The consultant released an updated summary report regarding the allegations in July 2023.

a. CAO Policy, Glossary.

Executive Summary

From 2008-2020, IFC had a loan investment in Salala Rubber Corporation, the operator of a rubber plantation in Liberia. Following the Liberian civil wars, IFC financed the plantation's rehabilitation and expansion, and the company's working capital needs. This compliance investigation responds to a 2019 community complaint alleging that the plantation expansion was implemented with inadequate disclosure of information and consultation and resulted in loss of livelihoods. Further, the complainants allege poor employment conditions and labor violations, and instances of gender-based violence and harassment of workers. CAO's compliance investigation finds that IFC was non-compliant in its assessment and supervision of the application of the IFC Performance Standards (2006) by the company, and that Harm and indications of Harm to the complainants are related to these non-compliances.

Context and IFC Investment

Fourteen years of intermittent civil conflict (1989–97, 1999–2003) devastated Liberia. Out of a pre-war population of 3 million people, approximately 250,000 people were killed and 1.5 million were displaced from their homes. Salala Rubber Corporation (“the company”), which has operated a rubber plantation in Liberia since 1959, also suffered significant damage to its facilities and operations during the conflict. It was in this context that in 2008 IFC considered an investment in the company to support its plantation rehabilitation and expansion project. Specifically, the company sought a 12-year loan investment from IFC to finance replanting of existing rubber trees; expand the rubber plantation from 3,182 hectares (ha) to 7,200 ha with new rubber trees; rebuild the company's infrastructure, equipment, and rubber processing factory; and meet the company's working capital needs. IFC approved the loan in 2008 and it was repaid on schedule in 2020. As a condition of the loan agreement, the company was required to apply IFC Performance Standards (2006) to its operations, including during preparation and implementation of the plantation rehabilitation and expansion project between 2008-2014.

Plantation Rehabilitation and Expansion

Between 2008 and 2014, the company reported that it replanted 1,442 ha and expanded its plantation by approximately 1,450 ha. The expansion involved the clearing of land used by communities for their livelihood. As of 2015, the company reported that it had planted 4,777 ha. This was less than anticipated in its 2008 expansion program (7,200 ha objective) as the company delayed planting of new areas due to financial challenges, including changes in international rubber prices and closure of its rubber processing factory. Between 2010 and 2012, the company reported that 469 individuals (impacting approximately 2,400 people) were economically displaced by the plantation expansion and received cash compensation at a special case rate of US\$3 per rubber tree.

The Complaint

In May 2019, CAO received a complaint from communities living on and surrounding the Salala Rubber Corporation concession area in Liberia. The complainants raised a series of concerns regarding the company's operations and implementation of the plantation rehabilitation and expansion plan, which they allege resulted in harm to them. Specifically, they raise the following concerns:

1. **Physical Displacement, Economic Displacement, and Loss of Livelihood:** Complainants allege that plantation expansion resulted in some towns being destroyed, and loss of crops and access to farmland, without adequate compensation.
2. **Historical Land Claims:** Complainants assert that they have tribal rights to land, and the company has taken land from them without their free prior and informed consent.
3. **Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants.** Complainants allege that security guards and national police threaten anyone who advocates for community rights, and that they face serious threats and reprisals, including arrest, torture, and dismissal from work.
4. **Gender-Based Violence and Harassment.** Some complainants allege that they have experienced gender-based violence and harassment (GBVH) from the company's contractors and security guards, including sexual harassment and coercion.
5. **Indigenous Peoples Recognition:** Complainants assert that they are Indigenous Peoples and allege that the company did not implement free prior and informed consent during its plantation expansion (2008–2014).
6. **Destruction of Ancestral Graves and Sacred Sites:** Complainants allege the plantation expansion resulted in the destruction of graves and sacred sites.
7. **Water Pollution:** Complainants allege that the company's activities, including the pesticide spraying of trees, resulted in contamination of drinking water sources.
8. **Poor Employment Conditions and Labor Rights Violations.** Complainants allege that many community members are employed as temporary contractors with low salaries and unrealistic production quotas. Further, they allege they are not provided with adequate personal protective equipment (PPE) to undertake their duties.
9. **Limited Access to Schools and Health Facilities.** Complainants allege that non-employees have limited access to the school and health facilities.

Company Response

Salala Rubber Corporation provided context and their view in relation to each issue raised. The company explained how its predecessor company obtained its plantation concession under the Liberian Law in 1959. Regarding the plantation rehabilitation and expansion project, the company asserted that it protected all cultural heritage sites, there was no physical displacement, and those who were economically displaced were compensated in line with a 2005 procedure agreed with the government. The company also asserted that its operations did not result in water pollution.

In relation to labor concerns and access to schools and health facilities, the company noted that it has a collective bargaining agreement in place that lists all terms and conditions, and that schools and health facilities run by the company are free for permanent employees. Regarding allegations of GBVH, the company noted that no cases were brought to their attention, and that both male and female members of the community vigorously deny any incidents of GBVH. However, the company acknowledged that the fact that no cases were brought to their attention did not mean that GBVH incidents could not occur. Finally, the company noted the investments it had made to rebuild the plantation, provide jobs, and improve social infrastructure, and noted that without the cooperation of communities, it would be impossible to continue its operations.

CAO Findings

In its investment in Salala Rubber Corporation, IFC's role was to assess and monitor the environmental and social (E&S) risks and impacts of the company's operations to ensure that the company operated in accordance with the IFC Performance Standards 2006 (PS). Where IFC identified underperformance or non-compliance with the IFC Performance Standards, IFC was

required to review with the company opportunities for improvement and work with the company to bring it back into compliance to the extent feasible or exercise remedies.

Pre-Investment Review

CAO's compliance investigation has considered whether IFC's pre-investment review (2008) and investment supervision (2008-2020) was conducted in accordance with applicable IFC Sustainability Policy (2006) requirements, and in particular with respect to the issues raised by the complainants. CAO's compliance investigation report documents non-compliance findings in relation to IFC's assessment and monitoring of E&S risks and impacts of the company's operations.

CAO has identified material failures in IFC's pre-investment review for this investment. IFC completed its pre-investment review without the benefit of the company's E&S assessment of project risks and impacts of its ongoing operations and plantation rehabilitation and expansion project (contrary to 2006 Sustainability Policy, para. 15). In the absence of the E&S impact assessment (ESIA), IFC did not have a basis upon which to a) make an informed decision regarding the financial and reputational risks and the project's costs and benefits; b) articulate an adequate E&S Action Plan, including E&S conditions precedent, which are summarized to IFC's Board of Directors when the project is presented for approval; or c) ascertain whether the project could be expected to meet IFC's Performance Standards over a reasonable period of time (2006 Sustainability Policy paras. 16 and 17). In addition, the lack of an ESIA would make it difficult to undertake the E&S risk categorization for this investment (contrary to 2006 Sustainability Policy, para. 18). Given that the plantation rehabilitation and expansion project proposed a significant expansion on lands over which the company had rights but were used by community members for their economic livelihood, IFC was required to assure itself that the project had broad community support. IFC did not trigger this provision (contrary to 2006 Sustainability Policy, para. 20). IFC also did not present an adequate assessment of its decision to not trigger Performance Standard 7 (Indigenous Peoples) requirements for this investment. This was done despite information that would indicate that such an assessment was necessary. Given the material weaknesses in IFC's pre-investment review of the E&S risks and impacts of the company's operations, the E&S Action Plan prepared by IFC to address gaps in client performance did not ensure that the plantation rehabilitation and expansion project would meet the Performance Standards within a reasonable period of time (contrary to 2006 Sustainability Policy, para. 17).

An underlying cause for IFC's non-compliance during pre-investment review was the lack of assessment of the country context and the company's status following a devastating civil war without adequately considering how realistic it was for a company to implement international E&S standards (e.g., IFC's Performance Standards, 2006). In particular, IFC did not adequately assess the contextual risks of the environment in which the investment was being made (e.g., weak institutions and very limited E&S expertise in country), and the implications this would have on the company's likelihood to achieve compliance with the IFC Performance Standards.

Supervision

IFC's supervision was non-compliant with its 2006 Sustainability Policy commitments. A key objective of IFC's investment was to finance the plantation rehabilitation and expansion project. In 2008 and 2010, IFC disbursed funds to support this objective. IFC proceeded with these disbursements while the company had still not completed an E&S assessment of its risk and impacts that was compliant with the Performance Standards. Critical mitigation measures had not been identified or implemented. Specifically, in advance of starting the plantation

rehabilitation and expansion project, IFC had not ensured that the company (i) had implemented a community consultation process and disclosure of information in accordance with PS1; (ii) had adequately assessed and implemented measures to protect cultural heritage in accordance with PS8; and (iii) had implemented a resettlement/livelihood restoration plan that was compliant with PS5. Rather, in the absence of these measures, between 2008-2014, the plantation replanted 1442 ha and expanded by 1,450 ha. This resulted in the clearing of lands used by communities who lived on and surrounding the plantation concession area. While IFC's supervision documentation between 2009-2014 recorded some of these gaps, they were not resolved. IFC supervision of the company was impacted by multiple changes in E&S staff at the Salala plantation and at the parent company Socfin, as well as by the Ebola pandemic. In August 2014, the World Bank restricted staff travel to Liberia due to the Ebola pandemic. The World Health Organization declared Liberia to be Ebola free in May 2015.

In 2015, IFC considered a corporate investment with Salala's parent corporation, Socfin Group. IFC anticipated that this investment would give it leverage to instigate improvements at Salala. In the preparation of this corporate investment, IFC and Socfin commissioned a third-party consultant (2015) review of Salala's operations, including the plantation rehabilitation and expansion project. This consultant documented significant gaps in the company's approach to assessing and managing E&S risks and impacts in its operations, in particular impacts to biodiversity and social impacts to neighboring communities. Further, the consultant noted that the plantation rehabilitation and expansion project was non-compliant with PS5 in terms of consultation process, compensation paid, and livelihood restoration support provided and PS8 in terms of identifying sites of cultural heritage.

Unrelated to E&S issues, IFC's corporate investment did not proceed. IFC noted to CAO that this resulted in a strained relationship between IFC and Socfin and reduced IFC's leverage to encourage Performance Standard compliance. In the context where IFC's prior supervision and the 2015 consultant report had recorded significant gaps in the company's Performance Standard compliance, the IFC Sustainability Policy required IFC to work with its client to bring it back into compliance to the extent feasible or exercise remedies. However, following the failure of the 2015 corporate investment to proceed, there is no evidence that IFC management pursued a course of action to intensively support the company back into compliance or exercise remedies. Rather, IFC effectively ceased active supervision of Salala for nearly four years, until a Bread for All report, alleging that operations by Salala and a related company violated international human rights standards and were non-compliant with the IFC Performance Standards, was published in 2019.

Following the Bread for All report, IFC actively supervised the investment until the loan was repaid on schedule by the company in March 2020. During this period, IFC concluded that many of the issues IFC identified in its last site visit in 2013 remained outstanding. In order to reach compliance with the Performance Standards, IFC noted that the company needed to: (i) appoint a qualified individual to manage community engagement and social risk assessment and monitoring; (ii) develop a social management plan; (iii) complete a security management plan; (iv) develop and implement a Livelihood Restoration Plan; and (v) map sites of cultural heritage and buffer zones around communities. Further, in order to respond to gender-based violence and harassment (GBVH) issues and reach Performance Standards compliance, IFC noted that the company needed to update and implement its Human Resource policies and procedures to address sexual harassment in the workplace and in communities. At the time of loan repayment, IFC's supervision had no evidence that these measures had been effectively implemented. Consequently, at the time the loan was repaid, IFC considered the company to be non-compliant with its E&S requirements. As a result of the Covid-19 pandemic, SRC ceased operations in 2020. Operations resumed in 2021.

CAO finds IFC's supervision during the course of the 12-year investment period non-compliant with its commitment to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, exercise remedies when appropriate (2006 Sustainability Policy, para. 26). IFC management was aware of the performance gaps, as the investment was added to IFC's high risk list in 2013 and the company's performance was discussed with IFC senior management in the context of the 2015 proposed corporate investment in Socfin. Nevertheless, escalation of company E&S performance gaps did not result in persistent IFC management engagement with the company to ensure E&S performance gaps were addressed or IFC consideration of exercising remedies.

Underlying causes for IFC's supervision non-compliance include (i) a failure to bind the implementation of E&S assessments and mitigation measures of the plantation rehabilitation and expansion project to IFC financial disbursements; (ii) a failure to consider exercising remedies after multiple years of E&S underperformance; and (iii) in the context of the company's E&S underperformance, not conducting a site visit between 2014-2018, and not supervising the company between 2016-2018.

CAO Assessment of Related Harm

As documented in this compliance investigation report, CAO concludes there has been Harm to complainants related to CAO findings of non-compliance. Specifically, available evidence supports that:

- Compensation paid to those economically displaced by the plantation rehabilitation and expansion project was not at the Performance Standard 5 replacement cost level. Accordingly, economically displaced individuals were compensated at a rate (US\$3 per rubber tree) significantly below the PS5 replacement cost rate (US\$10-34 per rubber tree -CAO analysis in Annex D).
- The plantation rehabilitation and expansion project was not implemented with disclosure of information and community consultation provisions of Performance Standard 1. Accordingly, there was a missed opportunity for communities to understand the company's plantation rehabilitation and expansion project, and have their views considered prior to project implementation.
- Key provisions to protect workers against GBVH incidents were not implemented by the company. In the context of a high prevalence of GBVH incidents in Liberia, the lack of measures to protect workers against GBVH incidents constitutes Harm.

Further, CAO concludes that there are indications of Harm to complainants related to CAO's findings of non-compliance. Specifically, available evidence points to the following conclusions:

- There are indications of significant and unaddressed harm to GBVH survivors at the company's plantation.
- The failure to adequately ensure that the company has implemented PS4 security requirements is a potential harm to complainants.
- IFC missed an opportunity to assess whether there were significant historical impacts regarding prior land acquisition concerns that could have been addressed by IFC's 2008 investment.
- The failure to adequately assess the application of PS7 (Indigenous Peoples) has potentially resulted in complainant harm. If the assessment had required the application

of PS7, additional protections on the implementation of the plantation rehabilitation and expansion project would have been required.

- The plantation rehabilitation and expansion project was implemented in an area that was not adequately assessed and protected for cultural heritage impacts.
- IFC's failure to ensure that the client conducted adequate water quality monitoring contributed to a lack of information necessary to determine Harm with certainty. Without such data, complainant concerns regarding water quality remain unaddressed and the possibility of Harm cannot be discounted.
- The company's labor practices, and IFC's supervision of them, did not evidence compliance with PS2 provisions. Likely harms include salary deductions for work equipment and PPE, and instances of workers bringing family members including children to the plantation to ensure they met daily targets thus impacting children's welfare and increase risk of workplace injuries.

In order to address CAO's non-compliance findings and related Harm, Section 5 of this report includes CAO recommendations for IFC to consider when developing a Management Action Plan.

CAO Case Status

As of the date of this report, it has been finalized by CAO and sent to IFC Management and the IFC Board of Executive Directors. In accordance with CAO Policy, IFC prepares a Management Report which includes a Management Action Plan (MAP) for the purposes of addressing CAO's findings. Once the IFC Board approves the MAP, CAO publishes this investigation report and IFC's Management Report. CAO's role thereafter is to verify effective implementation of the actions set out in the MAP.

Table 1. Timeline

Date		Milestones, Events, and Key Documents
2007		IFC begins pre-investment review for a loan in Salala Rubber Corporation (SRC).
2008	July	IFC Board approves and IFC signs legal commitment to a US\$10 million loan to SRC to support its working capital needs, and plantation rehabilitation and expansion project. IFC's investment includes an E&S Action Plan (ESAP) with 24 actions with implementation from June 2008-December 2009.
	Late August	IFC receives SRC's Environmental and Social Impact Assessment (ESIA-2008) for its business operations and expansion plan. IFC assesses it as inadequate.
	October	IFC completes the first loan disbursement. There is no evidence that SRC revised its ESIA to address IFC-identified gaps prior to disbursement.
2008-2012		SRC implements its plantation rehabilitation and expansion project. IFC's annual E&S supervision identifies key weaknesses in SRC's performance. While IFC downgrades its E&S performance assessment of SRC, E&S performance issues persist (noted in two IFC project visits in 2009). In April 2010, IFC completes the second disbursement of the loan. SRC revised its ESIA in 2011. IFC continued to record ESIA did not meet Performance Standard requirements. IFC visit to the project in February 2011 and Socfin (Brussels) in March 2012.
2013	April	NGO reports community concerns regarding Salala's operations.
	September	IFC's visit to the project in Liberia.
2014		IFC reduces contact with SRC as it responds to the Ebola Virus Disease epidemic. On August 1, World Bank Group limited staff travel to Liberia to essential travel related to addressing the Ebola outbreak.
2015		IFC considers a corporate investment in SRC's parent company, Socfin. As part of its pre-investment review, IFC summarizes to Socfin the outstanding E&S performance gaps at SRC. After the corporate investment fails to proceed, IFC effectively ceases active supervision of SRC for an additional four years.
2016-2018		IFC does not document formal reviews of company-submitted Annual Monitoring Reports or conduct site visits. There is no record of IFC supervising Performance Standards gaps identified in prior supervision or by a third-party consultant in 2015. ^a In late 2018, IFC reengages with the company in response to Bread for All queries.
2019	February	The NGO Bread for All releases a final version of a report alleging that operations by Salala and a related company (Liberian Agricultural Company) violate international human rights standards and are non-compliant with the IFC Performance Standards. ^b
	May	CAO complaint received.
	July–September	IFC conducts its first visit to the plantation in six years. The visit covered SRC's E&S performance and issues raised in the Bread for All report. IFC concludes that many issues identified in its last site visit in 2013 remain outstanding.
2020	March	CAO releases its Assessment Report. Complaint transferred to CAO compliance. The company repays the IFC loan on schedule. Covid-19 pandemic restricts all World Bank staff travel.
	October	CAO triggers a CAO compliance investigation.

Note: NGO = nongovernmental organization.

a. IFC's only supervision of substance was in March 2016 when IFC, learning about worker concerns via a news report, questioned the company on implementation of a worker retrenchment program.

b. The report was prepared in close collaboration with three of the organizations representing the complainants in the CAO complaint—Green Advocates International, Natural Resource Women's Platform, and the Alliance for Rural Democracy.

1. Background

1.1. Overview of the Salala Rubber Corporation Project and IFC's Investment

Salala Rubber Corporation (SRC, “the company,” IFC’s client) is a large producer and processor of rubber, situated in the Liberia rubber production belt. It produces semi-processed rubber used to manufacture tires. Rubber production on the plantation began in 1959, when the government granted the company’s predecessor a concession of 40,500 hectares (ha), with rights to develop a rubber plantation on 8,500 ha.^{1, 2}

In 1962, another rubber company, Weala Rubber Company (WRC), opened a rubber processing factory. During the Liberian civil wars (1989–97, 1999–2003), the factory and the plantation were significantly damaged and were used as rebel bases. In 2007, SRC and WRC merged, with the new business retaining the name SRC.³

In 2008, IFC committed to a US\$10 million loan to SRC to help finance its working capital needs, as well as plantation and factory rehabilitation and expansion (“the project”). Specifically, the objective of IFC’s loan was to support the company to (1) plant new rubber trees on an additional 4,000 ha of its existing concession; (2) renovate industrial and agriculture plant and equipment; (3) rebuild administrative and social infrastructure including worker housing; and (4) meet additional working capital needs.⁴ At the time of IFC’s investment in 2008, approximately 3,182 ha were planted. While the IFC project aimed to reach 7,200 ha,⁵ at the time of IFC’s exit from the investment in 2020, only 4,445 ha were planted, 56 percent of the area approved for development.⁶

In 2008, the company had 1,000 employees, including 120 female employees. Additionally, the company provided full time-employment to 600 contractors. As an outcome of the planned expansion, the employment was expected to grow to 2,000 employees by 2011. The company also maintained social services infrastructure for employees including employee family housing units, six schools, two health clinics, and a hospital.⁷

This was IFC’s first direct investment in a business in post-conflict Liberia.⁸ IFC noted that the expected development outcomes of its investment included:

- Sending a positive signal to the investment community and catalyzing investment interest from the business community and other development finance institutions.
- Support to encourage Salala to become a local industry leader with regard to environmental, safety, and social standards.

¹ Salala Rubber Corporation, available at <https://bit.ly/2YpE9Hx>.

² Concession Agreement (1959), Agreement between the Republic of Liberia and Predecessors of Salala Rubber Corporation, available at <https://bit.ly/3ifpFSc>. Socfin Group (2018), Salala Rubber Corporation, available at <https://bit.ly/2YpE9Hx>.

³ Socfin Group (2018), Salala Rubber Corporation, available at <https://bit.ly/2YpE9Hx>.

⁴ IFC (2008), Summary of Proposed Investment (SPI), project number 26510, available at <https://bit.ly/2CxMNf5>.

⁵ IFC SPI (2008).

⁶ IFC SPI (2008). Socfin (2021) Sustainability Report, page 128.

⁷ IFC (2008), Environmental and Social Risk Summary (ESRS), project number 26510, available at <https://bit.ly/3q5rWGv>. Earthtime (2008), Salala Rubber Company: Environmental & Social Impact Assessment, available at <https://bit.ly/3q5rWGv>.

⁸ In May 1999, IFC approved a US\$3.5 million six-year loan to support Liberian Agriculture Company (LAC) rubber plantation rehabilitation and working capital support. Socfin Group is the parent company of LAC.

- Rehabilitating the physical infrastructure of the plantation, including its vast network of roads.
- Improving the social infrastructure by renovating and building new housing facilities for the company's employees, health clinics, and schools.

At the time of IFC's investment, 90 percent of SRC was owned by Agrifinal (a Belgian agribusiness investment company) and 10 percent by Intercultures (a subsidiary of Socfin Group, a Luxembourg holding company with agricultural, real estate, and banking activities). SRC operations were managed by an Intercultures subsidiary.⁹ In 2009, Socfin Group acquired full ownership of SRC.

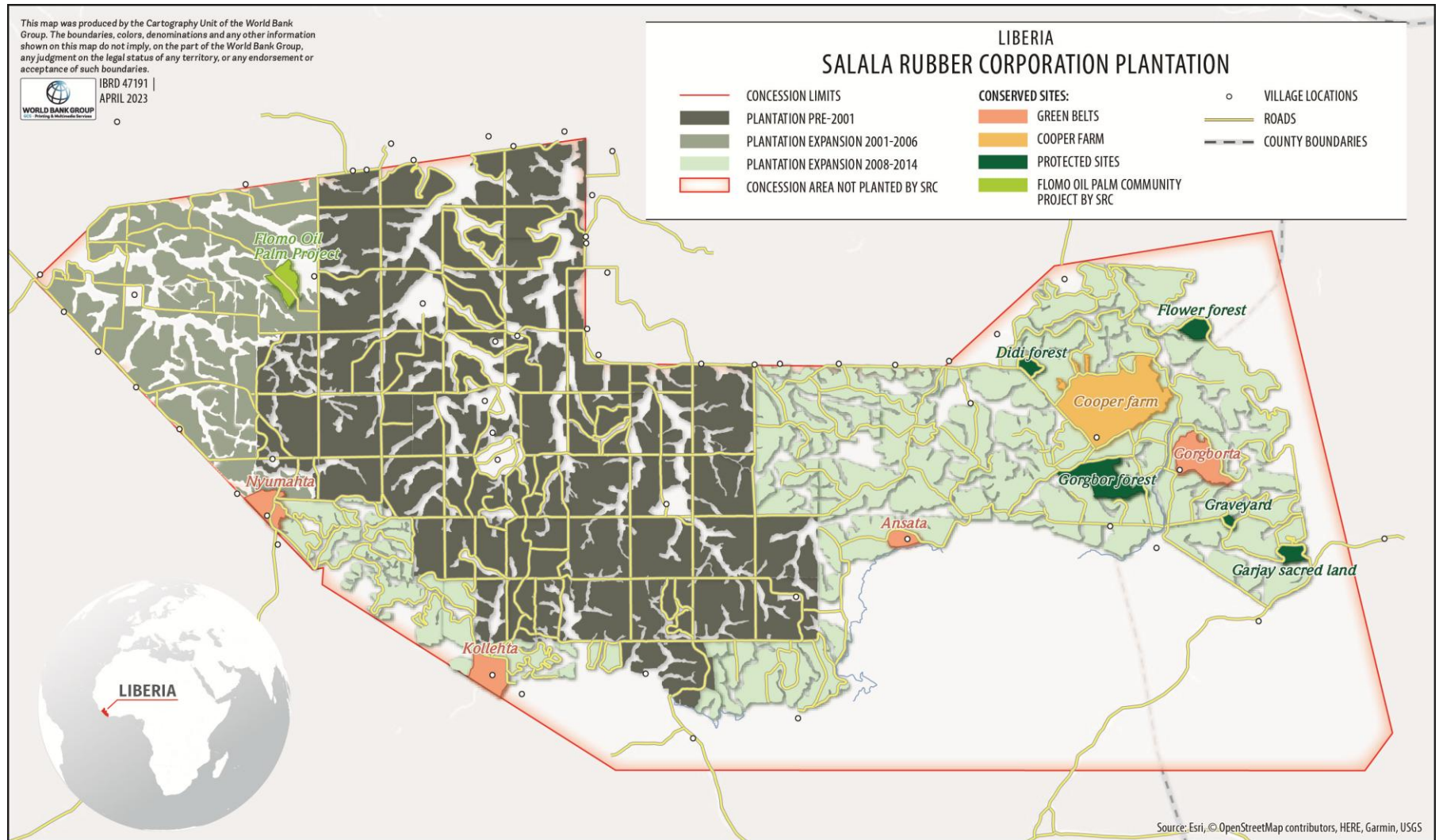
Between 2008 and 2014, the company implemented its rehabilitation and expansion program. During this period, the company replanted 1,442 ha and expanded its planted area from 3,182 to 4,777 ha.¹⁰ The expansion was less than anticipated in its 2008 expansion program (which had an objective of 7,200 ha) as the company delayed planting of new areas due to financial challenges including changes in international rubber prices and closure of its processing factory. Map 1 shows the company's plantation, areas it replanted before the IFC investment, and areas where it expanded its planted area during 2008–14.

In March 2020, the company completed its final IFC loan repayment, thus ending IFC's investment.

⁹ IFC (2008) SPI.

¹⁰ Between 2008-2014, the company replanted its existing plantation area and expanded the planted area (until 2012). As of 2015, the company reported that 4,777ha were planted. The company's 2021 Sustainability Report noted that 4,445ha were planted. See also SRC Corporate Presentation 2018 - <https://bit.ly/2YpE9Hx>

Map 1. Salala Rubber Plantation Expansion, Before 2001 to 2014



1.2. Complaint to CAO and CAO Action

In May 2019, CAO received a complaint from 54 people from 22 communities from Margibi and Bong counties in Liberia (the “complainants”). The complainants are members of the communities of Ansa-ta, Bloomu, Bondolon, Dedee-ta 1, Dedee-ta 2, Garjay, Gleagba, Gorbos, Jorkporlorsue, Kolledarpolon, Kolongalai, Kuwah-ta, Lango, Massaquoi, Martin Village, Monkey-tail, New Dokai, Old Dokai, Pennoh, Sayue-ta, Tartee-ta, Varmue. The complainants are supported by 4 nongovernmental organizations (NGOs): Green Advocates International (GAI), Alliance for Rural Democracy (ARD), Natural Resource Women Platform (NRWP), and the Yeagbamah National Congress for Human Rights (YNCHR) (collectively hereafter referred to as the “complainant representatives”).

The complaint raises the following concerns about:

1. **Physical Displacement, Economic Displacement, and Loss of Livelihood:** Complainants allege that plantation expansion resulted in some towns being destroyed, and loss of crops and access to farmland, without adequate compensation.
2. **Historical Land Claims:** Complainants assert that they have tribal rights to land, and the company has taken land from them without their free prior and informed consent.
3. **Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants.** Complainants allege that security guards and national police threaten anyone who advocates for community rights, and that they face serious threats and reprisals, including arrest, torture, and dismissal from work.
4. **Gender-Based Violence and Harassment.** Some complainants allege that they have experienced gender-based violence and harassment (GBVH) from the company’s contractors and security guards, including sexual harassment and coercion.
5. **Indigenous Peoples Recognition:** Complainants assert that they are Indigenous Peoples and allege that the company did not implement free prior and informed consent during its plantation expansion (2008–14).
6. **Destruction of Ancestral Graves and Sacred Sites:** Complainants allege the plantation expansion resulted in the destruction of graves and sacred sites.
7. **Water Pollution:** Complainants allege that the company’s activities, including the pesticide spraying of trees, resulted in contamination of drinking water sources.
8. **Poor Employment Conditions and Labor Rights Violations.** Complainants allege that many community members are employed as temporary contractors with low salaries and unrealistic production quotas. Further, they allege they are not provided with adequate personal protective equipment (PPE) to undertake their duties.
9. **Limited Access to Schools and Health Facilities.** Complainants allege that non-employees have limited access to the school and health facilities.

Further, the complaint alleges that the company does not operate in compliance with national and international law, as well as with IFC’s Performance Standards (PS).¹¹

In June 2019, CAO determined the complaint eligible and commenced the CAO assessment phase. During the assessment phase, a CAO team met with the complainants and the company to better understand the issues raised and to determine whether the parties agreed to engage in a CAO-facilitated dispute resolution process. While the complainants indicated their willingness to engage in such process, the company did not wish to pursue this option.¹²

¹¹ Complaint to CAO in Relation to IFC’s Investment in SRC, April 15, 2019, available at <https://bit.ly/49HpKth>.

¹² CAO Assessment Report, March 2020, available at <https://bit.ly/467sehr>

In March 2020, CAO released its Assessment Report summarizing the views of the complainants and the company. Because the complainants and the company did not both agree to a CAO facilitated dispute resolution process, and in keeping with CAO Policy,¹³ the complaint was transferred to CAO's Compliance function for appraisal. In October 2020, CAO released its Compliance Appraisal Report¹⁴ finding that a full investigation was warranted in this case.

1.3. Scope of the CAO Compliance Investigation

CAO's compliance mandate is focused on the E&S performance of IFC/MIGA (see Annex A for a general summary of CAO compliance investigation process). Accordingly, this report documents the investigation findings concerning IFC/MIGA compliance, non-compliance, and any related harm to complainants. It also includes context, evidence, and reasoning to support CAO's findings and conclusions regarding the underlying causes of any non-compliance identified.¹⁵

In relation to any findings of IFC/MIGA non-compliance and related Harm, this CAO investigation report includes recommendations for IFC/MIGA to consider in the development of a Management Action Plan (MAP) relating to the remediation of Project level non-compliance and related harm, and/or steps needed to prevent future non-compliance.¹⁶

The scope of this investigation is defined in Terms of Reference (TOR) published by CAO in November 2021.¹⁷ The TOR sets out the following questions to be answered by the compliance investigation:

- Whether IFC's pre-investment E&S review of the company was commensurate to risk and established a realistic expectation that the company would meet IFC's E&S requirements within a reasonable period of time.
- Whether IFC exercised due diligence in its E&S supervision of the company.
- Whether IFC responded adequately to project level E&S concerns as they were raised during the period of IFC's finance and in particular whether IFC's response to the CAO complaint was adequate.

In accordance with CAO Policy, this investigation report addresses whether IFC has complied with its E&S policies, including:

- Whether IFC has materially deviated from relevant directives and procedures, including during IFC/MIGA's review and supervision of its E&S requirements at the project level and related compliance with any national laws referenced by those requirements.
- Whether there is Harm or potential Harm related to any IFC non-compliance.

The standard applied in CAO's compliance investigation for assessing related "Harm" is stipulated in the CAO Policy. It defines "Harm" as "any material adverse environmental and social effect on people or the environment resulting directly or indirectly from a Project or Sub-Project. Harm may be actual or reasonably likely to occur in the future." References to "harm" that are not capitalized should be read in accordance with the ordinary and customary meaning given to such

¹³ CAO Policy, paragraph 59.

¹⁴ CAO Appraisal Report, September 2020, available at <https://bit.ly/3uE8t41>

¹⁵ CAO Policy, Sec. IX.C.3.

¹⁶ Ibid.

¹⁷ CAO, Terms of Investigation: IFC's Investment in SRC, November 2020, available at <https://bit.ly/3QoNdoC>

term.¹⁸ Following a finding of IFC non-compliance, this report makes one of the following assessments of related Harm:

- There has been Harm to complainants. This conclusion is reached where there is sufficient, relevant evidence to afford a reasonable basis for CAO's compliance conclusion.
- There are indications of Harm to complainants. This conclusion is reached on the basis of available evidence that would indicate a likelihood that Harm is actual or reasonable likely to occur in the future.
- There is insufficient evidence to reach a conclusion on Harm to complainants.

1.4. CAO Investigation Methodology

The CAO investigation team comprised CAO staff and three expert consultants:

- A social and environmental specialist with more than 25 years of experience in assessing E&S issues in project finance. This consultant reviewed all aspects of the complaint.
- A consultant based in Liberia with more than 25 years of experience working in peace building, women's rights, and gender-based violence and harassment. This consultant reviewed the gender-based violence and harassment concerns raised in the complaint.
- A consultant with more than 25 years of experience in resettlement. This consultant did a desk-based review of project-level compensation for economic displacement.

Due to the COVID-19 pandemic and restrictions on World Bank Group staff travel, CAO staff did not travel to the project site during this investigation. CAO's first consultant conducted a four-day visit to the project site in January 2021, where he met with company staff, complainants, and other stakeholders. CAO's second consultant is based in Liberia and, as needed, met with various individuals as part of their work. Following the site visit, CAO had multiple follow up engagements with IFC, the complainants, and the company.

This investigation report was prepared on the basis of (1) a review of documentation provided by IFC, SRC, and the complainants; (2) a review of publicly available information; and (3) interviews with IFC staff, the complainants, the company, and other stakeholders. CAO received significant amounts of documentation from the company and the complainants in relation to the issues raised.

The investigation has considered IFC's performance in relation to the requirements relevant during the period of the IFC investment: the 2006 and 2012 Policies on Environmental and Social Sustainability ("the Sustainability Policy" or SP). The 2006 and 2012 Sustainability Policies are binding on IFC. As IFC made its investment in 2008, the 2006 Performance Standards (PS) are binding on the client. Accordingly, IFC's supervision responsibility was to ensure the project operated in accordance with the 2006 Performance Standards throughout the life of IFC's investment.

In considering IFC's E&S performance, relevant evidence is required to afford a reasonable basis for CAO's compliance findings and conclusions. As required by CAO Policy,¹⁹ the CAO investigation presented in this report does not include any findings or conclusions deduced with the benefit of hindsight. Instead, CAO has assessed whether there is evidence that IFC/MIGA applied relevant E&S requirements, considering the sources of information available at the time the decisions were made.

¹⁸ CAO Policy, Glossary and footnote 2 in the CAO Policy.

¹⁹ CAO Policy, Sec. IX.C.1.

2. Contextual Background to IFC's Investment

2.1. Institutional and Economic Weakness in the Aftermath of the Civil War

At the time of IFC's investment in 2008, Liberia had recently emerged from a fourteen-year civil conflict. In 1989, the National Patriotic Front of Liberia (NPFL) took up arms against the then-Liberian government and initiated an intermittent civil war that lasted until 2003 and involved more than ten rebel factions.²⁰ The causes that led to the Liberian civil war include historical inequalities between Indigenous ethnic groups, which comprise the majority of the Liberian population, and a minority of Americo-Liberian settlers.²¹ The Americo-Liberians, freed black slaves who were repatriated to Liberia from the United States with support from the American Colonization Society, had exercised control over the country's political life, economic resources, and activities, including land and trade, and had considered the Indigenous Liberians as inferior and disregarded their pre-existing customs, traditions, and beliefs.²²

The civil war devastated Liberia. Out of a prewar population of 3 million people, approximately 250,000 people were killed and 1.5 million were displaced from their homes.²³ Fighters from all factions committed violations of human rights and humanitarian law, including massacres, torture, rape, and forced labor.²⁴ All warring factions were also involved in forced recruitment of children, who are estimated to compose 70 percent of all combatants in the conflict.²⁵ The civil war also had a significant effect on the Liberian economy. During this period, Liberia's real per capita GDP reached the lowest level in history, as the country's assets and public infrastructure were significantly damaged. Public and private investment plummeted, and the United Nations (UN) implemented a ban on the key exports of timber and diamonds.²⁶ The Liberian population's vulnerability to poverty, disease, and hunger increased as livelihoods were lost or disrupted, and education was deferred for an entire generation during the war years.²⁷

The civil wars also took a toll on Liberian institutions. During the conflict, the security, judicial, and civil service sectors were corrupted, as they operated in support of private interests.²⁸ As the country emerged from the war, public institutions were highly ineffective, and Liberians had little faith in them to protect their fundamental rights.²⁹ Liberian institutions faced enormous postwar challenges, including tackling endemic corruption, responding to the need to rebuild the country's infrastructure and economy, ensuring the reintegration of former child soldiers, and responding to the demands for justice and reparation.³⁰ Against this backdrop, the capacity of the government and companies, including SRC, to manage E&S issues, was weak. One of the express justifications

²⁰ Republic of Liberia, Truth and Reconciliation Commission. *Consolidated Final Report*, June 30, 2009.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ De Ycaza, C. 2013. "A Search for Truth: A Critical Analysis of the Liberian Truth and Reconciliation Commission." *Human Rights Review* 14 (September): 89–212.

²⁵ "Truth and Reconciliation Commission Final Report, 2009", Republic of Liberia. Truth and Reconciliation Commission. Consolidated Final Report. June 30, 2009.

²⁶ World Bank Group. "Republic of Liberia—Systematic Country Diagnostic. From Growth to Development: Priorities for Sustainably Reducing Poverty and Achieving Middle-Income Status by 2030," May 2018, further details available at: <https://bit.ly/3CaRzLY>.

²⁷ "Truth and Reconciliation Commission Final Report, 2009", Republic of Liberia, Truth and Reconciliation Commission. Consolidated Final Report. June 30, 2009.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Truth and Reconciliation Commission Final Report, 2009.

for the IFC loan was to support SRC to become a local leader with regard to environmental, safety, and social standards.³¹

Liberia's Rubber Sector and Land Tenure

In 2008, at the time of IFC's investment, rubber exports represented one of Liberia's main sources of revenue.³² The government had designated more than 400,000 hectares as rubber concession, though less than 18 percent of this was under development.³³ Agricultural concession-related employment is generally restricted to unskilled labor and seasonal work, with low wages and limited employment security.³⁴

At the time of IFC's investment, the World Bank described the security of land tenure in Liberia as weak to non-existent. The legal distinction between public land and tribal land lacked clarity, which resulted in tensions between government and communities. There was often overlap and jurisdictional ambiguity between the state-supported customary units (clan and paramount chieftaincies) with the townships and cities subject to the statutory system. The 1956 Aborigines Law dictates that only settlers or "civilized" Africans could own land.³⁵ All other land was largely used by Indigenous Africans and was under customary land tenure, but the government treated this land as public property owned by the state.³⁶ As a result, the government had granted concessions for agricultural development over customary community land, affecting land tenure security for rural and Indigenous communities.³⁷

Following the first presidential elections after the civil war, in 2006 the Liberian government recognized that Liberia's management of its natural resource sector had been shaped by the country's history of political centralization, authoritarianism, and entrenched inequality.³⁸ The government sought to reform the institutional framework for natural resources, and particularly the concession model for agricultural development, through the explicit inclusion of contractual provisions regarding social investment and community participation and development.³⁹ In 2009, shortly after IFC's investment in SRC, the Liberian Land Commission was established with the mandate to advance land reform.⁴⁰

³¹ IFC (2008) SPI.

³² U.S. Department of State Archive. "Background Note: Liberia." September 2008, available at: <https://bit.ly/3Pqbp8X>

³³ World Bank. 2008. "Liberia Insecurity of Land Tenure, Land Law and Land Registration in Liberia," available at <https://bit.ly/3yaMotY>;

Joint Government of Liberia–United Nations: Rubber Plantations Task Force, May 2006, further details available at <https://bit.ly/3AxXx8m>.

³⁴ World Bank Group. 2018. "Republic of Liberia–Systematic Country Diagnostic. From Growth to Development: Priorities for Sustainably Reducing Poverty and Achieving Middle-Income Status by 2030." May 2018, available at: <https://bit.ly/3CaRzLY>.

³⁵ World Bank. 2008. "Liberia Insecurity of Land Tenure, Land Law and Land Registration in Liberia," available at <https://bit.ly/3yaMotY>.

³⁶ Stevens, C. 2014. "The Legal History of Public Land in Liberia." *Journal of African Law* 58 (October): 250–65. October 2014.

³⁷ World Bank. 2018. Land Tenure; Stevens. 2014.

Stevens, Caleb. 2014. "The Legal History of Public Land in Liberia." *Journal of African Law* 58 (October): 250–65.

³⁸ World Bank Group. 2018. Systematic Country Diagnostic.

³⁹ Ibid.

⁴⁰ Act Establishing the Land Commission, 4 August 2009.

Joint Government of Liberia–United Nations Report of the Rubber Plantation Task Force

In May 2006, a joint government–United Nations task force finalized a report on the Liberian rubber sector that provides important context regarding the prevailing conditions in advance of IFC pre-investment review for its SRC investment (2008).⁴¹ The task force conducted assessment visits to seven plantations, including Salala. As part of this assessment, they met with plantation management, workers, local communities, and other stakeholders. The task force made the following findings regarding the Liberian rubber sector.

Concession Agreements, Land Tenure, and Plantation Capacity

- Concession agreements were outdated and did not reflect community participation, which is considered an important aspect of natural resource management.
- Land tenure was noted to be a serious problem, as less than 18 percent of total concession area with rights for development was actually under production (Salala had 32 percent of its concession area under production in 2006). Accordingly, plantation companies had rights over large land areas that were not under production and in some cases that were not properly surveyed, thus raising community concerns about the legality of land areas claimed by plantation companies.
- In some cases, local communities were evicted with the aim of expanding production areas.
- The technical and financial management at most plantations was considered to be weak.

Plantation Security

- In most plantations, relations between government security forces and plantation private security were noted to be inappropriate. Private security units were alleged to frequently disregard national and international human rights standards. Reflecting the general weakness in the plantation management, the report considered Salala’s private security to lack equipment and training and not to be under proper supervision of government authorities).
- Illegal tapping and thefts occurred on all plantations. As these were rarely prosecuted, there was a situation of impunity on many plantations.

Living Conditions

- Living conditions in and around the concession areas were characterized as “appalling.” Housing units were in dilapidated conditions, with inadequate space allocated for workers and their families. Clean drinking water was not made available, forcing communities to carry water from swamps or wells that were not safe for drinking. Most camps lacked latrines and existing latrines were in “deplorable” condition.
- Health clinics and school buildings were considered to be in need of complete renovation. Medical equipment, medical supplies, and school materials were scarce or nonexistent. These facilities only received nominal support from plantation management.
- Inadequate school facilities and nonenforcement of school attendance increased the risk of child labor. In some plantations, children were induced to work with the parents to meet high daily output quotas.

⁴¹ Rubber Plantations Task Force. 2006. The Joint Government of Liberia - United Nations Rubber Plantation Task Force was established in February 2006, to address issues of security, legal and management, political and human rights, and livelihood in publicly owned plantations.

Working Conditions and Workers Rights

- In all plantations, basic standards of occupational health and safety were not observed. No plantation provided personal protective equipment, and work-related injuries such as blindness due to prolonged exposure to dangerous gases occurred regularly.
- Salaries were very low and disproportionate to daily labor tasks.
- Freedom of association was inadequate. Unions were very weak, and in some plantations, they were controlled by management.
- Women were marginalized in the rubber industry, with management devoting little or no attention to their general welfare. Lack of equal opportunity and social services created a condition of abject poverty for women and children.

Environmental Protection

- Plantation management did not prioritize environmental protection and did not regularly assess the environmental impact of their operations. Lack of enforcement of environmental laws enabled plantations to neglect their legal obligations.

2.2. Salala Rubber Operations before IFC's Investment

In 1959, the Liberian government granted SRC a 70-year lease on a land concession of 40,500 ha in Margibi County, with rights to develop a rubber plantation on 8,500 ha.⁴² A map of the concession at the time it was granted indicated a number of towns in and surrounding the concession (see map C.1 in annex C). However, the population in and surrounding the concession at that time is unclear to CAO. During the civil war, the plantation was used as a rebel base for the National Patriotic Front of Liberia (NPFL) and suffered severe destruction.⁴³ During this period, a rubber processing factory (operated by Weala Rubber Company) suffered major damage from fighting, infrastructure on the rubber plantation (including workers housing) was neglected, several hectares of rubber trees around the rebel base were burned, and rubber trees were cut down to provide short-term cash flow. The plantation suffered from poor maintenance and there was no reforestation for a decade. Between 1998 and 2007, the plantation was operated by the military. From 2001 to 2007, the plantation was expanded by 662 ha, with a total planted area of 3,182 ha by 2007.

During the civil war, there were documented atrocities by the NPFL camped at the Salala Rubber Plantation.⁴⁴ During CAO's investigation field visit in 2021, CAO's consultant heard that violence on and in the vicinity of the plantation triggered mass exodus from settlements in the plantation. CAO also learned that following the end of the civil war in 2003, most displaced people remained in villages outside the existing plantation and used their settlements in the plantation primarily for seasonal planting and harvesting of rubber and other crops. There were also reports that some ex-combatants were tapping rubber on the company's plantation.⁴⁵

⁴² Of the 8,500 ha concession the company was granted, 8,000 ha are suitable for rubber tree planting.

⁴³ NPFL was an armed rebel group led by Mr. Charles Taylor from 1989 to 1997. Mr. Taylor was President of Liberia from 1997 to 2003. In 2012, he was convicted by the International Court of Justice for War Crimes. For further details see <https://bit.ly/3wcZwwx>.

⁴⁴ World Bank and United Nations Development Programme (UNDP). January 2005. "Community Cohesion in Liberia: A Post-War Rapid Social Assessment," page 5.

⁴⁵ Ibid., page 35.

In 2007, 90 percent of SRC was acquired by Agrifinal (a Belgian agribusiness investment company) and 10 percent by Intercultures (a subsidiary of Socfin Group, a Luxembourg holding company with agricultural, real estate, and banking activities). At this time, it merged with Weala Rubber Company, which operated a rubber processing factory 12 km from the Salala plantation.

At the time of Agrifinal and Intercultures' acquisition, SRC's rubber plantation was underperforming.

- 3,182 ha of its concession was planted with rubber trees; however, 2,520 ha of this was covered by mature trees that produced low levels of rubber.
- Annual rubber production from the plantation had fallen from 3800 metric tons (mt) in 2000 to 2500 mt in 2006.
- There was a lack of detailed land or aerial surveys, soils analysis, or records of basic rain fall and water data for the concession.
- The plantation had an insufficient number of tree tappers, who also lacked experience; thus, not all trees were tapped and tapping was low quality.

The company was also dependent on the procurement of latex rubber from smallholder farmers as the Salala plantation only supplied 15 percent of the processing factory's capacity.

The company provided salaries above the minimum wage for its employees and subsidized their purchases of rice, a staple food. In accordance with its concession agreement with the government, the company was also required to provide a series of social services to employees. This included providing employees with (1) family housing units on the plantation, or rental allowance to workers not housed on the plantation; (2) access to education for employee dependents; and (3) medical services. Accordingly, in 2007 the company operated six schools accommodating 1,900 students and two health clinics and a hospital servicing 44,000 people.⁴⁶

Salala Five-Year Rehabilitation and Expansion Project

In order to improve the business' performance, the company prepared a five-year Rehabilitation and Expansion Project ("the project"). The project comprised:

- New planting of 4,000 ha of rubber trees on the concession, to bring the size of the concession to 7,200 ha.
- Renovating plant and equipment.
- Rebuilding administrative and social infrastructure including worker housing.
- Provision of working capital to the business.

The estimated cost of the project was US\$25 million. The company requested a US\$10 million loan from IFC to support the project.⁴⁷

Box 2.1. Prior IFC Rubber Investment

Between 2000 and 2005, IFC extended a US\$3.5 million loan to the Liberian Agricultural Company (LAC) to fund the rehabilitation (10,500 ha) and expansion (2,500 ha) of LAC's rubber plantation.

LAC is a fully owned subsidiary within the Socfin Group. In 2007, Socfin Group acquired 10 percent ownership of Salala Rubber Corporation. This increased to 100 percent in 2010.

⁴⁶ IFC. 2008. Environmental and Social Risk Summary (ESRS), project number 26510, available at <https://bit.ly/3q5rWGy>; Earthtime. 2008. "Salala Rubber Company: Environmental & Social Impact Assessment, available at IFC ESRS.

⁴⁷ IFC (2008) SPI.

3. Analysis and Findings

This section presents IFC E&S general policies and procedures relevant to the complaint. It goes on to describe IFC's actions and decisions in relation to these policies with respect to IFC's investment. Finally, CAO's general compliance findings with respect to IFC's pre-investment review and supervision are presented.

As the complaint raises multiple issues, section 4 summarizes specific IFC policy and client requirements relevant to each complaint issue, IFC's action on each issue and CAO compliance findings and assessment of related Harm.

3.1. IFC E&S Policy Framework

The 2006 IFC *Policy on Social and Environmental Sustainability* (Sustainability Policy, SP) affirms the IFC's commitment to E&S sustainability. Central to its development mission, IFC seeks to carry out its investment operations in a manner that “do no harm” to people and the environment.⁴⁸ IFC notes that negative impacts should be avoided where possible, or reduced, mitigated, or compensated for as appropriate. IFC commits to “ensuring that the costs of economic development do not fall disproportionately on those who are poor or vulnerable, that the environment is not degraded in the process, and that natural resources are managed efficiently and sustainably.” In determining what projects to invest in, IFC seeks clients who (1) share its vision and commitment for sustainable development; (2) wish to raise their capacity to manage E&S risks; and, (3) seek to improve their E&S performance. The 2006 Sustainability Policy is binding for IFC's actions during its pre-investment review as well as during supervision.⁴⁹

In order to meet its E&S commitments, IFC requires its clients to operate in accordance with the Performance Standards (PS) throughout the life of IFC's investment.⁵⁰ The Performance Standards define IFC clients' responsibilities for managing the E&S risks and impacts of their business operations. Central to a client's implementation of the Performance Standards is a requirement for a client to implement an Environment and Social Management System (ESMS) to manage E&S risks and impacts of its operations generally, and in accordance with specific risk factors. In its pre-investment review and supervision of a project, IFC's role is to ascertain whether the project can be expected to meet or is meeting Performance Standard requirements. IFC's Sustainability Policy stipulates that IFC should not finance a project that cannot be expected to meet the Performance Standards over a reasonable period of time, and where a project fails to meet the Performance Standards, IFC should work with the client to bring it back into compliance or IFC should exercise remedies.⁵¹

3.2. Pre-Investment Review

This section contains a summary of (1) IFC E&S policies and procedures applicable to IFC's pre-investment review; (2) the company's operations before the pre-investment review; (3) IFC's pre-investment review and CAO's compliance analysis.

⁴⁸ IFC Sustainability Policy (2006), para. 8.

⁴⁹ The IFC Sustainability Policy was updated in 2012.

⁵⁰ The IFC Performance Standards (2006) include PS1: Social and Environmental Assessment and Management System; PS2: Labor and Working Conditions; PS3: Pollution Prevention and Abatement; PS4: Community Health, Safety and Security; PS5: Land Acquisition and Involuntary Resettlement; PS6: Biodiversity Conservation and Sustainable Natural Resource Management; PS7: Indigenous Peoples; and PS8: Cultural Heritage.

⁵¹ IFC Sustainability Policy (2006), paras. 17 and 26.

Summary of Non-Compliance Findings

CAO finds that:

- IFC's pre-investment review (i) was not commensurate to risk (2006 Sustainability Policy para. 13) and (ii) did not include a review of the client's E&S assessment of project risks and impacts and adequately consider client's commitment and capacity to manage project impacts in accordance with the Performance Standard requirements (2006 Sustainability Policy para. 11 and 15).
- IFC did not have sufficient information to make an informed decision regarding the E&S risk category of the investment (2006 Sustainability Policy, para. 18).
- IFC did not meet its Sustainability Policy requirement to assure itself that there was broad community support for the project with significant adverse impact on affected communities (2006 Sustainability Policy, para. 20).
- IFC's pre-investment review did not lead to an expectation that the project would meet the Performance Standards within a reasonable period of time (2006 Sustainability Policy, para. 17).

3.2.1. IFC Obligations during Pre-investment Review

IFC's pre-investment review is the period when IFC conducts an appraisal for a new investment in a company up to and including IFC's Board approval and legal commitment. During this period, IFC conducts E&S due diligence (ESDD) for a project in order to assess its E&S risks and impacts and ascertain whether the project can be expected to meet the Performance Standards. IFC's ESDD should be appropriate to the nature and scale of the project, and commensurate with the level of E&S risks. Where IFC is providing general corporate finance to a project that is already operational, IFC's ESDD considers the project's current operations and any new activities that the business is planning. Where there are significant historical E&S impacts associated with the project, including those caused by others, IFC works with the client to determine possible remediation measures.⁵²

IFC's pre-investment E&S review examines three components: (1) the client's E&S assessment of project risks and impacts; (2) the client's commitment and capacity to manage expected impacts; and (3) the role of third parties in the project's compliance with Performance Standards. IFC bases its review on the client's E&S assessment. Where this assessment does not meet the requirements of the Performance Standards,⁵³ IFC requires the client to undertake additional assessments, or to commission assessments by external experts.⁵⁴

⁵² IFC Sustainability Policy (2006), para. 13.

⁵³ As per PS1, the client E&S assessment should consider in an integrated manner all relevant E&S risks and impacts of the project, including issues identified in PS2-8. Risks and impacts should be analyzed in the context of the project's area of influence. The E&S assessment may comprise of a full-scale E&S Impact Assessment or a limited or focused E&S assessment. When the project involves existing business activities, E&S audits may need to be performed to determine areas of concern.

⁵⁴ IFC Sustainability Policy (2006), para. 15.

Where a project has significant adverse impacts on affected communities, IFC is required to assure itself that there is broad community support for the project.⁵⁵

Where IFC identifies gaps in client performance to achieve operations in accordance with the Performance Standards, IFC agrees to a time-bound E&S Action Plan (ESAP) with the client to address these gaps. Upon implementation of the ESAP, IFC expects the client to be operating in accordance with the Performance Standards.

Based on its review of the project's expected E&S impacts, IFC categorizes the E&S risk of the project as Category A (projects with potential significant adverse social or environmental impacts that are diverse, irreversible, or unprecedented); Category B (projects with potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures); or Category C (projects with minimal or no adverse social or environmental impacts).⁵⁶

IFC's E&S review is integrated into IFC's overall assessment of the project. In presenting the investment to the IFC Board for approval, IFC also considers whether the investment can be expected to contribute to the development of the host country.

Fundamentally, IFC commits to not finance new business activity that cannot be expected to meet the Performance Standards over a reasonable period of time.⁵⁷

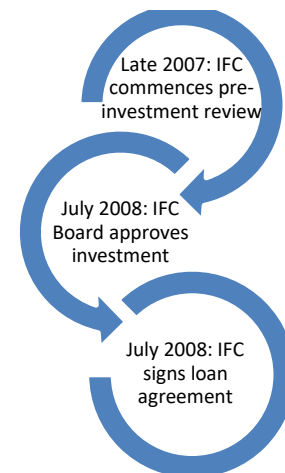
3.2.2. Summary of IFC Pre-Investment Review and CAO Compliance Analysis

As part of its ESDD, IFC staff visited the company in early 2008 and reviewed the following documentation:

- SRC documents related to land expansion, compensation, land surveys, water analysis, and effluent pond design, as well as the company business plan;
- Consultant report on water quality;
- Joint Government of Liberia–United Nations Rubber Plantation Task Force Report and other UN reports; and
- Liberian labor law.

During the site visit, IFC met with company management, union representatives, and community representatives.⁵⁸ IFC noted that the company had commissioned a Liberian third-party consultant (2008–12) to prepare an Environmental and Social Impact Assessment (ESIA) for its operations and planned expansion plan. Initially, IFC expected the final draft ESIA to be ready and disclosed by June 2008.⁵⁹ IFC also noted that it did not need to wait for the ESIA to be finalized before presenting the investment to the Board because

Figure 3.1. IFC Pre-Investment Review



⁵⁵ IFC Sustainability Policy (2006), para. 15.

⁵⁶ IFC Sustainability Policy (2006), para. 18.

⁵⁷ IFC Sustainability Policy (2006), paras. 16–17.

⁵⁸ IFC (2008) ESRS, project number 26510.

⁵⁹ The ESIA is classified as “final draft” as it is the version that is submitted to the national authorities for approval. Until the national authorities approve the ESIA, it is considered a draft version.

IFC's E&S pre-investment review of the project's aspects and impacts would be generally sufficient. However, IFC did affirm that it wanted a draft of the ESIA before IFC's Board approval.

IFC identified that the main E&S issues associated with the project included: (1) worker housing and sanitation; (2) community grievance mechanism; (3) rubber factory effluents; (4) plantation pest management; and (5) protection of forests along major rivers within the plantation. As IFC considered these issues to be limited in their extent to company property and manageable with changes in plantation procedures and technology use, IFC categorized the E&S risk of this investment as Category B.⁶⁰

In relation to the company capacity at the time, IFC noted that the company did not have a systemic approach to monitoring and managing E&S aspects of its operations (that is, an adequate E&S Management System (ESMS)), or staff trained to undertake these duties. Further, IFC noted that the company did not have a dedicated community relations officer for managing company engagement with local communities and workers.

IFC also visited the Liberian Agriculture Company (LAC) rubber plantation during its pre-investment review. This is material because LAC's parent company, Socfin, had a 10 percent shareholding in SRC and, through a three-year management contract, Socfin was responsible for operating the SRC plantation on a day-to-day basis.⁶¹ Accordingly, the purpose of IFC's visit to LAC was to understand how Socfin managed its plantation. IFC noted that the LAC plantation and social infrastructure were well maintained. IFC noted that LAC's management was motivated and, importantly, they had assigned new staff and resources to improve community relations, which had deteriorated following the civil war and LAC's then-recent plantation expansion.⁶² IFC noted that collaboration between LAC and SRC had grown stronger.

In order to address identified gaps in SRC's ability to assess and manage the E&S risks and impacts of its operations, in February 2008 IFC prepared an ESAP with a series of actions to be implemented between April and June 2008. IFC requested that the final draft of the ESIA be provided to IFC and be publicly disclosed no later than June 2008, prior to Board approval of the investment in July 2008. IFC anticipated that recommendations in the ESIA would be integrated into IFC's ESAP prior to legal commitment.⁶³

The ESIA was not provided to IFC before Board approval and legal commitment in July 2008. As discussed further in section 3.3 on IFC Supervision, the ESIA was eventually provided to IFC in late August 2008 and IFC's view was that it was inadequate. Furthermore, while the February 2008 ESAP anticipated implementation of a series of actions by June 2008, the ESAP was revised in July 2008 with deadlines occurring after IFC's legal commitment. At the time of IFC investment approval and legal commitment, there is no indication that the company's limited implementation of the February 2008 ESAP raised concern for IFC about client commitment.

The agreed and published July 2008 ESAP, prepared in the absence of a draft ESIA, included 24 actions to be implemented over a period from June 2008 to December 2009.⁶⁴ With regard to the company's general E&S risk management, this included actions requiring the company to

⁶⁰ IFC (2008) ESRS, project number 26510. IFC defines an E&S risk Category B classification as "*Projects with potential limited adverse social or environmental impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures.*" IFC Sustainability Policy (2006), para. 18.

⁶¹ IFC (2008) ESRS, project number 26510.

⁶² IFC-financed LAC plantation expansion (IFC project number 9447).

⁶³ IFC (2008) ESRS, project number 26510.

⁶⁴ Ibid.

enhance its E&S staff capacity, establish a documented community grievance resolution procedure, and disclose the final draft ESIA (2008) for the planned expansion program.⁶⁵

IFC concluded its pre-investment review without: (1) receiving and reviewing an adequate client-prepared E&S impact assessment of its operations and expansion plan and (2) sufficient information to evaluate the adequacy of ESAP actions and clarity on timelines for those actions. As the client failed to meet initial timelines, IFC set new deadlines for implementation of the actions in the ESAP either after legal commitment or, in most cases, after IFC's first disbursement.⁶⁶

It is important to recall that at the time of IFC's investment, Liberia was a newly post-conflict state. The plantation had suffered severe destruction and been poorly maintained during the civil war. Further, the plantation was used as a rebel base where there were reports of atrocities being committed, leading to mass exodus of settlements in the plantation. These conditions would indicate the need for added vigilance during IFC's pre-investment review.

IFC's investment sought to support the rehabilitation and expansion of the plantation from 3,182 ha to more than 7,000 ha. As acknowledged by IFC, the company did not have a systemic approach to managing E&S risks and impacts of its operations or any staff tasked with this role. It is in this context that IFC's pre-investment E&S review had to assess the E&S risks and impacts of the client's operations, its ability to manage those risks, and whether the client could operate in accordance with the IFC Performance Standards within a reasonable period of time.

IFC's pre-investment review (i) was not commensurate to risk (2006 Sustainability Policy, para. 13) and (ii) did not include a review of the client's E&S assessment of project risks and impacts and adequately consider client's commitment and capacity to manage project impacts in accordance with the Performance Standard requirements (2006 Sustainability Policy, paras. 11 and 15). IFC completed its review without considering a key requisite component, namely the company's assessment of project E&S risks and impacts of its ongoing operations and planned expansion of the plantation. While IFC reviewed other documentation in relation to the plantation's activities and planned expansion, the alternative documentation did not substitute for the required client E&S assessment. Without a Performance Standard-compliant ESIA, the ESAP could not adequately reflect the risks and impacts of the project, nor the mitigation actions necessary to ensure the project would be implemented in accordance with the Performance Standards. Given that the ESAP represents the client's contractual obligation to address the project's E&S risks and impact, the absence of an adequate ESAP established a challenging trajectory for IFC supervision from the start of the investment. IFC was also not in a position to adequately assess the company's commitment and capacity to manage the project's E&S risks and impacts. Absent these components, it was not possible for IFC to conduct an E&S review in accordance with the Sustainability Policy requirements.

⁶⁵ The final draft ESIA was only disclosed on IFC's website. Subsequent IFC supervision noted that the company did not disclose the ESIA at the project site and in a manner accessible by affected communities. This is a Performance Standard 1 requirement (para. 20 and 26).

⁶⁶ Six out of 24 ESAP actions were scheduled to be implemented prior to IFC's first disbursement. These actions were 1. Appoint a Community Relations/Development Officer; 2. Develop and document assessment of health and safety measures in all operational areas; 3. Implement policy of incorporating in out-grower contracts requirement to meet Liberian labor law, with specific reference to child labor provisions; 4. Develop and make accessible a human resource policy; 5. Complete construction of a new wastewater treatment pond, and, 6. Document procedure for fuel and chemical handling and storage.

In the absence of a company-prepared E&S assessment, IFC did not have a basis to make an informed decision about E&S risk categorization. As a result, CAO finds that IFC may have incorrectly categorized the E&S risk of the investment as Category B (moderate risk), rather than Category A (high risk) (2006 Sustainability Policy, para. 18). CAO reaches this conclusion on the basis that (1) IFC was making an investment in a recent post-conflict country (thus, the contextual risk was inherently higher); (2) the project had a sizable footprint as it proposed doubling the actual planted area over five years from 3,182 ha to more than 7,000 ha; (3) there was no company E&S assessment of its operations or expansion project (thus, the expected risks and impacts were not adequately defined); (4) the company had not conducted or retained detailed land surveys of its concession (thus, the scope of the expected impacts were not adequately defined); and (5) the company did not have adequate E&S staff at the plantation (thus, there was a higher risk that the company did not have the capacity to implement the Performance Standards). Taken together, CAO concludes that these factors could reasonably have resulted in IFC determining the project had *potential significant adverse E&S impacts that were diverse, irreversible, or unprecedented* (i.e., Category A). Crucially, IFC's review did not demonstrate that the risks were limited, few in number, and readily addressed through mitigation measures (i.e., Category B). Category A investments have higher IFC management level approval, require a longer IFC disclosure timeframe,⁶⁷ necessitate closer IFC E&S supervision, and require the client to retain qualified and experienced external expert(s) to verify its monitoring information.⁶⁸

CAO finds that IFC did not meet its Sustainability Policy requirement to assure itself that there was broad community support for a project with significant adverse impacts on affected communities (2006 Sustainability Policy, para. 20). The Sustainability Policy (para. 15) requires that for projects expected to have significant adverse impacts on affected communities, IFC will assure itself there is a broad community support for the project with affected communities. Given that the project proposed a sizeable expansion of the company's operations in an area with existing communities, the project was being implemented in a fragile country with significant contextual risks, and, at the time of IFC's E&S review, the company had not adequately assessed the impacts and had limited E&S capacity, there was the potential for significant adverse impacts on affected communities. This should have triggered IFC to assess whether there was a broad community support for the project. This did not occur.

Finally, ***CAO finds that IFC's pre-investment review did not lead to an expectation that the project would meet the Performance Standards within a reasonable period of time (2006 Sustainability Policy, para. 17).*** CAO reaches this finding on the basis that (1) IFC's inadequate E&S pre-investment review did not place IFC in a position to ascertain that the project would meet IFC Performance Standards over a reasonable period of time; (2) key ESAP items that were expected to be implemented before IFC approved the loan and made its legal commitments were not informed by an ESIA, and furthermore were deferred to timelines after commitment and first loan disbursement had occurred thereby reducing IFC's leverage to implement the ESAP on its prescribed timeline; and (3) implementation of the ESAP within provided timelines was unrealistic given the recent performance of the company, its limited staff capacity and scant expertise on E&S issues at the plantation, and the limited capacity

⁶⁷ As per IFC Disclosure of Information Policy (2006), IFC discloses Category A investments 60 days in advance of Board consideration, and discloses Category B investments 30 days in advance of Board consideration.

⁶⁸ As per IFC ESRP (2007), Category A investments required approval of IFC E&S Manager and an annual IFC E&S site visit.

within Liberia for E&S assessment and supervision in conformity with Performance Standard requirements.⁶⁹

⁶⁹ At the time of IFC's investment, IFC noted that there were only two E&S consultant firms registered in Liberia. Subsequently, in 2009, IFC was informed by the Liberia Environmental Protection Agency that additional Liberian E&S consultant firms had been registered and that foreign consultant firms could seek permission to work in Liberia.

3.3. Investment Supervision

This section outlines (1) IFC E&S policies and procedures applicable to IFC investment supervision; (2) summarizes IFC's investment supervision of SRC from 2008–14, 2015–18, and 2019–22; and (3) presents findings from CAO's compliance analysis.

Summary of Non-Compliance Findings

CAO finds that:

- IFC proceeded with the first disbursement knowing that there were material gaps in the company's E&S assessment and with no immediate intention to require an improved version. This is non-compliant with IFC's commitment to work with the client to bring it into compliance (2006 Sustainability Policy, para. 26).
- During the 2008-2014 period, IFC supervision was non-compliant with its Sustainability Policy requirement to work with the client to bring it into compliance with agreed E&S requirements, or where the client failed to reestablish compliance, to exercise remedies when appropriate (2006 Sustainability Policy, para. 26).
- During the 2015-2018 period, IFC's supervision was non-compliant with its Sustainability Policy commitment to monitor client E&S performance (2006 Sustainability Policy, para. 11).
- During the 12-year investment period, IFC's supervision was non-compliant with its commitment to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, to exercise remedies when appropriate (2006 Sustainability Policy, para. 26).

3.3.1. IFC Obligations during Investment Supervision

IFC seeks to “ensure that the projects it finances are operated in a manner consistent with the requirements of the PS.”⁷⁰ For this reason, IFC monitors its client's E&S performance throughout the life of an investment for compliance with the E&S commitments in the investment agreement.⁷¹

IFC conducts project supervision through site visits by IFC specialists and Annual Monitoring Reports (AMRs) submitted by the client. IFC reviews project performance based on the client's commitments in the ESAP, and, where relevant, reviews with the client any performance improvement opportunities. IFC is required to develop and retain information needed to assess the status of the client's compliance with the Performance Standards and other project-related E&S requirements.⁷²

⁷⁰ IFC Sustainability Policy (2006), para. 5.

⁷¹ IFC Sustainability Policy (2006), paras. 11 and 26.

⁷² IFC Sustainability Policy (2006), para. 11, and ESRP 6: Direct Investments: Supervision. The E&S Review Procedures (ESRPs) are IFC staff-level procedures to support implementation of the Sustainability Policy. While the Sustainability Policy is approved by the Board, the ESRPs are approved by IFC management.

After IFC commits to an investment, the relevant IFC E&S specialist is required to obtain sufficient information to determine the status of any E&S conditions of disbursement (COD). Based on this review, the E&S specialist informs IFC investment staff if any of the expected CODs have not been met.⁷³ Where this occurs, IFC either does not proceed with the disbursement until the CODs are met or IFC proceeds with disbursement by issuing a legal waiver to defer implementation of the CODs to a later date.

During the course of IFC's investment supervision, if the client fails to comply with its E&S commitments, IFC works with the client to bring it back into compliance to the extent feasible. If material compliance gaps are identified, supplemental corrective actions should be agreed. If the client fails to reestablish compliance, IFC exercises remedies as appropriate.⁷⁴

IFC supervision requirements are linked to client requirements to establish an ESMS that is commensurate to the project risks and impacts.⁷⁵ The ESMS should ensure that sufficient human and financial resources are provided to "achieve effective and continuous social and environmental performance."⁷⁶ The ESMS should allow monitoring of client compliance against the IFC Performance Standards and applicable legal requirements and should include measurable indicators of performance that are the subject of "systematic data collection and analysis."⁷⁷ Where mitigation measures and actions are identified as necessary for the project to comply with E&S requirements, the client should develop time-bound Action Plans. The ESMS should also support ongoing consultation and disclosure with project-affected communities.⁷⁸

3.3.2. Summary of IFC Supervision of SRC and CAO Compliance Analysis

IFC Supervision, 2008–2014

Following the legal commitment in July 2008, IFC's supervision phase of SRC commenced.

In order to proceed with the first disbursement, IFC was required to ascertain that the client had implemented ESAP actions due by the date of disbursement and the company was otherwise in compliance with the Performance Standards, with the exception of ESAP actions due after IFC's first disbursement.

Under the July 2008 ESAP, SRC was required to disclose an ESIA for the planned plantation expansion program "no later than August 29, 2008."⁷⁹ In late August 2008, SRC submitted a draft ESIA to IFC for review and comment. In September 2008, IFC informed the company that the draft ESIA was inadequate. IFC considered the draft ESIA to be materially defective, in particular because there was no evaluation of biodiversity impacts of the plantation expansion program. There is no evidence that IFC required the company to address these gaps prior to first disbursement.

In mid-September 2008, the company requested first disbursement of the IFC loan in order to finance its Rehabilitation and Expansion Project. As structured, the loan was expected to be

⁷³ IFC ESRP (v3, 2009), para. 6.2.2.

⁷⁴ IFC Sustainability Policy (2006), ESRP 5 (Managing Eventualities in Investment Projects), and ESRP 6 (Direct Investments: Supervision).

⁷⁵ PS1 (2006), paras. 3 and 14.

⁷⁶ PS1 (2006), para. 17.

⁷⁷ PS1 (2006), paras. 14 and 25.

⁷⁸ PS1 (2006), paras. 16, 19–23, and 26.

⁷⁹ IFC SRC ESAP (July 2008).

disbursed in three installments.⁸⁰ In late September, IFC reviewed the conditions of disbursement. Upon review, IFC cleared its first disbursement, which proceeded on October 10, 2008.⁸¹ In advance of the first disbursement, IFC did not require the company to revise its ESIA to address the gaps identified to ensure the assessment was compliant with the 2006 Performance Standards. IFC supervision documentation in April 2009 noted that the ESIA was significantly defective and that there was no point in trying to fix it.

IFC proceeded with the first disbursement knowing that there were material gaps in the company's E&S assessment and with no immediate intention to require an improved version. CAO finds that this is non-compliant with IFC's commitment to work with the client to bring it into compliance, per 2006 Sustainability Policy, para. 26. Financial disbursements are key points of leverage for IFC in achieving implementation of its E&S requirements by the client. The failure to ensure that an adequate E&S assessment was prepared resulted in IFC lacking a full understanding of project risks, thereby compromising its ability to adequately supervise the project. It also resulted in the reduction of IFC leverage to bring the client into compliance. The company therefore proceeded with implementation of its plantation rehabilitation and expansion project without completing a PS1 compliant E&S assessment and implementing appropriate mitigation measures as required by the Performance Standards.

In February 2009, Salala submitted its first Annual Monitoring Report summarizing the company's E&S performance and progress on implementing the ESAP. In April 2009, IFC conducted an E&S site supervision visit. IFC noted that the AMR was inadequate as it did not provide sufficient information about the company's E&S performance or sufficient information to approve a second disbursement. IFC noted that Salala had experienced complete turnover of key staff since the initial project appraisal was conducted. As a result, SRC did not have institutional memory of the E&S requirements under the legal agreement with IFC and had not met many of the ESAP deadlines. IFC discussed gaps in the ESIA with Salala and its third-party consultant (2008–12), which included the need for a biological baseline study of the plantation expansion area. During the visit, IFC was informed that recent mapping of the plantation based on the original concession agreement resulted in the plantation boundaries expanding further south than IFC had been previously informed during its pre-investment review. IFC noted that during its pre-investment review, the company had reached agreement with communities on its plantation boundaries. However, the new boundaries produced through the revised mapping would impact at least two additional communities. IFC noted that there was time to work with the company on the assessment of potential impacts to these communities as the company was not expected to start development in that area for five years.

⁸⁰ IFC completed a second disbursement in April 2010. In 2011, the company requested IFC to cancel of the undisbursed loan (US\$4 million, third disbursement) due to external adverse elements delaying implementation of the project.

⁸¹ IFC (2008) SPI. The first disbursement of US\$3 million occurred in October 2008. The second disbursement of US\$3 million occurred in April 2010. A third disbursement of US\$4 million did not occur.

During the April 2009 site visit, IFC revised its ESAP with new expected completion dates as the majority of important action items had not been completed, in particular a Sustainable Management Plan (SMP).⁸² IFC rated the company's E&S performance as Partly Unsatisfactory.⁸³

In November 2009, IFC conducted a second site visit with the primary objective of reviewing Salala's SMP. Salala informed IFC that the environmental consultant it had planned to hire to support ESAP implementation had yet to arrive. During the site visit, IFC staff provided guidance to Salala on how to complete the SMP. Additionally, IFC noted concerns regarding the company's processing of solid waste and monitoring of wastewater. Further, IFC noted the need to work with the company to ensure that any expansion of its plantation into its revised plantation boundaries was conducted in accordance with Performance Standard 5 (PS5) (Land Acquisition and Involuntary Settlement). IFC rated the company's E&S performance as Partly Unsatisfactory, indicating IFC's view that the company was non-compliant with IFC's E&S requirements.

In April 2010, IFC completed the second disbursement of the loan. The company requested the disbursement in order to expedite the implementation of its planting program and other elements of the project. Because the company was not in compliance with a financial condition, IFC issued a legal waiver to proceed with the disbursement. IFC did not take a similar approach of issuing a waiver for the company's E&S performance, even though IFC had rated the company's E&S performance as Partly Unsatisfactory. The revised 2009 ESAP provided for 23 out of 24 ESAP actions to have been implemented prior to IFC's April 2010 disbursement. Prior to disbursement, IFC's documentation notes that 19 actions were outstanding.

Following a site visit in February 2011 and a review of the company's 2010 AMR, IFC E&S staff documented a diverse range of concerns regarding the company's E&S performance. IFC noted that the company lacked sufficient E&S capacity to manage risks and impacts and to implement the ESAP, in part due to a minimal management structure and high staff turnover. The E&S function was being conducted by SRC management alongside other tasks. IFC noted that this resulted in E&S functions being multi-tasked and to some extent reactive in response to E&S issues. IFC noted that the SMP had yet to be completed and a wastewater monitoring program was not being implemented. IFC stated that there was a need to conduct a social baseline assessment of communities within and outside the plantation in order for the company to better understand and manage local issues, rather than develop ad hoc responses to community issues as they arose. IFC documented eight ESAP items as incomplete and noted delays in implementing other ESAP items. It also noted that the Socfin corporate E&S function needed to provide support to the company.

Further, IFC recorded that the company's factory was closed by the Liberian Environmental Protection Agency (EPA) for one week after the company failed to pay a fine in relation to an alleged discharge of wastewater in a local river.⁸⁴ IFC noted that since the company did not have a wastewater monitoring program in place, as required by IFC's ESAP, the company was not in a position to refute the fine even though it asserted that it was not the source of the pollution. As a

⁸² The Sustainable Management Plan (SMP) is a requirement of Performance Standard 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources) (PS 6, para. 16) for IFC clients involved in plantation development. IFC's April 2009 site report records that IFC team decided that the project should take the principles that were applicable from Roundtable on Sustainable Palm Oil (RSPO) standards and develop them into an SMP for the rubber plantation. IFC reached this conclusion as there was no certification process for rubber plantations as there was for oil palm.

⁸³ Following an IFC supervision event (such as a review of the company-prepared AMR or a site visit), IFC makes an assessment on the company's E&S performance of Excellent, Satisfactory, Partly Unsatisfactory, or Unsatisfactory. IFC ESRP 6: Direct Supervision.

⁸⁴ Republic of Liberia, Environmental Protection Agency (EPA), March 17, 2011, Press Release.

result of this incident, the company noted that the Liberian Environmental Protection Agency had required it to rehire the third-party consultant (2008–12) who drafted the ESIA in 2008 to prepare an Environmental Management Plan, which the company needed to submit to the national authorities in order to receive the necessary national permit for its operations. IFC again rated the company's E&S performance as Partly Unsatisfactory.

IFC subsequently reviewed an updated ESIA (dated 2011), which included an Environmental Management Plan, prepared by the company's third-party consultant (2008–12). IFC noted several instances where assessments were conducted to fulfill requirements of the national standards rather than IFC Performance Standards, and noted that the wastewater monitoring program for the company's operations lacked specificity.

Following a site visit to Socfin's corporate office in Belgium in March 2012 and review of the company's 2011 AMR, IFC E&S staff documented progress in relation to ESAP implementation. IFC noted that Salala had benefited from greater corporate involvement in supporting a gap assessment and development of tools to support the company's E&S risk management. However, IFC noted that four years after the investment was approved and committed, there continued to be turnover in Salala's management and it lacked specialized E&S staff on site. As a result, IFC questioned whether the recent progress would be institutionalized at the company level. IFC considered Salala to be heavily reliant on Socfin's corporate support for its E&S risk management. In this context, IFC was also concerned that turnover and limited capacity at the corporate level could compromise Salala's ongoing ability to manage E&S risk and implement outstanding ESAP actions. IFC once again rated the company's E&S performance as Partly Unsatisfactory.

In April 2013, Green Advocates—an NGO that became one of the complainants' representatives in their 2019 CAO complaint—released a report summarizing community concerns regarding Salala's operations. This is material to IFC's supervision, as it presented a contemporaneous view of an NGO, and the communities they engaged with, on the company's performance and thus necessitated an IFC review of community concerns. In particular, the report alleges that Salala (1) did not disclose or consult with communities on the expansion project; (2) cleared communities' crops and farmland without paying adequate compensation; (3) polluted local drinking water sources and did not provide adequate well hand-pumps; (4) desecrated and damaged sacred sites; (5) took land that communities asserted ownership over; and (6) destroyed three towns, relocated three towns, and surrounded one town with the new plantation. Green Advocates' report offered a series of recommendations to mitigate alleged impacts.⁸⁵

In its response to national authorities regarding the Green Advocates report, Salala refuted the impacts alleged in the report. The company provided details of: (1) meetings it held with communities; (2) a joint census with farmers of crops to be cleared and compensation paid; (3) land appropriated to communities for farming; (4) actions it had taken to protect sacred sites and compensation it paid where it was accused of impacts to such sites; and (5) hand pumps it had constructed and details of the pesticides it used that were alleged to cause drinking water pollution.

⁸⁵ Green Advocates, April 2013, *Livelihood Challenges at Salala Rubber Corporation*. Green Advocates recommended that (1) land tenure and land security be clarified through community participatory mapping process; (2) there be an independent audit of Salala's compensation framework; (3) damaged farmland be repaired and communities be given adequate farmland to practice subsistence farming; (4) sufficient well hand-pumps be provided and all water bodies be tested to ease fears over possible water pollution; (5) the ESIA for the expansion project be disclosed; (6) there be consultation with affected communities about restoration, compensation, and reparation of impacts to sacred sites; and (7) displaced people be provided assistance to return to their original homelands.

In September 2013, IFC conducted a site supervision mission of the plantation. It was informed that the processing factory had been shut down because it had become uneconomical. IFC noted progress in terms of the basic plantation management, including chemical management and improvements in worker housing. As in previous instances, IFC noted that there continued to be turnover in company management, resulting in a lack of knowledge of IFC's E&S requirements and Salala's responsibility to comply with them. The company also continued to lack sufficient E&S capacity on the ground to manage risks and impacts; particularly acute was the company's low capacity to manage social risks. The company's interaction with communities was ad hoc and reactionary rather than through planned interventions. As IFC noted that the company had paid compensation to economically displaced people at government rates which did not provide for livelihood restoration, IFC requested that the company implement a resettlement/livelihood restoration plan for people impacted by the company's expansion plan to ensure PS5 compliance. IFC rated the company's E&S performance Unsatisfactory— the lowest rating on the scale. The investment was also added to IFC's E&S High Risk List.⁸⁶

After the 2013 site visit, IFC frequently followed up with the company regarding actions it was taking to address identified gaps. The company provided IFC with a series of policies, plans, and documentation with respect to its E&S risk management. While IFC provided comments to the company on outstanding gaps in its policies, IFC noted that it was important to see evidence of concrete implementation. More broadly, IFC was concerned that the company lacked strategic focus on understanding the impact of its operations and what was needed to fully manage the risks and impacts.

In March 2014, the Ebola Virus Disease was reported in Liberia. There was a sharp increase in cases in the second half of the year. On August 1, 2014, World Bank Group restricted staff travel to Liberia. In May 2015, the World Health Organization declared Liberia to be Ebola free. IFC staff explained that during Ebola virus outbreak, IFC reduced contact with the company as it responded to the epidemic.

While IFC's E&S supervision identified, on an annual basis, key weaknesses in the client's performance, IFC did not take sufficient action to ensure that Salala was meeting its E&S requirements. ***CAO therefore finds IFC supervision during the 2008–14 period to be non-compliant with its Sustainability Policy requirement to work with the client to bring it into compliance with agreed E&S requirements, or where the client failed to reestablish compliance, exercise remedies when appropriate (2006 Sustainability Policy, para. 26).*** While IFC downgraded its E&S performance assessment of the client, there is no record during this period of IFC management formally engaging with the client on continuing and persistent identified gaps in its performance or considering exercising remedies. Rather, IFC proceeded with the second financial disbursement in April 2010. Ultimately, six years after IFC's original investment, Salala had not made substantial progress to implement an ESMS with sufficient capacity to continually assess its business operations and comply with the Performance Standards. Further, IFC's supervision did not evidence implementation of key ESAP measures to mitigate risks and impacts of the plantation expansion and rehabilitation project.

⁸⁶ The IFC E&S High Risk List (IFC ESRP 10, version 2010) is an internal list of IFC investments that require closer supervision due either to highly significant E&S risks or because the projects have attracted the attention of third parties.

IFC Supervision, late 2014–2018

Between late 2014 and October 2015, IFC conducted a pre-investment review for a corporate investment in Socfin, Salala's corporate parent. The purpose of the investment was to support Socfin's investment program of expansion and operational improvements of its plantations in Côte d'Ivoire, Ghana, Liberia, and Sierra Leone. Further, IFC's investment was expected to support Socfin as it sought certifications for these plantations from the Roundtable on Sustainable Palm Oil (RSPO) and Forest Stewardship Council (FSC).⁸⁷

In the context of the corporate investment, and in advance of IFC meeting Socfin in late 2014, IFC management sought to understand what specific actions Salala needed to do in the near future to ensure that IFC's performance assessment could be upgraded from Unsatisfactory to Satisfactory.

IFC discussed with Socfin the corporate investment and Salala E&S performance gaps. IFC noted that the company had abandoned plans for further clearing and planting of rubber trees on its concession, rather focusing on replanting mature rubber trees. Socfin hired a new E&S sustainability staff member and affirmed its commitment to ensure that Salala implemented a PS1 compliant ESMS. As a result, IFC upgraded its assessment of the company's E&S performance to Partly Unsatisfactory.

Following the discussion with Socfin and as part of its pre-investment review for the corporate investment, the IFC team briefed IFC management on E&S performance gaps at Salala. The IFC team noted that company E&S staff turnover was a longstanding issue and there was a need for the company to internalize the Performance Standard requirements, rather than IFC repeatedly identifying E&S performance gaps. On this basis, IFC E&S staff supervising the Salala investment raised concerns regarding the client's E&S performance. IFC management view at this time was that the new corporate investment presented IFC with leverage to bring Salala back into compliance. At this juncture, IFC replaced its E&S staff supervising the Salala investment with E&S staff working on the corporate investment. This put the trajectory of IFC supervision of Salala on a different track, with a focus on improving performance via an ESAP in the corporate investment.

IFC summarized to Socfin the outstanding E&S performance gaps at Salala. This included requirements to (1) appoint a qualified social manager; (2) conduct social and biodiversity assessments of current operations and any new expansions; (3) develop and implement a Stakeholder Engagement Plan (SEP); and (4) develop and implement a security management plan. These were outstanding requirements from IFC's 2008 ESAP, and as revised in the 2009 ESAP.

Subsequently, a third-party consultant (2015) was hired by IFC and Socfin to conduct an evaluation of Salala's E&S management practices and potential operational E&S risks. In addition to IFC's gap assessment, the consultant concluded that the company's ESMS did not have a formal process to identify risks and impacts of new activities that might occur during ongoing operations. The consultant made a series of other observations and recommendations in relation to the company's operations regarding labor, pollution prevention, land acquisition, biodiversity conservation, and cultural heritage. The consultant prepared a 20-point action plan to address identified Performance Standard gaps in its operations.^{88,89} IFC's overall view of Socfin was that

⁸⁷ IFC (2015) Summary of Investment Information, project number 35930.

⁸⁸ As relevant to each complaint issues, this action plan is covered in section 4.

⁸⁹ IFC (2015) ESRS, project number 35930.

there were major gaps between its operational performance and good international industry practice in E&S management at both the corporate and local operational/plantation level.⁹⁰

Unrelated to E&S issues, IFC decided not to seek Board approval of the corporate investment in Socfin. Following IFC's decision not to proceed with the investment, there was limited recorded IFC supervision of Salala. Between 2016 and late 2018, IFC did not document any formal reviews of company submitted AMRs, nor did it conduct site visits. There is no record of IFC supervising Performance Standard gaps identified as part of prior supervision or by the third-party consultant (2015). IFC's only supervision of substance was in March 2016 when IFC, learning about worker concerns via a news report, questioned the company on implementation of a worker retrenchment program.

While IFC recognized that the corporate investment presented a leverage opportunity to close company E&S performance gaps, when this corporate investment did not proceed, there is no documented evidence that IFC management pursued measures to ensure that E&S performance gaps were closed or considered exercising remedies (contrary to 2006 Sustainability Policy, para. 26).

CAO finds that IFC's supervision from 2015 to 2018 was non-compliant with its Sustainability Policy commitment to monitor client E&S performance (2006 Sustainability Policy, para. 11). Despite having most recently rated the company's E&S performance as Unsatisfactory, IFC did not supervise the company's E&S performance during this period. This is particularly concerning because IFC's prior supervision did not demonstrate that the company was effectively implementing IFC's Performance Standards requirements and the investment ESAP. Rather, IFC's supervision documented that the company was not assessing and managing social and biodiversity risks and impacts of its operations, and that this had resulted in impacts to communities during the plantation expansion. More details on these issues are provided in section 4 of this report.

IFC Supervision, 2019–2020

In February 2019, Bread for All, a Switzerland-based NGO, released a report alleging that Socfin-owned Salala and Liberian Agricultural Company operations violated international human rights standards and were non-compliant with the IFC Performance Standards.⁹¹ Specifically, the report alleges that Salala and LAC:

- Violated customary and private land rights of communities as they developed and expanded plantations, and in some cases forcibly evicted communities;
- Did not conduct an adequate community consultation on plantation expansion or seek their consent;
- Paid inadequate compensation to communities for losses from plantation expansion activities;
- Encroached on customary lands resulting in deterioration in food security;
- Provided limited employment opportunities thus presenting challenges for families to send their children to school;

⁹⁰ Ibid.

⁹¹ The Bread for All report was prepared in close collaboration with Green Advocates International, Natural Resource Women's Platform, and the Alliance for Rural Democracy—three of the NGOs serving as complainant representatives in the 2019 CAO complaint. The 2019 Bread for All report, *Struggles for Life and Land: Socfin's Rubber Plantations in Liberia and the Responsibility of Swiss Companies*, is available at <https://bit.ly/3Rqiact>.

- Contaminated local water sources through pesticide spraying and destroyed some community water sources through plantation expansion; and
 - Operated plantations riddled with violence and threats, including sexual harassment and violence against women from security guards and contractor management.
- There were also reports of promises of work in exchange for sex.

In response, Socfin stated that the allegations in the report “seem to be greatly exaggerated in its context if not incorrect.”⁹² Socfin’s response provided historical context for its Liberian operations and refuted allegations raised in the report. Socfin also published a number of documents to support its position, including examples of crop compensation and environmental audits and permits. Further, Socfin commissioned a new third-party consultant (2019) to conduct a review of its Salala operations in light of allegations raised in the Bread for All report. Positively, the consultant found that (1) working conditions were beneficial for employees (including clean facilities, a health and safety system, and a workers’ grievance mechanism); (2) a process to develop a stakeholder engagement strategy had commenced; and (3) there was a documented system for land compensation, internal grievance system, and contractor contracts. The consultant also noted several key challenges. Among them: (1) land acquisition did not include participatory mapping of land, there were errors in compensation rates for land, and there was no agreement between Salala and communities on land usage rights; (2) workers sometimes brought relatives (including children) to work who did not have contracts, and they did not receive wages or personal protective equipment (PPE); (3) the community grievance mechanism needed to be improved; and (4) enforcement of employment practices, including of contractors, was weak in several instances; and (5) PPE was not provided free of charge.

In May 2019, the complainants filed their complaint with CAO.

Between July and September 2019, IFC met with Socfin management in Belgium and conducted a site visit to Salala. This was IFC’s first visit to the plantation in six years. IFC’s site visit to Salala included meeting with plantation management, workers, community members, and the CAO complainants. IFC also received documentation from the company. IFC supervision considered the company’s E&S performance and issues raised in the Bread for All report.

IFC concluded that many of the issues IFC identified in its last site visit in 2013 remained outstanding. In order to reach compliance with the Performance Standards, IFC noted that the company needed to: (1) appoint a qualified individual to manage community engagement and social risk assessment and monitoring; (2) develop a social management plan; (3) complete a security management plan; (4) develop and implement a Livelihood Restoration Plan; and (5) map sites of cultural heritage and buffer zones around communities. Further, in order to respond to gender-based violence and harassment (GBVH) issues and reach Performance Standard compliance, IFC noted that the company needed to update and implement its Human Resource policies and procedures to address sexual harassment in the workplace and in communities. IFC rated the company’s E&S performance as Partly Unsatisfactory.

IFC planned a follow-up visit in mid-2020 with a GBVH expert. The objective of the visit was to assess the risk and support the capacity of the company to respond to GBVH complaints from either employee contractors or communities. Due to the COVID-19 pandemic, the visit did not proceed.⁹³

⁹² Socfin Group. 2019. Response to Bread for All report, available at <https://bit.ly/3wBPXYb>.

⁹³ As noted in section 4.4, in May 2023 IFC facilitated a Gender-based Violence Training Workshop held at Salala’s factory.

In March 2020, the company made its final scheduled loan repayment. This formally completed IFC's investment in the company and the company's E&S performance obligations to IFC. At the time the loan was repaid, IFC considered the company to be non-compliant with its E&S requirements. As a result of the Covid-19 pandemic, SRC ceased operations in 2020. Operations resumed in 2021.⁹⁴

CAO finds IFC's supervision during the course of the 12-year investment non-compliant with its commitment to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, exercise remedies when appropriate (Sustainability Policy, para. 26). IFC's supervision of the Salala plantation did not meet the Sustainability Policy objectives to ensure that projects it finances are implemented and operated in a manner consistent with the requirements of the Performance Standards (Sustainability Policy, para. 5).

CAO makes this non-compliance finding considering the following facts:

- While IFC identified E&S performance gaps, IFC's approach to supervision was insufficient to bring the client back into compliance. IFC's E&S procedures required IFC to conduct annual site supervision visits as IFC continued to rate the company's performance as Partly Unsatisfactory or Unsatisfactory. There were no site visits to the plantation in 2010, 2012, 2014, 2015, 2016, 2017, or 2018.⁹⁵ The Ebola virus outbreak restricted World Bank Group staff travel for part of 2014 and 2015.
- Between 2008 and late-2014, while IFC E&S documentation consistently recorded performance gaps and the investment was added to IFC's E&S high risk list, there is no record of IFC management discussion and decision on how to proceed regarding these persistent issues. At the same time, IFC proceeded with the second financial disbursement in April 2010.
- The 2015 corporate investment in Socfin presented potential leverage to mandate Performance Standard compliance. At this juncture, the IFC E&S team escalated to management material concerns about the company's PS non-compliance. However, once the investment failed to proceed, there is no evidence that IFC management pursued a course of action to intensively support the company back into compliance to the extent feasible or exercise remedies. Rather, IFC effectively ceased active supervision of Salala for an additional four years, until the Bread for All report was published in 2019.
- Throughout the full period of investment, despite ongoing E&S performance gaps and failure to implement the investment ESAP, there is no evidence that IFC considered exercising available remedies. Rather, IFC staff explained that the company had a challenging financial performance, and IFC's focus was on ensuring the loan was repaid on schedule overriding concerns with respect to meeting sustainability commitments.

⁹⁴ Front Page Africa, December 2020. Liberia: Protest in Gibi District as Citizens Resist Green Advocates, Say It Is Sowing Seed of Discord. Available at <https://bit.ly/444mFiJ>. 2021 Annual Report. Download available at <https://bit.ly/3DM6iwu>.

⁹⁵ IFC (2007) ESRP 6: Direct Supervision (paragraph 6.2.13). This staff requirement was retained in updated ESRP versions.

4. Review of IFC's Performance in Relation to Complaint Issues

This section considers the complainants' allegations. Each subsection summarizes: (1) the complaint issue and the company's response; (2) IFC's policy and client requirements;⁹⁶ (3) IFC's pre-investment review and/or supervision of the issue; (4) CAO's compliance analysis; and (5), as relevant, CAO's assessment of related Harm.⁹⁷ For more detailed subsections, CAO's compliance analysis is presented separately after a discussion of IFC's pre-investment review and supervision.

4.1. Physical Displacement, Economic Displacement, and Loss of Livelihood

Summary of Non-Compliance Findings and Related Harm

IFC's pre-investment review of PS5 was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

CAO finds IFC non-compliant in its supervision of the company's plantation expansion program (2006 Sustainability Policy, paras. 11 and 26).

Regarding physical displacement, the available evidence is not conclusive on whether there has been Harm to complainants.

Regarding economic displacement, CAO concludes there has been Harm to complainants related to IFC's non-compliance. In particular, available evidence records that the company paid compensation at an agreed special rate significantly below the 2006 Performance Standard 5 replacement cost standard, resulting in loss of income and livelihoods to affected people.

a) Complainants and Company Views

The complainants assert that during the IFC-financed expansion of the rubber plantation, the company destroyed some of their towns and their crops, and deprived them of land to farm. According to the complainants, the crop compensation process was flawed because community participation was inadequate, crop counting was inaccurate, and compensation rates were lower than promised. Specifically, the complainants allege that they were compensated at US\$3 per rubber tree, as opposed to US\$18 promised by the company.⁹⁸ Some complainants reported that they did not receive any compensation, while others noted that they were paid for some of their rubber trees but not all their trees were counted, and other crops were omitted. Moreover, communities assert they were coerced to accept payment through threats, intimidation, and

⁹⁶ Overarching IFC policy requirements for IFC's pre-investment review and supervision are summarized in section 3.2.1 and 3.3.1.

⁹⁷ The CAO Policy defines Harm as "Any material adverse environmental and social effect on people or the environment resulting directly or indirectly from a Project or Sub-Project. Harm may be actual or reasonably likely to occur in the future."

⁹⁸ The company has denied that it pledged US\$18 per tree.

misrepresentation. The complainants also state that the company did not leave any farmland for communities, which are now subject to food insecurity and economic difficulties.

SRC states that no evictions, physical displacement, or destruction of homes took place. According to the company, the towns that were allegedly bulldozed in 2010 did not exist at the time of the expansion. The company also states that the communities located along the concession boundary or within the concession were provided with “green belts” for cultivation and expansion.

Regarding economic displacement, the company explained that it used a crop compensation framework that was agreed in 2005 between the government of Liberia and Liberian Agricultural Company, which was another rubber plantation owned by Socfin.⁹⁹ The company noted that the framework provided a rate of US\$3 per tree, US\$50 per acre of sugar cane, and US\$25 per acre of food crops (such as cassava or pineapple). The company asserted that these rates were accepted by the government and community leaders for the Salala expansion. The company explained that crops to be impacted from the expansion were counted by a team that included company representatives, farmers, and government representatives (when available). The company affirmed that it compensated 469 individuals between 2010 and 2012, with total compensation payments of US\$483,843. The company stated that although some communities complained about the assessment process, it has never received any genuine complaints about the nonpayment of a claim. Further, the company notes that communities located within the expansion area such as Ansa-ta, Gorbora-ta, and Kolleh-ta were allocated “green belts” for cultivation and expansion, and it has recruited 300 permanent employees from the communities, as well as seasonal contractors and casual workers who are employed on an as-needed basis.

b) Requirements

Performance Standard 5 (para. 11) requires that, where a company determines that involuntary resettlement is unavoidable, the client carry out a census, asset inventory, and socioeconomic survey to establish appropriate socioeconomic baseline data to identify the persons who will be displaced by the project, determine who will be eligible for compensation and livelihood restoration assistance, and discourage inflow of people who are ineligible for these benefits.

PS5 requires the client to implement a consultation process to facilitate informed participation of affected persons in decision-making processes related to physical and economic displacement. The consultation should continue during implementation, monitoring, and evaluation of compensation payments; livelihood restoration; and resettlement to achieve outcomes consistent with PS5.¹⁰⁰ Further, the client should establish a grievance mechanism to handle complaints concerning compensation and resettlement (PS5, para. 9).

Where the client’s activities physically displace people, including individuals who have no recognizable legal right to the land they occupy, the client must provide resettlement options, including housing. Where a displaced person owns and occupies structures, the client will

⁹⁹ IFC had an active investment in LAC from 1999 to 2005.

¹⁰⁰ Objectives of Performance Standard 5 (2006) include: (i) avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs; (ii) mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons’ use of land by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected; (iii) improve or at least restore the livelihoods and standards of living of displaced persons; and (iv) improve living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites

compensate them for loss of assets other than land at full replacement cost (PS5, paras. 17 and 18).

Where the client uses land that results in loss of productive assets, income, and/or livelihood (economic displacement), PS5 (para. 20) requires the client to:

- Promptly compensate persons for loss of assets or access to assets at full replacement cost.
- Provide replacement property (such as agricultural land) of equal or greater value, or cash compensation to persons with legal right or recognizable claims under national law.
- Compensate persons without legally recognizable claim to land for loss of assets such as crops at full replacement cost.
- Provide additional targeted assistance and opportunities to affected persons to at least restore their income-earning capacity, production levels, and standards of living.
- Provide transitional support to displaced persons for a reasonable estimate of time required to restore their income-earning capacity, production levels, and standards of living.

PS5 guides the client to commission an external completion audit of a Resettlement Action Plan to determine if the objectives of PS5 have been met.¹⁰¹

c) IFC Pre-Investment Review

SRC sought IFC financing to support an expansion of its rubber plantation from 3,182 ha to 7,200 ha. At the time of IFC's pre-investment review, the company was in the process of preparing a map of its plantation boundary in preparation for an expansion. As a result, neither IFC's pre-investment review documentation nor the ESIA prepared for the project included a map of the plantation concession area. Furthermore, IFC's pre-investment review documentation does not indicate the locations within the 40,500 ha concession area where the company planned to expand its plantation.

IFC's pre-investment review noted that during the civil wars, people from local communities moved into the concession and grew crops. When the company expanded its rubber plantation within its concession area following the civil wars (up to 2007), IFC noted that the company observed due process and compensated people for their crops and standing assets. IFC noted that the company approach was to provide a two-year moratorium on lands earmarked for development to enable farmers to harvest their crops. IFC noted that the company was strengthening the land acquisition process by improving the mapping of its concession, grievance logging, and compensation documentation. As part of its ESAP, IFC required the company to: (1) develop and disclose a land acquisition compensation framework within 90 days of legal commitment;¹⁰² and (2) establish and maintain a land acquisition database by October 2008.¹⁰³

However, the company was not required to evidence implementation of these actions to IFC in advance of receiving the first disbursement on October 10, 2008.

¹⁰¹ IFC Performance Standard 5, Guidance Note G24.

¹⁰² The initial ESAP (February 2008) for the investment had August 2008 as the target date for implementation.

¹⁰³ IFC (2008) ESRS, project number 26510.

d) CAO Compliance Analysis of IFC Pre-Investment Review

In a context where the company sought to more than double its planted area in an area with known affected communities, ***IFC's pre-investment review of PS5 was not commensurate to the level of E&S risks and impacts (Sustainability Policy, para. 13)***. CAO makes this finding on the following basis: (1) IFC's review did not consider whether the process and levels of compensation offered in prior land acquisition activities¹⁰⁴ materially diverged from a Performance Standard process; (2) as there was no land mapping or ESIA, there was limited basis for IFC to conduct a review commensurate to the level of risks to affected communities; (3) the failure to trigger an assessment of Indigenous Peoples (see section 4.5) potentially underestimated the relevant requirements to be applied to any land acquisition process; and (4) the absence of a compensation framework resulted in IFC being unable to assess whether the plantation expansion would meet the expectation for compensation under PS5, in particular, full replacement cost. Taken together, IFC completed its investment approval and disbursement to the company to finance a large land use expansion program that had not been assessed or mitigated.

Summary of Plantation Expansion

While the company was awarded the concession in 1959, for several decades significant areas were not planted with rubber. During this time, communities used the land for production of cash crops and food crops, in some cases for several generations.¹⁰⁵ In order to proceed with the plantation expansion, the company needed to clear the land to be planted.

Between 2008 and 2014, the company reported that it replanted 1,442 ha and expanded its plantation by approximately 1,450 ha. As of 2015, the company reported that it had planted 4,777 ha.¹⁰⁶ This was less than anticipated in its 2008 expansion program (which has an objective of 7,200 ha) as the company delayed planting of new areas due to changes in international rubber prices and closure of its processing factory. Map 1 in section 1.1 outlines the plantation, areas the company replanted since 2008, and areas where it expanded its planted area from 2008 to 2014.

The company reported that it compensated people who were economically displaced due to the land clearing in accordance with Liberian Ministry of Agriculture Schedule of rates.¹⁰⁷ The compensation rate used at SRC plantation was based on a special case rate agreed with the government in 2005 and applied by Socfin at its Liberia Agriculture Company (LAC) plantation. The rate applied was US\$3.00 per tree for all tree crops, with the exception of sugar cane (US\$50 per acre) and cassava (US\$25 per acre). Between 2008 and 2012, the company

¹⁰⁴ For example, SRC's plantation expansion (662ha) between 2001 and 2007. Given that IFC had a prior investment in LAC, IFC visited LAC during its SRC pre-investment review, and LAC's parent company (Socfin) was responsible for operating SRC, IFC should have also reviewed LAC's plantation expansion in 2005 in order to ascertain if it materially diverged from a Performance Standard process.

¹⁰⁵ Consultant Report of SRC, 2015. Disclosed as part of IFC's proposed investment in Socfin, project number 35930.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

reported that 469 individuals from 13 settlements (impacting approximately 2,400 people)¹⁰⁸ were affected and received cash compensation. The company asserted that its expansion resulted in no evictions, physical resettlement, or destruction of homes.

e) IFC Supervision

The discussion that follows focuses primarily on economic displacement, as IFC's supervision documentation provides limited information on physical displacement.

When IFC visited SRC in April 2009, it was informed that the company had completed mapping of the plantation area based on the original concession agreement. The company found that the southern boundary of its plantation extended much further south than had previously been understood. The company noted to IFC that this additional area had more good-quality forest. IFC noted that at the time of its pre-investment review, the company had reached an agreement with local communities on the plantation boundaries, but the company now sought to follow the revised map. IFC noted that this revision would have impacts on at least two additional communities. Following the revised map would require a renegotiation with local communities. In one area of the concession, IFC recorded that a community was refusing to talk to the company, and in another area, the company was conducting a census to determine who lived there. IFC stated to the company that people in the concession area are covered by IFC Performance Standard 5, and the company need to have a plan before any expansion. In relation to the ESAP actions, IFC noted that these had not been completed and IFC revised the target implementation date to July 2010. By postponing implementation of these actions to mid-2010, the company was not required to implement them in advance of IFC's second disbursement of funds to the company, which occurred in April 2010.

During IFC's site visit to the company in November 2009, IFC noted that the company expressed reluctance to preparing a Resettlement Action Plan for its expansion program because it viewed the land as company property per the concession agreement. The company informed IFC that it was not its intention to resettle any villages from the area, and it wished to hire people from the local communities to work on the plantation. IFC reaffirmed to the company that Performance Standard 5 applied to the expansion program and that a Livelihood Restoration/Resettlement Action Plan was needed. As per PS5 requirements, IFC noted to the company that it was not required to compensate for the land, but it should compensate for any standing assets on the land.

While IFC's subsequent supervision in 2011 noted that the company had prepared a land compensation framework, there was no documented review by IFC as to whether this met the IFC PS5 requirement for compensation at replacement value.

IFC's 2013 supervision engaged in detail on the company's plantation expansion to date. IFC noted that the company had replanted existing areas under cultivation and converted new land into plantation in its concession area. IFC noted that land conversion can create problems with local communities, as has occurred in other large-scale concession-based agriculture undertakings in Africa. In particular, IFC noted that communities can find themselves surrounded

¹⁰⁸ The company reported to CAO that 469 individuals received compensation (CAO Assessment Report). As the average household size in Bong County ranged from 5.55 to 6.06 in the period 2010-2014, approximately 2400 people were affected. For further details on family size, see <https://bit.ly/47YZFEf>. In July 2023, Earthworm Foundation (a consultant commissioned by Socfin) noted that 612 individuals from 20 settlements received compensation.

by a new plantation, and land that they had customarily used being converted to plantation. Taken together, IFC recognized that this can have direct and negative impacts on community livelihoods. In order to avoid or minimize such impacts, in accordance with PS5, IFC noted that such plantation expansion programs required systematic, comprehensive, and preemptive social impact assessment and implementation of measures to maintain community livelihoods or restore impact livelihoods as a result of the expansion program. IFC concluded that the company had not taken such an approach to date. Rather, IFC noted that the company had sought to meet the national legal requirements and not the PS5 expected outcomes. Additionally, IFC concluded that the compensation paid by the company, at national rates, did not allow for livelihood restoration. Following IFC's site visit in September 2013, the company affirmed to IFC that it had decided to focus on replanting existing areas on the plantation, rather than develop new areas for plantation within its concession. IFC asserted to the company that it was imperative that the company conduct a social impact assessment compliant with the Performance Standards to assess the direct impacts of the plantation expansion to date and prepare a Livelihood Resettlement/Restoration Action Plan.

In 2015, a third-party consultant (2015) review noted that the company documented the displacement process and involved government officials in reviewing grievance claims. However, the consultant also noted that the company's ESMS did not have an approach to identify risks and impacts of the expansion program and it did not have a land acquisition policy and compensation procedure. In relation to the 2008–14 expansion, the consultant concluded that the following PS5 gaps existed:

- Documentation of the consultation process was insufficient.
- Compensation was not provided at replacement value (PS5 standard), but rather was provided at national rates.
- There was no livelihood impacts assessment and, as a consequence, no Livelihood Restoration Plan.
- There was no monitoring of impacts on livelihoods.

There is no record of IFC engaging with the company on the conclusions of the third-party consultant (2015) report. Rather, the next substantive IFC supervision of the company was in 2019.

In response to the Bread for All report, in 2019, the company commissioned a third-party consultant (2019) to review allegations raised in the complaint, including displacement. The consultant concluded that (1) the expansion program was not aligned with free, prior and informed consultation standards; (2) no participatory mapping was carried out; (3) compensation for crops was not negotiated with communities, but rather a special LAC rate was used;¹⁰⁹ (4) there were issues with payment to affected people; and (5) a memorandum of understanding on land use rights had not been developed for all communities.

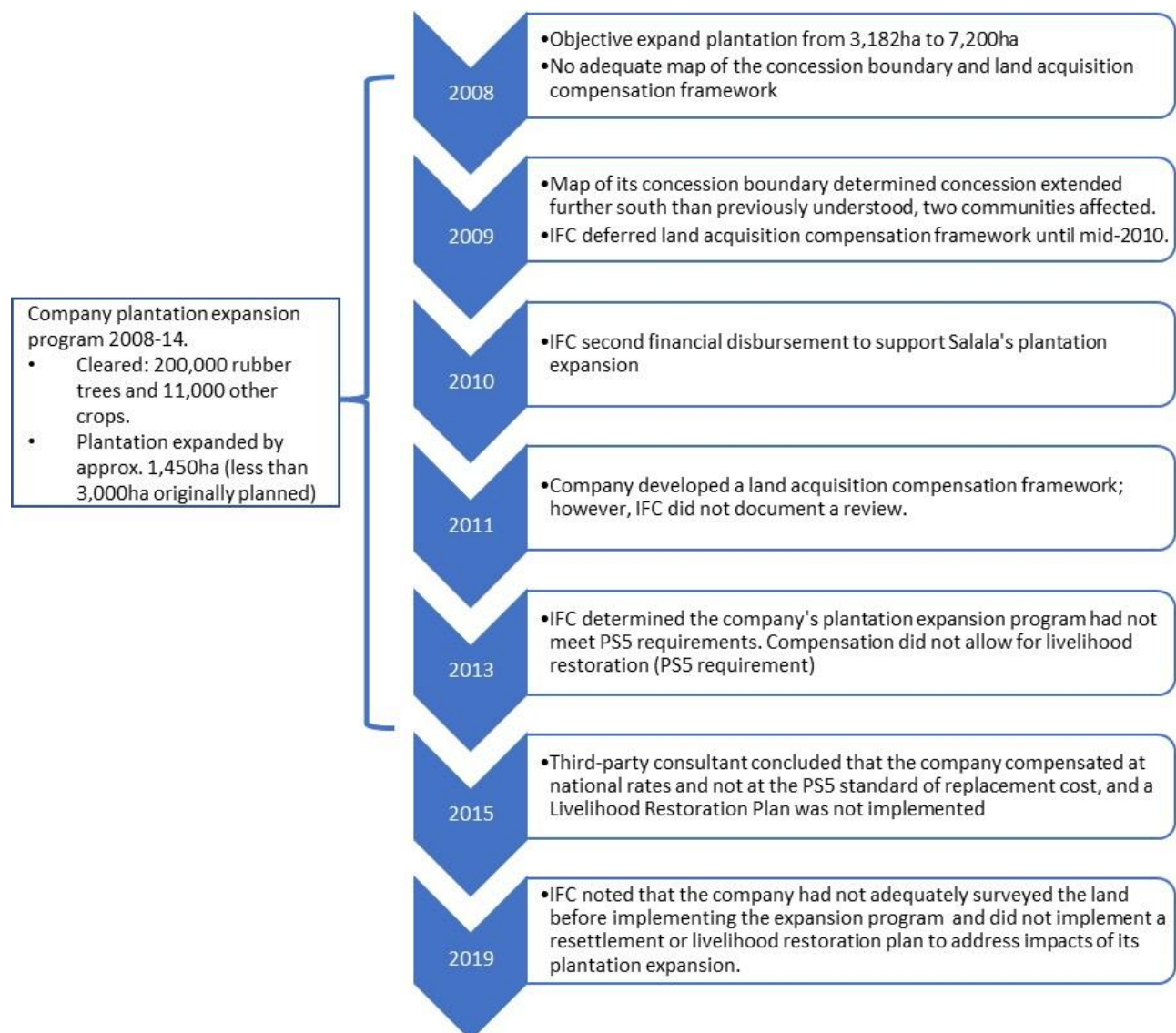
Following site visits in 2019 to Socfin in Belgium and to SRC in Liberia, IFC concluded that the company (1) had not surveyed planted land to understand risks and impacts to community

¹⁰⁹ The LAC compensation rate was agreed between LAC and the government in 2005 to compensate affected people for displacement. LAC and the government agreed compensation rates below provisions in national law. The rationale for this was that LAC should compensate for economic displacement (such as loss of crops) but not land displacement because the company held concession on the land. SRC applied the LAC compensation rates to its economic displacement.

livelihoods due to economic displacement; and (2) had not prepared a Resettlement Action Plan or Livelihood Restoration Plan to address impacts of its plantation expansion. In order to address issues regarding inadequate compensation for lost assets and access to farms, IFC updated the ESAP with the company. The updated ESAP required the company, with the support of a social development consultant, to develop a Livelihood Restoration Plan and Community Investment Strategy (CIS). There is no evidence these actions were prepared or implemented by the time of IFC's investment exit.

IFC's supervision report noted that there was no physical displacement as a result of the expansion program. IFC reached this conclusion after IFC staff visited some areas with community members where the towns were alleged to have been removed and reviewed historical satellite images.

Timeline of IFC Supervision of Plantation Expansion Program



f) CAO Compliance Analysis of IFC Supervision

CAO finds IFC non-compliant in its supervision of the company's plantation expansion program (2006 Sustainability Policy, paras. 11 and 26). CAO makes this finding on the basis that gaps identified by IFC and third-party consultants in the company's compliance with Performance Standard 5 requirements for economically displaced people were not addressed. In summary, IFC's supervision identified the following gaps with the company's 2008–14 plantation expansion:

- Limited evidence that the company considered feasible alternative project designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social, and financial costs and benefits (contrary to PS5, para. 7).
- Inadequate disclosure of all relevant information to affected persons in order to facilitate informed participation to ensure that outcomes consistent with the objectives of PS5 are being achieved, with consultation continuing during (1) implementation, (2) monitoring, and (3) evaluation of the compensation payment and resettlement (contrary to PS5, para. 9).
- Inadequate census, asset inventory, and socioeconomic survey to establish appropriate socioeconomic baseline data to identify the persons who would be displaced by the expansion (contrary to PS5, para.11).
- Failure to compensate economically displaced people at full replacement cost for loss of income or livelihoods due to the expansion (contrary to PS5, para. 20).
- Failure to provide additional targeted assistance and opportunities to improve or at least restore affected people income-earning capacity production levels, and standards of living (contrary to PS5, para. 20).

Gaps in the company's expansion program with respect to PS5 were apparent in IFC's documentation before, during, and after the plantation expansion program was implemented (2008–14). Nevertheless, IFC disbursed additional funds to the company in April 2010 to finance the expansion program. IFC's supervision of this issue effectively ceased between mid-2015 and mid-2019. At that point, IFC supervision reiterated that the company's plantation expansion had not met PS5 requirements. Actions that IFC requested the company to implement in the updated ESAP in 2019 were not complete by the time of IFC's investment exit. Further, there is no evidence that an external completion audit was conducted to review the company's actions in implementing the plantation expansion.

The absence of a PS5-compliant consultation, grievance mechanism, and census process for the expansion program resulted in IFC being unable to provide evidence that there was no physical displacement. While IFC's 2019 supervision did visit areas where complainants allege that towns were removed, this occurred nearly a decade after the alleged impact occurred and is insufficient evidence to demonstrate that there was no physical displacement. CAO's investigation site visit did not find conclusive evidence of physical displacement. However, from the site visit and community testimony, there were indications that structures in two towns were dismantled (in Lango town and south of Deedee town).

g) CAO Assessment of Related Harm

Physical Displacement

While there are indications that the expansion program resulted in some physical displacement, the available evidence is not conclusive. Accordingly, there is insufficient information for CAO to make an assessment of Harm on this issue.

Economic Displacement

CAO concludes there has been Harm to complainants related to IFC's non-compliance.

Available evidence records that the company paid compensation at an agreed special rate provided under national regulations. At the time, the Liberia Ministry of Agriculture required compensation of US\$6 per tree. However, Socfin paid US\$3 per tree at its LAC plantation because the crops belonged to the farmers but the land on which the crops were planted fell within the concession area. Where these trees had yet to mature, the company compensated at a rate of US\$1.50. This special rate was applied by the company at the Salala plantation. CAO notes that the compensation rate of US\$3 per tree was established outside of any assessment specific to the affected people at the Salala plantation and the circumstances of IFC's project and Performance Standard 5 requirements. IFC supervision documents noted that rate paid by the company was not full replacement cost—the PS5 standard (para. 20). Accordingly, affected people were compensated at a rate below full replacement cost.

CAO analyzed the full replacement cost for a rubber tree in Liberia on the basis of the framework in IFC's Good Practice Handbook: Land Acquisition and Resettlement. Using data¹¹⁰ available for 2008–12, based on this formula, CAO calculates the full replacement cost for a tree at between US\$10 and US\$34. The variance is attributed to rubber market price estimates and assumptions on rubber tree yield. Annex D summarizes CAO's analysis of full replacement cost.

Furthermore, as a contemporaneous reference point to the Salala rubber plantation expansion, CAO notes that a 2014 Resettlement Action Plan for an IFC-funded gold mine in Liberia provided US\$24.48 for out-of-production rubber trees.¹¹¹

The company reported that the expansion program affected 469 individuals (impacting approximately 2,400 people). The company reported that it cleared nearly 200,000 rubber trees and more than 11,000 other crops (such as cocoa, cola, cassava, and sugar cane). The complainants assert that the actual number of people affected is higher and they allege that those who were affected did not receive compensation for all of their crop assets that were cleared as part of the expansion.

IFC's supervision documents clear violations of PS5 (economic displacement) in the implementation of the expansion program. As a result of the expansion program, as witnessed by CAO during the compliance investigation visit, the rubber plantation now encroaches on some communities residing on the concession. Implementation of PS5 requirements for alternative

¹¹⁰ Data included: Selling price of fruit (in US dollars per kg); yield (in kg per tree per year); average time required to reestablish the tree to its previous production level, in years; value of lost production, in US dollars; cost of seedling and planting (seedling, soil preparation, and initial fertilization) at the new location, in US dollars; and cost of labor and inputs required to maintain the crop during the time needed to reestablish it to its previous production level (fertilizer, pest control, pruning, and so on), in US dollars.

¹¹¹ New Liberty Gold Mine. (March 2014). Resettlement Action Plan, Aureus Mining, available at <https://bit.ly/3lvVdK6>.

project design to avoid or at least minimize displacement (para. 7) and application of informed consultation (para. 9) would have likely mitigated these lasting impacts of the expansion program.

4.2. Historical Land Claims

Summary of Non-Compliance Findings and Related Harm

IFC's pre-investment review did not meet its Sustainability Policy (2006) requirement to consider whether there were significant historical impacts with respect to land acquisition associated with the company, including impacts caused by others (2006 Sustainability Policy, para. 13).

CAO concludes there are indications of Harm to complainants. The failure to adequately assess whether there were significant historical impacts regarding land acquisition associated with the company has potentially resulted in a missed opportunity to address complainant Harm.

a) Complainants and Company Views

The complainants assert that they have historically inhabited the area where SRC holds a concession. Some community members also claim to hold deeds and tribal certificates for the concession area dating back to 1904, as well as the 1950s. They state that since the concession was awarded in 1959, there have been continuous land grabs and forced eviction by the company without their free prior and informed consent.¹¹² The complainants assert that a tribal deed is an encumbrance on the land, and under the national laws awarding a concession on encumbered land is prohibited.

SRC claims that in 1959 the government of Liberia granted it a concession over an area of 40,500 hectares, which includes a development area of 8,500 hectares where the company would be allowed to plant rubber. SRC claims that both the concession and development area were established according to the legal procedures and requirements that were in force at the time. Moreover, the company claims that the deeds and tribal certificates for land within the development area are ineffectual, considering that the deeds are dated after the concession had been granted and the tribal certificates were issued by clan chiefs who did not have the authority to transfer the land title.

The company asserts that Free Prior Informed Consent (FPIC) did not apply because the company has the right to plant on the concession area, which was originally surveyed as unencumbered. The company states that this survey received confirmation from the Tribal Authority that it was unencumbered. Accordingly, the company states that anyone who planted on the concession area after 1959 required SRC's permission.

¹¹² This section summarized the Complainant and Company views. CAO notes that Free Prior and Informed Consent is a 2012 Performance Standard requirement. Under the 2006 Performance Standards, the requirement is Free Prior and Informed Consultation.

b) Requirements

Where there are significant historical E&S impacts associated with a project, including those caused by others, IFC is required to work with its client to determine possible remediation measures (2006 Sustainability Policy, para. 13).

c) IFC Pre-Investment Review

There is a limited discussion in IFC's pre-investment review documentation regarding legacy land claims and Indigenous Peoples. IFC's documentation noted that the plantation concession area was granted to the company in 1959. Previous land use on the concession area included farms at Kolleh-ta and Pennah-ta villages, and use of the forest for fuelwood and game. These villages were relocated in the 1960s with compensation paid to affected people. IFC noted that restoration of livelihoods for those physically relocated did not occur because their new locations were very close to the concession and provided similar natural endowments.¹¹³ IFC's pre-investment review documentation noted that the plantation expanded by 662 ha between 2001 and 2007. However, there was no IFC review of whether this resulted in any impacts—in particular, physical displacement or economic displacement, and how these were handled.

d) CAO Compliance Analysis

The complainants' allegation relates to two points: (1) historical land claims, and (2) land taken from them through a process that did not conform with protecting Indigenous Peoples' rights. IFC's Sustainability Policy requirement during its pre-investment review is to assess whether there are any significant historical E&S impacts of the company's activities, including those caused by others. Where there have been such impacts, IFC is required to work with the company to determine possible remediation measures. The Sustainability Policy does not expect significant historical impacts to be mitigated or compensated to the level of the IFC Performance Standards, but these are a good reference point.

In this instance, IFC's pre-investment review noted that two towns were relocated in the 1960s for which compensation was paid and there was no need for livelihood restoration. IFC's pre-investment review did not comment further on any significant historical land impacts or propose possible remediation measures. A map reviewed by CAO of the concession area in 1960 indicated several settlements within the concession boundary (see annex C).

CAO finds that IFC's pre-investment review did not meet its 2006 Sustainability Policy requirement (para.13) to consider whether there were significant historical impacts regarding land acquisition associated with the company, including those caused by others. IFC did not consider historical impacts despite indications that this was an issue that merited attention during its pre-investment review, including:

- Different accounts presented by the complainants and company on the granting of the concession and validity of tribal deeds.
- The 2006 report by the Government of Liberia and United Nations Mission in Liberia (GoL and UNMIL) Rubber Plantations Task Force, which noted that there were historical impacts upon communities due to the concession agreement model that persisted at the time of IFC's review. Specifically, it noted that "during the signing of

¹¹³ IFC (2008) ESRS, project number 26510.

concession agreements, the people living in the concession areas were not informed or consulted on issues that affected them directly or indirectly, and this omission gives rise to the problems that persist today.”¹¹⁴

- A 1960 map of the concession area that details the location of the following villages, which the complainants assert are no longer in existence: Depelee, Golonkalla/Kalongaiai, Jorkporlorsue, Kolleh-ta, Monkeytail, Pennah-ta, Penneh, Sayue, Tartee, and Vaimue. This indicates that they were removed or ceased to exist before IFC’s pre-investment review.
- Evidence that between 2001 and 2007, the company expanded its planted area by 662 ha. CAO’s investigation heard testimony that individuals from four villages were displaced during this period, yet there is no record of IFC reviewing this expansion to ensure there were no significant impacts upon affected people.

Regarding the complainants’ allegation that land was taken from them through a process that did not conform with protecting Indigenous Peoples’ rights—in particular, free prior and informed consent, CAO notes that it is not the expectation of IFC’s pre-investment review that historical events meet IFC Performance Standard 7 requirements.¹¹⁵ Nevertheless, where an IFC review determines there were significant historical impacts, the Performance Standards are considered a reference point to determine possible remediation measures.

e) CAO Assessment of Related Harm

CAO concludes there are indications of Harm to complainants. The failure to adequately assess whether there were significant historical impacts regarding land acquisition associated with the company has potentially resulted in a missed opportunity to address the harms alleged in the complainant. Where such an assessment indicated significant historical impacts, IFC had leverage in its investment negotiation to agree measures to address any identified historical impacts.

4.3. Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants

Summary of Non-Compliance Findings and Related Harm

In relation to the company’s approach to community engagement, IFC’s pre-investment review was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

IFC was non-compliant in its supervision of the company’s community engagement program (Performance Standard 1) and the company’s implementation of security requirements in

¹¹⁴ GoL and UNMIL (Government of Liberia and United Nations Mission in Liberia). 2006. Rubber Task Force Report, *Human Rights in Liberia’s Rubber Plantations: Tapping into the Future*, page 48. Available at <https://bit.ly/4839elo>.

¹¹⁵ While the complainants allege that historical land acquisition did not meet the Free, Prior and Informed Consent requirement, IFC’s IFC Performance Standard 7 (2006) is different. PS7 (2006) requires Free, Prior and Informed Consultation.

Performance Standard 4 (Community Health, Safety, and Security) (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes there has been Harm to complainants related to IFC's non-compliance. Disclosure of information, community consultation, and handling of grievances are key aspects of a company's operations to ensure project risks and impacts are avoided or minimized. The absence of a community engagement program and community grievance mechanism in accordance with the requirements of Performance Standard 1 has resulted in Harm to communities as a result of the plantation expansion.

CAO further concludes there are indications of Harm to complainants due to the company's use of private security forces.

a) ***Complainants and Company Views***

According to the complainants, SRC has used its security guards and the Liberian National Police (LNP) to threaten local communities. The complaint mentions an incident in October 2013 where SRC security guards and the LNP entered Dokai town with a search and demolition order during which homes were destroyed, property was arbitrarily confiscated, and a child died. Moreover, according to the complainants, in 2018 there were protests against the company regarding the death of a worker, which community members blamed on the company. The complainants noted that when they organized protests, several community members were arrested for allegedly damaging company property. The complainants argue that anyone who advocated for community rights faced serious threats and reprisals, including arrest, torture, and dismissal from work. The complainants also assert that they had to endure curfews that restricted their free movement.

Furthermore, the complainants allege that in September 2019 a taskforce led by SRC engaged with communities to discourage them from supporting the complaint filed with CAO. SRC also reportedly offered the complainants and their relatives' incentives such as scholarships and jobs if they agreed to engage with SRC without Green Advocates' intervention.

SRC reported that its security guards have standing instructions to monitor visitors entering and exiting the plantation for health, safety, and security reasons. They do not have the power to arrest and are only instructed to check for the unauthorized movements of SRC assets on the plantation. The company stated that it has full confidence in the police and judicial system and refuted claims about arbitrary arrests addressing the specific cases of protesters, who were arrested and charged with "disorderly conduct and terrorist threats" for setting fire on the plantation.

SRC stated that Green Advocates' claim to represent 22 communities is not proven. SRC asserted that it has worked with villages surrounding the plantation through its Citizens' Representative Committee, where each village has representation.

b) ***Requirements***

Community Engagement

IFC affirms that effective community engagement is central to the successful management of risks and impacts to the affected communities. Through the Performance Standards, IFC requires the client to engage with affected communities through disclosure of information, consultation, and

informed participation, in a manner commensurate with the risks to and impacts on the affected communities.¹¹⁶

Performance Standard 1 requires the client to implement an ongoing process of community engagement. The purpose of community engagement is to build and maintain over time a constructive relationship with communities that may be affected by the project. Community engagement will be free of external manipulation, interference, coercion, and intimidation, and conducted on the basis of timely, relevant, understandable, and accessible information.¹¹⁷ As part of its community engagement process, the client is required to disclose relevant project information that helps affected communities understand the risks, impacts, and opportunities of the company's operations. Where the client prepares an ESIA and an action plan, these should be disclosed.¹¹⁸ Generally, IFC requires the client to prepare a Stakeholder Engagement Plan (SEP) to guide its community engagement process.¹¹⁹

The client is also required to establish a grievance mechanism to receive, respond to, and facilitate resolution of the affected communities' concerns and grievances about the client's environmental and social performance. The grievance mechanism should address concerns promptly, using an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, and at no cost and without retribution.¹²⁰

Private Security Forces

Where the client uses private security forces, the client is required to assess the risk to those within and outside the client's site posed by its security arrangements. The client is guided by the principles of proportionality; good international practices in terms of hiring, rules of conduct, training, equipping, and monitoring of such personnel; and applicable national law. In hiring security personnel, the client should make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses. The client is required to train security personnel adequately in the use of force and appropriate conduct toward workers and the local community. The use of force should only be sanctioned for preventive and defensive purposes. The client's grievance mechanism should also allow affected communities to express concerns about the security arrangements and acts of security personnel.¹²¹ Where government personnel are deployed to provide security for the client, the client is required to assess risk arising from such use and communicate its intent that government security personnel act in a manner consistent with the above principles of proportionality and good international practice.¹²²

Where there are credible allegations of unlawful or abusive acts by security personnel, the client is required to investigate the allegations, take action to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate.¹²³

c) IFC Pre-Investment Review and Supervision

Community Engagement

¹¹⁶ IFC Sustainability Policy (2006), para. 19.

¹¹⁷ IFC Performance Standard 1 (2006), para. 19.

¹¹⁸ IFC Performance Standard 1 (2006), paras. 16 and 20.

¹¹⁹ IFC Performance Standard 1 (2006), Guidance Notes G46; and IFC *Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets* (May 2007), available at <https://bit.ly/3t8wKyz>.

¹²⁰ IFC Performance Standard 1 (2006), para. 23.

¹²¹ IFC Performance Standard 4 (2006), para. 13.

¹²² IFC Performance Standard 4 (2006), para. 14.

¹²³ IFC Performance Standard 4 (2006), para. 15.

As per Salala's concession agreement (1959), the government of Liberia agreed to use its office to "prevent infiltration of radical elements which could interrupt or affect adversely the operations of the concessionaire."¹²⁴ IFC's pre-investment review noted that the company relied on the Town Commissioner, a government official, for its interactions with the community. As a condition of its investment, IFC required the company to hire a Community Relations/Development Officer to aid broad dissemination of information about Salala's social development activities and environmental performance to the larger community. IFC identified the lack of a grievance mechanism for communities as a major issue and thus required the company to implement such a mechanism within 120 days of IFC investment commitment.¹²⁵

IFC noted that the company retained its own security personnel and also used unarmed government police personnel for additional protection. IFC required the company to develop a security policy within 90 days of IFC investment commitment.¹²⁶

In 2011, during supervision, IFC noted that the company had not developed a Stakeholder Engagement Plan (SEP) or a formal process for handling community grievances as had been required per PS1 and the ESAP. IFC further noted that there was no social baseline of communities within the plantation and no community engagement for communities within or bordering the plantation. IFC did record that the company implemented a security policy, as required in IFC's ESAP.

Following a visit to Socfin headquarters in Belgium in 2012, IFC noted that there had been reports of social unrest due to allegations that the company had destroyed community crops. While IFC noted that the company at this point had a documented grievance procedure, it was not used by communities and there was a need for the company to conduct a social baseline assessment and improve stakeholder engagement at the plantation.

During a site visit in 2013, IFC concluded that the company was not meeting PS1 requirements for community engagement. In light of community frustration from livelihood impacts due to the company's general operations and expansion program, which IFC staff observed during a community townhall meeting, IFC noted that the company needed to implement a SEP to prepare and manage community expectations. During both the 2012 and 2013 supervision visits, IFC noted that the company had not disclosed the ESIA for the plantation expansion to communities.

In its response to the government regarding the 2013 Green Advocates report, the company rebutted each of the issues raised and thanked the government for its many interventions over the years aimed at addressing issues at the plantation and the recent Green Advocate complaints. IFC noted that some of the issues raised in the Green Advocates report seemed valid and that it made some reasonable recommendations that would be needed to be implemented to comply with PS1. At this time, IFC did not encourage the company to engage with Green Advocates on the issues raised, as guided by PS1,¹²⁷ or query the nature and extent of the government's intervention aimed at addressing the Green Advocate concerns.

In 2015, an assessment by a third-party consultant (2015) commissioned by IFC and SRC's parent company, Socfin, in advance of the proposed corporate investment in Socfin, concluded that the company appeared to have good relationships with local communities and that it had a

¹²⁴ Salala Rubber Concession, 1959. Article IV.

¹²⁵ IFC (2008) ESRS, project number 26510 and ESAP 2008 with SRC.

¹²⁶ Ibid.

¹²⁷ PS1 paras. 19-21, and PS1 Guidance Note paras. 55-56, provide for ongoing stakeholder engagement with the objective of disclosing information and receiving feedback on the effectiveness of the implementation of mitigation measures and affected communities' ongoing interests and concerns about the project.

community grievance mechanism in place. While the company had developed a SEP, the consultant noted that it did not meet PS1 requirements as there was no systematic process to identify and proactively engage with local communities and stakeholders, and it lacked sufficient staff resources for implementation. The consultant noted that company's security operations were in compliance with PS4.

During its site supervision in September 2019, IFC noted that the company (1) had not developed or implemented a PS1 compliant SEP; (2) had not disclosed the ESIA to the local communities; and (3) implementation status of the community grievance mechanism was unknown, and the mechanism did not have a provision to handle anonymous complaints, as required under PS1. Furthermore, IFC noted the company lacked sufficient staff capacity to implement a SEP and community grievance mechanism. IFC concluded that these aspects remained outstanding since IFC's last site visit in 2013.

In September 2019, the Citizens Representative Committee (CRC) was established. With the support of the Township Commissioner (local government official), seven individuals were selected from the 71 communities¹²⁸ within and around the plantation.¹²⁹ The CRC's role is to facilitate the implementation of the company's SEP, implement infrastructure projects (construct latrines, hand pump wells, and town halls) in communities, hire casual workers/contractors, provide security to company property, and handle grievances. The company deposits funds into a joint account with the CRC to support the implementation of community priority projects. The company also makes available funding for the election of CRC leadership. In letters to CAO and in public statements, the CRC described Green Advocates position and the Bread for All report as false allegations intended to tarnish the good reputation of SRC. They alleged that Green Advocates use propaganda to tarnish the hard-earned character of SRC, which will be appropriately addressed by CRC in order to allow SRC to carry on its work "in the interest of our people."¹³⁰

Private Security Forces

During its site supervision in 2019, IFC heard allegations from community members of being threatened by company security forces. IFC noted that the company had yet to conduct a security assessment and it did not have a security management plan as required by PS4.

d) CAO Compliance Analysis

Community Engagement

In relation to the company's approach to community engagement, CAO finds that IFC's pre-investment review was not commensurate to the level of E&S risks and impacts. (Sustainability Policy, para. 13). IFC did not require the company to develop a SEP in order to formalize an ongoing community engagement process. IFC's pre-investment review noted that the company relied on the Town Commissioner for its interaction with the community. In this context, IFC's pre-investment review did not raise concerns about the actual

¹²⁸ The company informed CAO that this association now encompasses 82 villages.

¹²⁹ In interviews with community members, all participants noted that they were not involved in the selection of the 7 representatives.

¹³⁰ *Front Page Africa*, June 9, 2020, "Liberia: Salala Residents Say Green Advocates Does Not Represent Their Interest," available at <https://bit.ly/3QB5FNI>.

CRC Meeting (2019), recording available at <https://www.youtube.com/watch?v=QHBTWzJUoHI>.

or perceived conflict of interest of a government official leading the company's engagement with communities. This is significant where the government also had a duty under the concession agreement to "prevent infiltration of radical elements which could interrupt or affect adversely the operations of the concessionaire."¹³¹

CAO finds IFC non-compliant in its supervision of the company's community engagement program (Performance Standard 1). CAO makes this finding on the basis that reported gaps in the company's implementation of a community engagement program, while raised at multiple instances by IFC, were not addressed throughout the entire 12-year investment period. As gaps persisted, IFC did not consider exercising remedies as required under the Sustainability Policy.

Private Security Forces

CAO finds IFC non-compliant in its supervision of the company's implementation of PS4 security requirements (Sustainability Policy, paras. 11 and 26). CAO makes this finding on the basis of insufficient IFC supervision of the company's implementation of security requirements throughout the entire 12-year investment period. In relation to the company's security personnel, IFC's documented review did not comment on the company's hiring process, training, and procedures for engagement with communities, and in what circumstances it uses government security personnel. This is particularly concerning as reports at the time indicated that the relationship between government and plantation security personnel in Liberia was inappropriate, with alleged frequent disregard for human rights standards, and ex-combatants hired in private security roles.¹³²

With regard to private security forces, in response to a violent incident, PS4 requires a client to investigate any credible allegations of unlawful or abusive acts of security personnel, take action to prevent recurrence and report unlawful and abusive acts to public authorities when appropriate. IFC has not documented a review nor retained evidence that such an investigation occurred regarding the complainants' allegations regarding the 2013 and 2018 incidents detailed above.

e) **CAO Assessment of Related Harm**

Community Engagement

Disclosure of information, community consultation, and handling of grievances are key aspects of a company's operations to ensure project risks and impacts are avoided or minimized. The absence of a community engagement program and community grievance mechanism in accordance with the requirements of Performance Standard 1 has resulted in Harm to communities as a result of the plantation expansion. Without adequate implementation of a community engagement program and grievance mechanism as required by PS1, there was a missed opportunity for communities to be informed of ongoing or new project operations that presented a risk to them, or provided adequate opportunity to raise and resolve grievances.

¹³¹ IFC ESRS (2008) and Concession Agreement (1959) available at <https://bit.ly/3ifpFSc>

¹³² Rubber Plantations Task Force. 2006, available at <https://bit.ly/3AxXx8m>. Truth and Reconciliation Commission Final Report, 2009, Vol. II, page 164.

While ex-combatants constitute a significant segment of the general population, hiring ex-combatants in private security roles triggers a PS4 client requirement to make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses.

Private Security Forces

CAO concludes there are indications of Harm to complainants related to IFC's lack of assurance that the company's use of private security forces was compliant with PS4. CAO reaches this conclusion on the following basis:

- At the time of the IFC investment, a Liberian government/UN report noted that the relations between government security force and plantation private security was inappropriate; private security units were alleged to have frequently disregarded national and international human rights standards; and Salala's private security was considered to lack equipment and training and was not under proper supervision of government authorities.¹³³
- IFC's supervision did not verify that the company used good international practices in terms of hiring, rules of conduct, training, equipping, and monitoring of such security personnel as required by PS4. This should have been closely supervised by IFC in the context of the post-Liberian civil wars period where ex-combatants were employed in private sector security businesses.¹³⁴
- Lack of evidence that the 2013 and 2018 complainant allegations on security personnel use of force were investigated by the company as per PS4 and reviewed by IFC.

4.4. Gender-Based Violence and Harassment

Summary of Non-Compliance Findings and Related Harm

IFC's pre-investment review was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

CAO finds IFC non-compliant in its supervision of the company's application of the non-discrimination and equal opportunity requirements of Performance Standard 2 (PS2) (Labor and Working Conditions), particularly regarding workplace harassment (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes that there has been Harm to the complainants related to IFC's non-compliance findings. Specifically, the absence of key provisions at the company to prevent instances of gender-based violence and harassment (GBVH) is a Harm to the complainants. Further, there are indications of significant and unaddressed Harm to GBVH survivors at the company's plantation. During its investigation, CAO heard testimonies from several survivors and from NGOs that have worked with survivors at the company. Survivors described instances of being pressured into sexual acts to retain their job or avoid having their wages for their work on the plantation withheld; when women refused, they were unable to obtain employment or lost their wages. In the country context in which the company operated during

¹³³ Rubber Plantations Task Force. 2006. available at <https://bit.ly/3AxXx8m>.

¹³⁴ Truth and Reconciliation Commission Final Report, 2009, Vol. II, page 164.

the period of IFC's investment, and where adequate measures to prevent GBVH were lacking (see box 4.1), CAO has no reason to doubt these claims.

This section and Section 4.3 raise concerns regarding the company's use of private security forces. This section covers the issue as it relates to the complainants' allegations of GBVH impacts by the private security forces. Section 4.3 considered complainants' allegations of an intimidating environment and specific violent incidents in which the company's private security forces were allegedly involved.

a) Complainants and Company Views¹³⁵

As documented in CAO's Assessment Report, some complainants reported having experienced gender-based violence and harassment¹³⁶ from the company's contractors and security guards.¹³⁷ They explained that contractors and staff often requested sexual favors in exchange for hiring women ("sex for work"). In some instances, the contractors and staff would touch them inappropriately during work and then request sex. The complainants also explained that in some instances contractors withheld their pay or dismissed them if they refused to have sex. Women also reported that at night, when they use the outdoor toilets, the company's security guards harassed them by shining flashlights on them to humiliate them. The security guards were also accused of threatening to kill women who refused to have sex with them. The complainants informed CAO that they were told by people advocating on behalf of the company not to speak about GBVH issues during the CAO assessment.

As documented in CAO's Assessment Report, the company stated that no cases of GBVH were brought to their attention. Therefore, no cases were investigated. The company also shared that both male and female members of the communities have vigorously denied any incidents of GBVH, and that the community stated that they would react strongly against any exploitation or incidence of GBVH. However, the company acknowledged that while no GBVH cases were brought to their attention, it does not mean that GBVH could not occur. As outlined in CAO's Assessment Report, the company further stated that they were open to IFC's offer to bring a consultant to work on these issues with the plantation industry in Liberia.

The company reported that in recognition that male and female employees face different challenges in the workplace, they established a Gender Committee in 2017 and put in place all relevant policies. They stated that the Gender Committee is made up of eight female members, composed of three senior staff, three union members, and two contractor employees. The Gender Committee's role is to raise awareness of GBVH in the communities surrounding the plantation through monthly meetings conducted in clinics and schools. The company further stated that

¹³⁵ The complainant and company views of GBVH are reproduced from CAO's Assessment Report. These accounts were reviewed and commented upon by the relevant parties before CAO finalized the Assessment Report. During CAO's compliance investigation, CAO's social specialist expert met with three women who worked at the company and who gave accounts of GBVH incidents they experienced at the company. The women CAO met with initiated the request to CAO to meet, and CAO met them at a time and venue of their choosing.

¹³⁶ GBVH is an umbrella term for violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment. This definition is from IFC, European Bank for Reconstruction and Development (EBRD), and CDC Group (2020), Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector, available at <https://bit.ly/3SjoqU6>.

¹³⁷ These allegations come from female adult workers.

complaints to the Gender Committee are received through the tribal chief and women elders in the communities. The Gender Committee also works with the Ministry of Gender, Children and Social Protection.

b) Requirements

Performance Standard 1 (PS1) (Assessment and Management of Environmental and Social Risks and Impacts) requires the client to conduct an assessment of potential E&S (including labor, health, and safety) risks and impacts of its business activities and any planned expansion. As part of this assessment, the client should identify individuals and groups that may be differentially or disproportionately affected by the company's operations because of their disadvantage or vulnerable status.¹³⁸ Where groups are identified as disadvantaged or vulnerable, the client should propose and implement differentiated measures so that adverse impacts do not fall disproportionately upon them.¹³⁹ PS1 recognizes that a client's operations may have differential risks and impacts on women. Accordingly, PS1 requires that gender differentiated impacts should be assessed and the assessment should propose measures designed to ensure that one gender is not disadvantaged relative to the other in the context of the company's operations.¹⁴⁰

Regarding employment relationships, PS2 requires a client to ensure equal opportunity, fair treatment, and non-discrimination.¹⁴¹ PS2 prohibits sexual harassment of employees, and notes that the employer has responsibility for what goes on in the workplace.¹⁴² In order to ensure a harassment-free workplace, IFC's Good Practice Note: Non-Discrimination and Equal Opportunity stipulates that the client should: (1) have a clear anti-harassment policy; (2) institute anti-harassment training for all staff; (3) ensure people know their rights where harassment is alleged; (4) deal appropriately with employees who commit acts of bullying or harassment; and (5) have confidential means of placing a grievance or seeking support for employees who are subject to harassment.¹⁴³ Further, the client is required to ensure employment is free from threats and any type of physical coercion of workers.¹⁴⁴

Regarding the use of private security contractors, PS4 requires clients to evaluate risks posed by private security personnel (PS4, paras. 13 and 14) and conduct enhanced risk assessments when operating in conflict-sensitive environments (PS4, GN28). PS4 also requires the implementation of good international practices regarding hiring,¹⁴⁵ rules of conduct, training, equipping, and monitoring of private security personnel (PS4, para. 13; PS4, GN30). It further requires the establishment of a grievance mechanism to channel concerns about security arrangements and practices (PS4, para. 13; PS4, GN34), which helps the client understand and take measures regarding community perceptions about gender violence risks and impacts (PS4, GN5, GN4, GN Annex A).

¹³⁸ Among other factors, PS1 considers that a vulnerable status can stem from an individual's or groups' gender.

¹³⁹ PS1, paras. 4, 12.

¹⁴⁰ PS1, GN26.

¹⁴¹ PS2, para. 11.

¹⁴² PS2, para. 2; IFC (2006), "Good Practice Note: Non-Discrimination and Equal Opportunity," page 9.

¹⁴³ IFC (2006), Good Practice Note: Non-Discrimination and Equal Opportunity, page 14.

¹⁴⁴ PS2, GN48; PS2, GN50.

¹⁴⁵ In terms of security personnel hiring, the client should make reasonable inquiries to investigate the employment record and other available records, including any criminal record, of individuals or firms and should not employ or use any individuals or companies that have been credibly alleged to have abused or violated human rights in the past. Clients should use only security professionals who are and continue to be adequately trained (PS4 Guidance Note para. 33).

In 2020, IFC, EBRD, and CDC Group (UK)¹⁴⁶ published a Good Practice Note on “Addressing Gender-Based Violence and Harassment—Emerging Good Practice for the Private Sector.”¹⁴⁷ This note outlines emerging practices in addressing gender-based violence and harassment in operations and investments.

Box 4.1. Contextual Background: The Prevalence of Gender-Based Violence in Liberia before IFC’s Investment

Women suffered greatly from widespread sexual violence during and after the civil wars. During the conflict, the perpetrators of gender-based violence (GBV) typically included, but were not limited to, members of the various fighting forces. Transactional sex (sexual acts in exchange for goods, money, and/or protection) was also a common survival strategy for many women and girls, ensuring some level of protection and economic support.

Following the conflict, gender-based violence—notably, rape—was considered to be prevalent throughout the country. The perpetrators were understood to be ex-combatants, community or family members, teachers, and husbands/partners. Further, transactional sex remained widespread as a means for women to secure a livelihood.

According to the Liberia National Police, rape and other sexual offenses ranked among the most common crimes reported nationwide. However, a large proportion of reported cases never advanced to the courts. Due to stigmatization, many survivors were unwilling to seek medical/professional help or even to report the assault. Furthermore, barriers to reporting and seeking assistance included gaps in national legal, protection, health, and psychosocial services. In response to this, in 2006 the government of Liberia formed the National GBV Taskforce to implement systemic measures to prevent GBV and support survivors.

In 2007, the Gender Affairs Minister at the time, Madam Vabah Gayflor expressed concern over the growing incidence of sexual offences. Minister Gayflor said: *“No sex for help. No help for sex. Sex is not a requirement for jobs, grades, medical treatment or other services.... Sexual exploitation is becoming another major problem for [our] women; we are increasingly hearing of girls being forced by wealthy men into exchanging sex for material gain.”*

The United States 2008 Human Rights Report for Liberia noted that there was no law prohibiting sexual harassment, and that sexual harassment¹⁴⁸ was a major problem, particularly in schools and places of work.

Sources: World Bank and UNDP. January 2005. “Community Cohesion in Liberia: A Post-War Rapid Social Assessment”; Government of Liberia. 2006. National Plan of Action for the Prevention and Management of Gender-Based Violence in Liberia; OHCHR (Office of the United Nations High Commissioner for Human Rights). 2005–

¹⁴⁶ In 2022, CDC Group was renamed British International Investment.

¹⁴⁷ Since 2017, the World Bank has sought to strengthen its approach to prevent and mitigate GBVH risks in World Bank financed operations. The World Bank has implemented measures to strengthen prevention and its response to GBVH incidences. Further details available at <https://bit.ly/3OM4Cs7>.

¹⁴⁸ Sexual harassment is defined as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. This definition is from IFC, European Bank for Reconstruction and Development (EBRD), and CDC Group (2020), *Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector*, available at <https://bit.ly/3SjoqU6>. This definition is from IFC, European Bank for Reconstruction and Development (EBRD), and CDC Group (2020), *Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector*, available at <https://bit.ly/3SjoqU6>.

2008. *Report of the Independent Expert on Technical Cooperation and Advisory Services in Liberia*; World Bank, IEG (Independent Evaluation Group). 2012. “Liberia Country Program Evaluation 2004–2011”; World Bank and IMF (International Monetary Fund). 2008. “Liberia: Poverty Reduction Strategy Paper”; UN (United Nations). 2016. “Addressing Impunity for Rape in Liberia”; Marsh, M. 2007. “Prevention of Sexual Exploitation and Abuse in Liberia, Baseline and Follow-up Survey Report of Knowledge, Perceptions and Experiences of Sexual Exploitation and Abuse (SEA) in Liberian Schools and Communities in Bomi, Bong, Gbarpolu, Grand Cape Mount & Lofa Counties, Liberia”; Medie, P. 2013. “Fighting Gender-Based Violence: The Women’s Movement and the Enforcement of Rape Law in Liberia,” *African Affairs* 112: 377–97; Government of Liberia, National HIV/AIDS Strategic Framework II (2010–2014); U.S. Department of State Archive. 2008 Country Reports on Human Rights Practices: Liberia.

c) IFC Pre-Investment Review and Supervision

IFC’s pre-investment review did not identify female workers as vulnerable nor did IFC document a review of the company’s approach to dealing with harassment in the workplace. Regarding the company’s use of private security forces, IFC noted that the company needed to establish a security policy, including a mechanism to handle complaints related to the company’s security personnel. This action was incorporated in IFC E&S Action Plan (ESAP) for the investment, and in 2011 IFC noted that it was complete.

IFC’s supervision does not comment on GBVH until 2019, after the Bread for All report and the CAO complaint. During IFC’s 2019 site supervision visit, IFC met with company representatives, workers, community members, and NGOs representing some workers in the CAO complaint. The company noted that they had no knowledge of any incidents of GBVH. Some workers and communities expressed shock regarding the GBVH allegations and claimed that they could not have happened without them knowing about it. IFC noted during the site visit that there was no means to verify that GBVH was or was not happening, but IFC did note that NGOs they met with, and one worker, alleged incidents of sexual harassment by contractors and headmen. Specifically, they alleged that workers would be extorted for sex in order to get and retain their jobs and payment of wages. NGOs and the worker said they were unable to raise these issues with the company as it did not have an adequate grievance mechanism to handle such concerns. During this visit, IFC met with other UN Women and World Bank staff to understand the national capacity to handle GBVH issues. From these engagements, IFC noted that there was limited national and NGO capacity in Liberia to handle GBVH issues.

The company developed a Sexual Harassment Policy in 2019. Following a desk review, IFC noted that while the policy covered many issues, there was no formal grievance mechanism to handle such complaints, including provisions to handle anonymous and confidential complaints. IFC provided written feedback to SRC that the Sexual Harassment Policy needed to be extended to contractors as well, particularly because female contractors had raised GBVH concerns.

In relation to the company’s labor practice, IFC provided written feedback to SRC on its code of ethics, but it was unclear how it was implemented in the case of disciplinary action, in particular with respect to GBVH concerns. Further, IFC provided written feedback to SRC that it was unclear whether the code of ethics applied to contractors.

IFC noted that the company had issues with some contractors withholding payment, but the company would promptly address this once these issues were discovered; new controls were implemented to monitor contractor payments.

In 2019, an IFC gender-based violence consultant did a desk review of the company's policy, grievance mechanism, and the terms of reference (ToR) for the company's Gender Committee. In addition to the points above, the IFC gender-based violence consultant noted that the ToR for the Gender Committee was quite broad and vague, and there was a need for all workers to be trained and receive regular refresher training on the company's sexual harassment policy and grievance procedure. Furthermore, IFC noted that medical staff in hospital might also need further training to address GBVH issues.

Socfin's commissioned third-party consultant (2019) met with civil society organizations which alleged that female workers suffered sexual abuse by their supervisors and contractors. While the consultant noted that they did not directly hear reports of sexual abuse from workers, the consultant also noted that the company did not have a safe space for women to raise such concerns.

IFC planned for its GBVH consultant to visit the company in early 2020 to provide specialized training on addressing GBVH issues. However, due to the COVID-19 pandemic and the company's repayment of the loan, the visit did not occur at this time. In May 2023, IFC facilitated a Gender-based Violence Training Workshop held at Salala's factory. IFC hired a national consultant to deliver the training, in conjunction with the company's Gender Committee. The agreed outcome was for participants, Salala staff, and community stakeholders to be able to demonstrate basic understanding of GBV concepts and be aware of company policies on protection from GBV and Sexual Exploitation.

Between 2019 and 2021, in public statements, public meetings, and statements from the Citizens Representative Committee (CRC) to CAO, CRC and some community members refuted allegations of GBVH.¹⁴⁹ CRC asserted that allegations of sex for work and harassment were false and were intended to tarnish the good reputation of the company. In a 2019 community meeting, members of the CRC and community members asserted that they never heard of sex for work at Salala. They described the women who claim to have been coerced to have sex with SRC staff as liars who should not be listened to. Further, CRC asserted that Salala decided to suspend operations at the plantation in 2020 due to allegations of sexual exploitation. They blamed the loss of 800 jobs on those individuals who claimed to have been sexually exploited at the plantation.¹⁵⁰

In July 2023, Socfin published a summary follow-up report by the third-party consultant (2019). This report noted that the allegations of sexual harassment were founded. Specifically, the report noted that there was evidence of: (a) instances of termination and denial of job opportunities due to refusal to engage in sexual acts or provide other assets or gifts; (b) instances of unwanted and inappropriate physical touches and comments from male SRC workers; (c) incidents of SRC workers making monetary offers for sexual favors within the workplace; and (d) that none of the above have ever been captured or investigated by SRC Gender Committee. The third-party consultant (2019) noted that, in response, the company had (a) developed a sexual harassment

¹⁴⁹ With the support of the Township Commissioner (local government official), seven individuals were selected from the 71 communities within and around the plantation to be on the CRC. The CRC facilitates the implementation of many company activities including SRC's stakeholder engagement, manage its corporate social responsibility (CSR) program, hire casual laborers, and operate SRC's grievance mechanism. The complainants have asserted to CAO that the CRC is not a representative body for workers.

¹⁵⁰ *Front Page Africa*, June 9, 2020. "Liberia: Salala Residents Say Green Advocates Does Not Represent Their Interest," available at <https://bit.ly/3QB5FNI>; CRC Meeting (2019), recording available at <https://www.youtube.com/watch?v=QHBTWzJUoHI>.

policy, and (b) provided some training to the SRC Gender Committee, which had done some monitoring in worker camps.¹⁵¹

d) CAO Compliance Analysis

Despite publicly available information regarding systemic gender-based violence and harassment during the Liberian civil conflict, its high incidence after the war, and that sexual harassment was a major problem in the Liberian workplace, there is no record of IFC considering the vulnerable status of women at the plantation or whether Salala had adequate policies and systems in place to deal with employee harassment. This is particularly concerning given that the 2008 World Bank Poverty Reduction Strategy for Liberia noted that ex-combatants were understood to be perpetrators of sexual assault and a 2005 World Bank's Rapid Social Assessment of Liberia reported that some ex-combatants were tapping rubber on Salala's plantation.¹⁵²

CAO finds that IFC's pre-investment review was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13). Despite the history of sexual violence and sexual harassment in Liberia, and its high incidence at the time of IFC's investment, IFC did not identify women as vulnerable per PS1 requirements. Further, IFC did not verify whether the company had an anti-harassment policy and procedures to implement it, a grievance mechanism to handle confidential complaints, and whether the company was providing training on sexual harassment to its workers—as required per PS2 (para. 11) and detailed in IFC's Good Practice Note on Non-Discrimination and Equal Opportunity.

In 2011, IFC noted that the company had implemented a security policy, as per the ESAP. IFC did not document a review of this security policy, or whether it was effectively implemented to ensure that the company hired security personnel after making reasonable inquiries to investigate the employment record and other available records of any credible allegations of past abuse or violations of human rights (as required by PS4, para. 13 and GN33). Further, IFC did not ensure the company had a PS4-compliant grievance mechanism to handle complaints about the company's use of private security forces.

While sexual violence and sexual harassment remained a live issue in Liberia,¹⁵³ it was not until the Bread for All report and CAO complaint that IFC engaged with the company on this issue. IFC appropriately identified gaps in the company's grievance mechanism to handle anonymous complaints, the application of the sexual harassment policy to contractors, and the need for worker training. IFC did not require the company to establish or provide support services to survivors as provided for in IFC (2006) Good Practice Note: Non-Discrimination and Equal Opportunity, and its more recent (2020) Good Practice Note on Addressing Gender-Based Violence and Harassment—Emerging Good Practice for the Private Sector. Further, CAO notes that Citizens Representative Committee (CRC) was established to handle company grievances, supervise unskilled contractors, and assist in hiring labor. In the context of complaint allegations that supervisors have instigated sexual exploitation against female workers, such centralization of responsibility in this team is incompatible with a basic level of protections against GBVH.

¹⁵¹ Earthworm Foundation (2023), Deep dive grievance work: Salala Rubber Corporation. Available at <https://bit.ly/3MEYVMq> and <https://bit.ly/3QIhNvc>

¹⁵² World Bank and UNDP. January 2005. *Community Cohesion in Liberia*, page 35.

¹⁵³ As example, the annual United States Department of State Human Rights Report for Liberia noted continuing prevalence of sexual harassment and high GBV incidence. The World Bank's 2013–17 County Partnership Strategy for Liberia affirmed that sexual gender-based violence remained common in Liberia.

On this basis, ***CAO finds IFC non-compliant in its supervision of the company's application of PS2 non-discrimination and equal opportunity requirements, particularly regarding workplace harassment (2006 Sustainability Policy, paras. 11 and 26).***

e) CAO Assessment of Related Harm

CAO concludes that there has been Harm to the complainants related to CAO findings of IFC non-compliance. Specifically, the absence of key provisions at the company to prevent instances of GBVH is a Harm to the complainants.

Further, there are indications of significant and unaddressed Harm to GBVH survivors at the company's plantation. CAO's investigation team heard testimonies from several survivors and NGOs¹⁵⁴ that have worked with survivors at the company. They described instances of being pressured into sexual acts to retain their jobs or payment for work on the plantation; when women refused, they were unable to obtain employment or receive their wages. In the country context in which the company operated during the period of IFC's investment, and without adequate measures to prevent GBVH, CAO has no reason to doubt these claims. Specifically, CAO reaches its conclusion of indications of Harm on the basis of: (1) testimonies from survivors and NGOs that worked with survivors; (2) the prevalence of GBVH in Liberia and risks to survivors in seeking justice for harm; (3) consideration that until 2019, the company lacked any formal protections against such incidences; (4) material gaps recorded by IFC's 2019 supervision in the company's anti-harassment provisions (lack of anonymous complaints, insufficient training); (5) a July 2023 report by the company's third-party consultant summarizing evidence of sexual harassment and noting that the allegations were founded; and (6) CAO's investigation observation that the company has centralized in one team the responsibility for handling worker complaints, supervising contractors, and recruiting contractors.

There is no evidence that IFC required or SRC implemented trauma counselling services to support the survivors. Furthermore, statements from the grievance handling mechanism (CRC) that the survivors are liars and assert the company suspended operations due to sexual exploitation allegations only further intimidate survivors and potentially increase the trauma caused by GBVH incidences.

4.5. Assessment of Risks and Impacts to Indigenous Peoples

Summary of Non-Compliance Findings and Related Harm

IFC's pre-investment review did not present an adequate assessment of its decision to not trigger Performance Standard 7 (PS7) (Indigenous Peoples) for its investment. In the context of the project's location, community use of a language distinct from the official language, and individuals' expression that they are Indigenous, a PS7 assessment should have been conducted. As a result, IFC's pre-investment review was not appropriate to the nature and scale of the project and commensurate with the level of E&S risks and impacts, as required by 2006 Sustainability Policy, para. 13.

¹⁵⁴ CAO talked to representatives of two NGOs that are not a part to the CAO complaint and do not represent the complainants.

CAO concludes there are indications of Harm to complainants. If an assessment had required that PS7 be triggered, additional protections on the implementation of the IFC-financed plantation expansion program and the company's stakeholder engagement and recognition of customary land rights would have been necessary.

a) Complainants and Company Views

The complainants assert that they are Indigenous Peoples, recognized by the government of Liberia as aborigine and that their ancestors inhabited the concession area before the independence of Liberia in 1847. The complainants claim that the company's activities, including expanding its planted area, have had negative effects on the Indigenous communities' religious, cultural, and natural resources and their social and economic livelihoods. The complainants allege that the company has expanded its planted area, including the 2008–14 expansion, without their Free, Prior, and Informed Consent.

The company stated that Performance Standard 7 did not apply to its expansion program because IFC's pre-investment review did not recognize the people affected by the expansion as Indigenous, and thus, IFC did not trigger the application of PS7.

c) Requirements

Performance Standard 7 requires an IFC client to undertake an assessment of whether its business activities have risks or impacts to Indigenous Peoples. PS7 outlines the following characteristics by which to determine if a group should be considered Indigenous Peoples:¹⁵⁵

- Self-identification as members of a distinct Indigenous cultural group and recognition of this identity by others
- Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories
- Customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture
- An Indigenous language, often different from the official language of the country or region

An IFC client must exercise judgment in determining whether a group is considered as Indigenous Peoples for the purposes of PS7. In making this judgment the client may undertake a number of activities, including ethnographic and archival research; participatory approaches with the affected communities that self-identify as Indigenous Peoples; assessment of the traditional institutions; and investigation of the applicable national laws and regulations, including customary laws and laws reflecting host country obligations under international law. The client should retain qualified social scientists to carry out this work.¹⁵⁶

¹⁵⁵ IFC PS7, para. 5.

¹⁵⁶ IFC PS7, Guidance Note G6.

IFC's role is to review its client's assessment of the application of PS7. Where the nature and scope of the client's assessment is not commensurate to E&S risks and impacts, IFC requires the client to revise its assessment.

c) IFC Pre-investment Review and Supervision

IFC concluded that PS7 requirements did not apply to this investment. IFC noted that in the context of Liberian history in which settler populations, the Americo-Liberians, are present, IFC considered whether there were grounds to consider the original populations to be Indigenous Peoples under IFC's definitions and guidance. IFC concluded that the original populations in the area of the project are part of the now dominant society and culture of Liberia, thus PS7 did not apply.¹⁵⁷

The 2008 E&S Impact Assessment of the company's operations, which IFC received after its legal commitment to the investment, noted Kpelle and Bassa as affected ethnic groups living in Margibi County—the same county as Salala Rubber Corporation.

The third-party consultant (2015) report contracted by Salala noted that the application of PS7 was considered but determined to not apply because there were no Indigenous Peoples (as defined by PS7) in the project's area of influence. This conclusion was reached through desk-based research and knowledge of the area.¹⁵⁸

In 2019, after an IFC query, the World Bank noted that it had never applied its Indigenous Peoples requirements to any of its operations in Liberia.^{159,160}

d) CAO Compliance Analysis

CAO finds that IFC's pre-investment review did not present an adequate assessment of its decision to not trigger PS7 for its investment. This was done despite information that would indicate that such an assessment was necessary. As a result, IFC's pre-investment review was not appropriate to the nature and scale of the project and commensurate with the level of E&S risks and impacts, as required by the 2006 Sustainability Policy, para. 13.

PS7 requires an IFC client to undertake an assessment of whether its business activities have risks or impacts to Indigenous Peoples. In this case, the company did not do this and IFC's pre-investment review did not require the company to assess whether its business activities presented risks to or had impacts on to Indigenous People, as defined by the characteristics of PS7. Rather, according to IFC documentation reviewed in this CAO compliance investigation, IFC's assessment

¹⁵⁷ IFC (2008) ESRS, project number 26510.

¹⁵⁸ Third-party consultant environmental and social due diligence, 2015.

¹⁵⁹ Specifically, World Bank Operational Policy 4.10: Indigenous Peoples (OP 4.10) and Environmental and Social Standard 7 (ESS7): Indigenous Peoples/ Sub-Saharan African Historically Underserved Traditional Local Communities. PS7 (2006) and the World Bank OP4.10 and ESS7 have the same four characteristics to determine the application of the standard.

¹⁶⁰ As context for how this issue has been recently considered, in 2022, the United Nations Development Programme published a report on Indigenous Peoples Planning Framework (IPPF) for the Accelerated Community Development Programme (ACDP) in Liberia. The report discusses Liberia's indigenous ethnic groups (including the Kpelle), and notes that for any UNDP project where there are indigenous people, FPIC will be followed. See UNDP (October 2022), Indigenous Peoples Planning Framework (IPPF) for the Accelerated Community Development Programme (ACDP) in Liberia.

was limited to a statement that the original populations in the area of the project were part of the now-dominant society and culture of Liberia, and thus IFC concluded that PS7 did not apply.

Nevertheless, neither IFC nor the company presented an assessment as required by PS7, including ethnographic and archival research; participatory approaches with the affected communities of Indigenous Peoples; assessment of the traditional institutions; and investigation of the applicable national laws and regulations, including customary laws and laws reflecting host country obligations under international law. The company should have conducted an assessment led by a qualified social specialist,¹⁶¹ given Salala's limited E&S capacity at the time of IFC's investment, and reviewed by IFC prior to a decision to invest.

IFC's conclusion to not trigger PS7 was reached despite a joint report by the Government of Liberia and the UN Mission in Liberia (UNMIL) Rubber Task Force from 2006¹⁶² that noted a history of large-scale agribusinesses impacting Indigenous Peoples in Liberia. The report recommended that the Government of Liberia undertake a comprehensive review of measures that could be taken to protect Indigenous Peoples and their use of traditional lands and natural resources and should enter into negotiations with Indigenous Peoples affected by expansion project(s) to determine how to continue the expansion while protecting the community's rights to enjoy its culture and traditional lands.

Further, in relation to the PS7 characteristics used to determine whether a group should be considered Indigenous Peoples, CAO notes the following regarding the context of IFC's investment in SRC:

- The complainants self-identify as members of a distinct Indigenous cultural group and live in a territory historical claimed by a Liberian Indigenous ethnic group.¹⁶³
- Historically, land was communally owned among Indigenous Liberians and was considered non-transferable and sacred. The expansion of the Liberian colony in the mid-nineteenth century with the arrival of settlers from the United States did not occur without opposition from Indigenous Peoples.¹⁶⁴
- The complainants claim they have customary institutions distinct from those of the dominant society.
- The complainants assert that they use a distinct language that is different from the official language of Liberia. Kpelle is a language of the Mande branch of the Western Sudanic subgroup of the Niger-Congo language family.¹⁶⁵ During CAO's field visit, it was noted that most adult inhabitants of the project area are effectively monolingual in Kpelle and that communications and/or meetings in English, including Liberian Kreyol/Pidgin, are generally not understood.

Accordingly, CAO concludes a threshold was met for IFC to require the company to assess, in accordance with PS7 provisions, whether PS7 should have been triggered.

¹⁶¹ As provided for under IFC PS7, Guidance Note G6.

¹⁶² GoL and UNMIL. Rubber Task Force Report. 2006. *Human Rights in Liberia's Rubber Plantations: Tapping into the Future*, page 48. Available at <https://bit.ly/3NdmV9o>

¹⁶³ *The Encyclopedia of World Cultures*, 1998, Kpelle. Available at <http://bit.ly/3lJNR5T>.

¹⁶⁴ Truth and Reconciliation Final Report, 2009, Vol. II, page 77.

¹⁶⁵ *Ethnologue*, 18th ed., 2015, Language Groups in Liberia, Liberia Kpelle. SIL International, ISO 639-3, Kpelle. Available at <https://bit.ly/3SexEBJ>.

CAO notes that in 2019, after an IFC query, the World Bank affirmed that it had never applied its Indigenous Peoples requirements to its operations in Liberia. Further, the IFC and World Bank use the same four characteristics to determine whether their Indigenous Peoples standards should apply in a project. IFC did not ascertain whether the World Bank reached its decision to not apply its Indigenous Peoples requirements in Liberia on a project-by-project basis or if non-application is the World Bank's default approach for all operations in Liberia. Nevertheless, in the context of the complainant characteristics summarized above, the fact that the World Bank has not applied its Indigenous Peoples requirements in Liberia does not eliminate IFC's responsibility to ensure that the company assessed the applicability of PS7.

e) CAO Assessment of Related Harm

CAO concludes there are indications of Harm to complainants. The failure to adequately assess the application of PS7 has potentially resulted in complainant harm. If an assessment had required that PS7 be triggered, additional protections¹⁶⁶ on the implementation of the IFC-financed plantation expansion program and the company's stakeholder engagement and recognition of customary land rights would have been identified as necessary.

4.6. Destruction of Ancestral Graves and Sacred Sites

Summary of Non-Compliance Findings and Related Harm

IFC's pre-investment review of cultural heritage issues was not appropriate to the nature and scale of the project or commensurate with the level of identified E&S risks and impacts (2006 Sustainability Policy, para. 13).

IFC was non-compliant in its supervision of the company's commitment to document all cultural heritage issues and ensure compliance with Performance Standard 8 (PS8) (Cultural Heritage) in its expansion program (2006 Sustainability Policy, paras. 11 and 26).

Considering that the concession area includes areas of cultural heritage (graves and sacred forests), and the expansion program affected a significant area (1,450 ha expanded and 1,442 ha replanted), CAO concludes that there are indications of Harm to complainants as a result of the expansion program.

a) Complainants and Company Views

¹⁶⁶ Where Indigenous People are economical displaced, PS7 requires a company to:

- Document its efforts to avoid or minimize the size of the land proposed for the project.
- Document Indigenous Peoples' land use by experts in collaboration with the affected communities.
- Inform Indigenous People of their legal rights.
- Offer affected communities of Indigenous Peoples with at least compensation and due process available to those with full legal title.
- Enter good faith negotiation with the affected communities of Indigenous Peoples, and document their informed participation and the successful outcome of the negotiation.

The complainants allege that, as a result of the plantation expansion, the company caused the destruction of graves and sacred sites. The complainants consider that funding and support for cleansing rituals and relocation of sacred sites provided by the company was insufficient remedy and consider that negotiations occurred with individuals who did not represent the communities' views.

SRC stated that cultural heritage sites within the development area were mapped, protected, and avoided during plantation expansion. The company claims that support was provided directly to impacted communities such as Gleegebar and Kolleh for cleansing rituals and shrine relocation; these activities involved the participation and consent of the Tribal Authorities.

b) Requirements

Performance Standard 8 (PS8) includes requirements for the client to protect cultural heritage from adverse impacts of project activities and to support its preservation.¹⁶⁷ In particular, PS8 requires the client to undertake internationally recognized practices for the protection, field-based study, and documentation of cultural heritage (PS8, para. 4). Per PS8, the client should assess adverse impacts on cultural heritage in the project's area of influence (PS8, GN9) and should retain qualified and experienced experts to assist in the assessment. PS8 also requires the client to identify cultural heritage based on consultations with communities who have used sites for cultural purposes and to incorporate communities' views on project decision-making (PS8, para. 6). PS8 requires the client to implement a chance find procedure to manage the identification of cultural heritage during project development or operations.¹⁶⁸ Through this procedure, the client will not disturb any chance finds further until an assessment by a competent specialist is made and actions consistent with PS8 are identified.

The client will not remove any cultural heritage unless there are no technically or financially feasible alternatives to removal, benefits of the project outweigh the anticipated cultural heritage loss from removal, and removal is conducted through the best available technique (PS8, para. 7). In the case of removal of cultural heritage, traditional owners and users should be consulted prior to removal (PS8, GN17).

IFC's E&S commitments include ensuring that the projects it finances are operated in a manner consistent with the Performance Standards (Sustainability Policy, para. 5). In assessing whether IFC ensured SRC operated in accordance with PS8, CAO considers IFC actions during the pre-investment review and supervision stages of the project.

c) IFC Pre-Investment Review and Supervision

IFC's pre-investment review identified that the project would have impacts on cultural heritage and concluded that PS8 was applicable.¹⁶⁹ IFC stated that potential impacts on cultural heritage were addressed by the company through the preservation of a 12-acre ancestral burial ground within the plantation and the preservation of a 26-acre parcel of land for the preservation by the Massaquoi Town of a relocated shrine. The ESAP, prepared in February 2008, included the requirement for the company to "document all cultural heritage issues up to (that) date, including cultural sites and objects, customary and cultural demands and rites encountered and performed" before June

¹⁶⁷ IFC PS8—Cultural Heritage (April 2006), Objectives.

¹⁶⁸ The chance find procedure is a project-specific procedure that outlines what will happen if previously unknown heritage resources, particularly archaeological resources, are encountered during project construction or operation (PS8, GN8 paragraph 13).

¹⁶⁹ IFC (2008) ESRS, project number 26510.

2008. However, when the project was approved by the IFC Board in July 2008, this requirement had not been fulfilled and the amended ESAP postponed its completion to 90 days after commitment.

After IFC's legal commitment to the investment, IFC provided two disbursements to SRC—in 2008 and 2010—without the ESAP action item related to documentation of cultural heritage having been completed. IFC noted in 2009 that SRC had not documented all cultural heritage issues in the project. IFC did not provide evidence for the period between 2008 and 2010 that the company met its PS8 requirements.

In 2011, IFC was informed through the company's Annual Monitoring Report of an incident regarding local community claims that, through SRC's lack of preservation of an appropriate buffer zone, a sacred bush was transgressed, releasing a devil into Kwa Town. SRC reported that the incident suspended the company's operations for two days. The company also reported that national authorities intervened to address the issue, and SRC and Kwa Town representatives signed an agreement for SRC to pay compensation to support the relocation of the sacred bush and related rituals and sacrifices, and to compensate related impacts. In 2021, during CAO's field visit, community members in Kwa Town claimed that they only received a fraction of the amount SRC supposedly paid at the time for relocation and impacts on the sacred bush.

In 2012, IFC supervision documentation noted that the company's 2011 ESIA concluded that there were no major cultural and archeological sites within the plantation, but the company did identify graves and sacred forests, which were mapped and effectively protected. IFC concluded that the company had met its 2008 PS8 ESAP item. However, subsequent IFC supervision contradicts this conclusion.

In 2013, a Green Advocates report included community complaints regarding SRC's desecration of graves and shrines. In response, the company stated that it engaged in negotiations with affected communities and their traditional leaders regarding impacts on sacred sites and provided funding for relocation of sacred sites and ritual sacrifices where needed. The company submitted to IFC examples of agreements between the company and communities regarding cultural heritage.¹⁷⁰ IFC's supervision documentation at this time recorded that the company was still non-compliant with the requirement to document cultural heritage issues.

In 2015, the third-party consultant (2015) commissioned by IFC and Socfin identified that SRC was non-compliant with PS8. Specifically, the consultant noted that while the company had consulted with local communities to identify sacred forests and burial areas, there was no map clearly showing their locations. The consultant noted that there was a need for the company to (1) retain professionals to map and describe areas of cultural value; and (2) develop a management plan to protect areas of cultural heritage as they were being degraded by community over-exploitation.¹⁷¹

In 2018, the Bread for All report claimed that that the company's expansion program had impacts on sacred forest or gravesites at seven areas.¹⁷²

¹⁷⁰ The company submitted to IFC agreements between SRC and (1) the Kwa Town, (2) the Old Garjay Town community, and (3) Dinningta Town.

¹⁷¹ Third-party consultant report of Salala, 2015. Published as part of IFC's proposed investment in Socfin.

¹⁷² Bread for All, 2019, *Struggle for Life and Land*, available at <https://bit.ly/3Rqiact>.

During its 2019 site visit, IFC staff visited one of the towns where the complainants claimed a graveyard was destroyed. IFC recorded that the graveyard was intact. More broadly, however, IFC noted that the company's concession map did not indicate sacred sites and other "no go" areas.

The third-party consultant (2019) review of the Bread for All claims regarding cultural heritage impacts, commissioned by the company, noted that it was not possible to conclude whether or not the company's operations resulted in impacts on cultural heritage.

d) CAO Compliance Analysis

Pre-Investment Review

IFC's Environmental and Social Review Summary identified potential project impacts on cultural heritage, as well as several measures to preserve an ancestral burial ground and the relocation of a shrine. However, a PS8 survey and analysis of cultural heritage sites and objects in the project area or their associated meaning and related rituals for local communities was never completed. As a result, IFC did not have comprehensive information on the nature and number of cultural heritage sites. As discussed in sections 3.2.2 and 3.3.2, the company did not provide an ESIA for the project at this stage, which may have included an assessment of impacts on cultural heritage. Further, and as mentioned above, the company did not fulfill the requirement under the ESAP to document all cultural heritage issues before IFC commitment and there is no evidence that IFC provided any appropriate guidance or support to the company to ensure the documentation was conducted in alignment with PS8 requirements.

Without baseline information and studies on cultural heritage in the project area, IFC could not appropriately identify the nature and extent of project impacts on cultural heritage. As a consequence, without an adequate identification of risks and impacts, IFC did not require appropriate prevention or mitigation measures from the company.

CAO finds that IFC's pre-investment review of cultural heritage issues was not appropriate to the nature and scale of the project or commensurate with the level of identified E&S risks and impacts (2006 Sustainability Policy, para. 13). IFC did not work with SRC to determine possible remediation measures regarding impacts on cultural heritage (2006 Sustainability Policy, para. 13) and did not ensure that the investment would meet PS8 requirements over a reasonable period of time (2006 Sustainability Policy, para. 17).

Supervision

CAO finds IFC non-compliant in its supervision of the company's commitment to document all cultural heritage issues and ensure PS8 compliance in its expansion program (2006 Sustainability Policy, paras. 11 and 26). While IFC expected the company to document all cultural heritage sites as a condition of its investment, this did not occur. Rather, IFC deferred this requirement to the period after it had made the first loan disbursement, and when the requirement was not completed at this stage, it was further deferred. IFC did not link completion of this action to additional disbursements to the company. As a result, the company initiated its expansion program, including clearing lands, without going through an adequate process to document and map all cultural heritage sites.

IFC noted in 2012 that the company had completed a cultural heritage map in 2011. However, CAO has reviewed this map and notes that it was insufficient to ensure PS8 compliance. Specifically, the map does not include any provisions for how areas should be protected. The degree to which this map (2011) was shared and utilized by the company is also unclear, since the third-party consultant (2015) hired by IFC and SRC's parent company, Socfin, concluded that the

company did not have a map of cultural heritage sites and there was no management plan to protect areas of cultural heritage. IFC reached a similar conclusion in 2019 regarding the lack of a map of cultural heritage sites during its supervision visit. Furthermore, there is no evidence that IFC ensured the company had developed and implemented a chance find procedure in line with PS8 requirements.

e) CAO Assessment of Harm

CAO concludes there are indications of Harm to complainants. As a result of IFC not ensuring that the company had (1) adequately assessed and protected sites of cultural heritage prior to implementation of the expansion program, and (2) implemented a chance find procedure to protect against impacts during the clearing of land, neither IFC nor the company are in a position to robustly contest the complaint allegations. In this context, CAO notes that the concession area includes areas of cultural heritage (graves and sacred forests) (see map 1 in section 1.1), and the expansion program affected a significant area (1,450 ha and 1,442 ha replanted) where the complainants assert there were impacts to cultural heritage sites. Thus, in the absence of adequate assessment and protections, there was an increased likelihood of cultural heritage impacts.

4.7. Water Pollution

Summary of Non-Compliance Findings and Related Harm

CAO finds IFC non-compliant in its review of the company's assessment and monitoring of risks and impacts of its operations on water quality (2006 Sustainability Policy, para. 11).

CAO concludes that there are indications of Harm to complainants. IFC's failure to ensure that the client conducted adequate water quality monitoring contributed to a lack of information necessary to determine Harm with certainty. Without such data, complainant concerns regarding water quality remain unaddressed and the possibility of Harm cannot be discounted.

a) Complainants and Company Views

According to the complainants, SRC has polluted water sources with chemicals used to spray plantation trees. Complainants allege that in some villages, the color and odor of water have deteriorated and, as a result, there is no safe drinking water. Affected communities assert that some members have had skin rashes and eye irritation, and localized fish kills have occurred. They highlighted additional concerns about water availability, including the loss of the creek used for drinking water, and the lack of working boreholes and functioning well water pumps constructed by the company.

The company noted that it only uses pesticides in the first few years after a rubber tree is planted. The company noted that pesticide sprayers had been instructed not to apply pesticides within five meters of any riverine system. The company acknowledged that in the past some sprayers had cleaned themselves in the river until the company built a set of showers. The company denied allegations that the sprayers washed their spraying equipment in the streams. SRC stated that water quality is tested across the plantation and no issues were found. The company reported that the Liberian Environmental Protection Agency (EPA) and IFC have reviewed its pesticide policies and operations and have concluded that the quantity of active ingredient applied per acre is negligible. According to SRC, its effective environmental management is also evidenced by its ISO 14001 qualification. SRC also states that it has supported community access to water through the construction of 33 boreholes between 2013 and 2019.

b) Requirements

For the general operation and any expansion of the plantation, Performance Standard 3 (Resource Efficiency and Pollution Prevention) (PS3, para. 3) and Performance Standard 4 (Community Health, Safety, and Security) (PS4, para 9.) require the client to assess ambient conditions and potential impacts of its activities on soil, water, and other natural resources in use by affected communities. The client is required to apply pollution prevention and controls to avoid or, where avoidance is not feasible, minimize or reduce adverse impacts on human health and the environment. Where pesticides are used, the client is required to handle, store, apply, and dispose of pesticides in accordance with good international industry practice. The client is not permitted to use pesticides defined by the World Health Organization (WHO) as extremely hazardous (Class Ia), highly hazardous (Class Ib), and the client is not permitted to use moderately hazardous (Class II) pesticides unless there is proper training, equipment, and facilities to handle, store,

apply, and dispose of these products properly. The client is also required to implement an environmental monitoring program to ensure that its business activities are not negatively impacting the quality and availability of community groundwater and surface water resources.¹⁷³

c) IFC Pre-Investment Review and Supervision

The effects of the processing of natural rubber on water quality are well documented and require close monitoring to ensure that effluents do not negatively affect the quality of water resources.¹⁷⁴ In conducting its E&S due diligence, IFC noted that wastewater from the company's rubber processing factory was cleaner than the ambient stream conditions. However, IFC noted that the company's monitoring program of this wastewater was inadequate. IFC noted that the company was constructing a new wastewater treatment pond, although IFC stated that a drainage system at the factory was also needed in order to capture the rubber serum¹⁷⁵ from flowing into the ground, as this potentially contributes to groundwater pollution.¹⁷⁶ While construction of a drainage system at the factory was not included as part of IFC's ESAP, subsequent IFC supervision in 2009 indicates that it was constructed. Additionally, IFC required the company to (1) implement a monitoring program for wastewater; (2) identify and implement measures to bring wastewater quality in line with IFC standards; and (3) implement a Sustainable Management Plan for the plantation that would maintain quality and availability of surface and groundwater up to IFC standards.

Regarding the potential impact to water resources of the company's plantation operation, IFC's pre-investment review was limited because the company did not conduct groundwater monitoring to ensure the company's activities did not deplete and contaminate water sources. Rubber plantations are water intensive and can impact hydrological resources.¹⁷⁷

In relation to pesticide use, which can impact the quality of groundwater and surface water resources, IFC noted that the company primarily used fungicides that can have impacts to human health but not to the natural environment. Because the company did not have an integrated pest management program and there was very limited capacity in Liberia, IFC required the company to implement an integrated pest management program following IFC provided guidance.¹⁷⁸

However, the company's 2008 ESIA detailed additional pesticides the company used on its plantation. In particular, the ESIA noted that:

“three of the main agrochemicals used at the plantation, namely Dursban, Glyphosate and Garlon, are considered potential water pollutants. Excessive use of these chemicals combined with soil erosion, will lead to a relatively significant contamination of the water bodies close to the plantation.”

¹⁷³ IFC EHS Guidelines 2007 (General, section 3 and Plantation Crop Production, section 2).

¹⁷⁴ See for example, “Impact of rubber effluent discharges on the water quality and macroinvertebrate community assemblages in a forest stream in the Niger Delta”, Francis O Arimoro, Chemosphere, 2009 Oct;77(3):440-9.. ; and “Rubber Processing is detrimental to environment: A case study”, Dibyendu Das , Ankuran Saha , Homagni Bhattacharjee, International Journal of Scientific & Engineering Research, Volume 7, Issue 7, July-2016 369;.

¹⁷⁵ Rubber serum is a byproduct of processing rubber, and it is treated as wastewater. It is clear or yellow liquid with a distinctive malodor.

¹⁷⁶ IFC (2008) ESRS, project number 26510.

¹⁷⁷ See for example, Hydrological consequences of natural rubber plantations in Southeast Asia, Davide D. Chiarelli, Corrado Passera, Maria Cristina Rulli, Lorenzo Rosa, Giuseppe Ciraolo, Paolo D'Odorico, February 2020, Land Degradation and Development.

¹⁷⁸ IFC (2008) ESRS, project number 26510.

The 2008 ESIA also noted that water testing of pesticides was not performed within the study area due to the lack of laboratories in Liberia that can perform such analyses. In this context, CAO notes that the chemicals the company used, Dursban, Garlon, and 2,4-D, re classified by the WHO as moderately hazardous (Class II) pesticides. The company also reported in the ESIA that it used glyphosate (WHO Class III). Concerns have emerged regarding the direct and indirect effects of the use of herbicides such as glyphosate as their residues are persistent in nature and contaminate the environment.¹⁷⁹ Per PS3, they should not be used unless there is proper training, equipment, and facilities to handle, store, apply, and dispose of these products properly.

Throughout the course of its supervision, IFC received very limited reporting from the company on its use of pesticides and monitoring of water quality.

In initial supervision in 2009, IFC noted that the company lacked basic monitoring data on its wastewater treatment pond and the company lacked sufficient equipment to carry out necessary water tests. IFC also noted that the company had not prepared a Sustainable Management Plan for the plantation, but that the company's approach to pesticide use sought to minimize their use.

In March 2011, Liberian Environmental Protection Agency (EPA) shut down the company's factory for several days and fined the company on the grounds that it (1) was discharging non-treated wastewater into a river, leading to fish kills;¹⁸⁰ (2) did not have an environmental permit; and (3) obstructed the EPA investigation team. The company denied these charges and the allegation that it was responsible for fish kills.¹⁸¹ IFC noted that as the company lacked a wastewater monitoring program, it remained open to such charges.

Following a site visit to Socfin's corporate office in Belgium in March 2012, IFC recorded that the company had partially developed a monitoring program for wastewater, identified and implemented measures to bring wastewater quality in line with IFC standards, and developed an integrated pest management program. IFC's supervision record does not document actual implementation of these measures to IFC's Performance Standard requirements. Subsequently in 2012, the rubber processing factory suspended operations, thus ceasing wastewater emissions.

The April 2013 Green Advocates report alleged that nearby creeks and other water sources traditionally used for drinking water were polluted. This issue was compounded by the fact that there was a lack of working well hand-pumps.¹⁸² There is no evidence that IFC ascertained that the company was monitoring water quality within its plantation area and discharges from the factory prior to its closure, or assured itself that the company did so in response to allegations in the Green Advocates report.

IFC's 2013 site supervision visit did not provide substantive comments on the company's use of pesticides nor any monitoring program of impacts of its operations on groundwater and surface water. It was not until 2019 that IFC commented on this issue again.

¹⁷⁹ See "Environmental and health effects of the herbicide glyphosate" Van Bruggen A.H.C., He M.M., Shin K., Mai V., Jeong K.C., Finckh M.R., Morris J.G. Jr., Science of The Total Environment Volumes 616–617, March 2018, Pages 255–268; and "Organophosphate pesticides an emerging environmental contaminant: Pollution, toxicity, bioremediation progress, and remaining challenges", Himanshu Mali, Chandni Shah, B.H. Raghunandan, Anil S. Prajapati, Darshan H. Patel, Ujjval Trivedi, R.B. Subramanian Journal of Environmental Sciences, Volume 127, May 2023, Pages 234–250

¹⁸⁰ The company's ESIA (2008) described the rubber processing facilities are relatively acidic, rich in organic matter and suspended solids and that untreated discharges into surface water bodies will rapidly lead to the deterioration of the physical, chemical, and biological quality of the receiving water.

¹⁸¹ Liberian EPA press release and Salala press release, February and March 2011.

¹⁸² Green Advocates, April 2013, *Livelihood Challenges at Salala Rubber Corporation*, page 12.

While IFC's 2019 site visit report notes two pesticides that the company used, IFC did not comment that one of these pesticides is classified by the World Health Organization (WHO) as moderately hazardous (Class II) and thus required additional protections on its use per PS3. Furthermore, IFC's supervision did not identify that the company continued to use other moderately hazardous (Class II) pesticides that can impact water sources. IFC's supervision did not comment on any water monitoring program implemented by the company.

During the course of CAO's investigation, the company provided CAO with water test results from August 2020 at two locations. CAO notes that these tests were conducted four months after the plantation ceased operations and not at any of the locations that raised concerns regarding water quality. Accordingly, there is no evidence that IFC assured itself that water quality monitoring was conducted in compliance with PS3 requirements, to ensure that water used by communities on and near the plantation site had not been impacted by the company's activities (e.g., use of pesticides).

In July 2023, the company's third-party consultant (2019) released an updated summary report. The consultant concluded that numerous water tests have been conducted between 2022 and 2023, with no reports of water pollution.¹⁸³

d) CAO Compliance Analysis

CAO finds IFC non-compliant in its review of the company's assessment and monitoring of risks and impacts of its operations on water pollution (2006 Sustainability Policy, para. 11). CAO makes this finding on the following basis: (1) neither IFC's pre-investment review nor supervision ascertained whether the client was implementing an adequate monitoring program to demonstrate that its operations were not impacting the quality and quantity of water resources; (2) IFC did not respond adequately to claims of water pollution in 2011 (Liberian EPA fine), 2013 (Green Advocates report), and 2019 (CAO complaint) that the company was not monitoring water quality; (3) IFC did not consider whether the company had access to adequate monitoring facilities given that such resources were unavailable in Liberia during initial years of supervision; and (4) IFC did not retain regular data on the company's use of pesticides or its handling and disposal procedure. IFC did not escalate gaps in company reporting for resolution. Rather, these gaps persisted until the time IFC exited from the investment.

e) CAO Assessment of Related Harm

CAO concludes that there are indications of Harm to complainants. IFC's failure to ensure that the client conducted adequate water quality monitoring contributed to a lack of information necessary to determine Harm with certainty. Without such data, complainant concerns regarding water quality remain unaddressed and the possibility of Harm cannot be discounted.

The absence of regular monitoring means the company is not in a position to refute allegations of harm (in particular prior to 2022).¹⁸⁴ CAO's site visit indicated that not all settlements in the concession area and affected communities outside the plantation had access to at least one

¹⁸³ Earthworm Foundation (2023), Deep dive grievance work: Salala Rubber Corporation. Available at <https://bit.ly/3MEYVMq> and <https://bit.ly/3QIhNvc>

¹⁸⁴ CAO notes the third-party consultant report that water monitoring in 2022-2023 did not report any exceedances.

operating potable water point as per Ministry of Health & Social Welfare standards and environmental permit.¹⁸⁵

4.8. Poor Employment Conditions and Labor Rights Violations

Summary of Non-Compliance Findings and Related Harm

IFC failed to adequately supervise the company's compliance with the requirements of 2006 Performance Standard 2: Labor and Working Conditions (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes there are indications of Harm to complainants. CAO reaches this conclusion on the following basis. (1) IFC supervision provided limited assurance regarding the company's compliance with PS2 requirements. (2) A 2019 third-party consultant report indicated PS2 violations, including salary deductions for work equipment and personal protective equipment (PPE), and instances of workers bringing unpaid family members, including children, to the plantation to work to ensure they met daily targets. (3) the company issued PPE to workers on an annual basis, which is insufficient in the plantation sector.

a) Complainants and Company View

The complainants assert that very few community members affected by the company's expansion were employed in permanent positions in the company. They allege that many community members were employed temporarily through contractors, sometimes for a day. The complainants assert that contract workers received low salaries and salary payment was dependent on the fulfillment of unrealistic production quotas and was often delayed or incomplete. Moreover, they assert that contractor workers were often coerced to pay between US\$10 and US\$50 to secure their jobs. Also, according to the complaint, contract workers who handled hazardous chemicals were not provided with personal protective equipment (PPE). Rather, the complainants claim that those workers were required to purchase PPE, which is expensive. They allege that the company did not take any responsibility for workplace injuries, and when workers were sick or unable to come to work, the contractor deducted US\$5 per day from workers' monthly salaries, which is more than they earned per day.

SRC stated that there is a Collective Bargaining Agreement (CBA) in place that lists all employment terms and conditions, including wages, tasks, and benefits. According to the company, wages are in line with the 2015 Decent Work Act, with a contractor earning US\$5.50 per day and a casual worker earning US\$3.50 per day. Rubber tappers are also entitled to quality and production bonuses of US\$3 per day. The company stated that tools and protective equipment are issued free of charge, on an annual basis.

¹⁸⁵ Per the environmental permit, the company is required to provide an alternative source of drinking water to communities whose water source is polluted or maybe polluted by the company's activities.

A July 2023 report by Earthworm Foundation noted that the company had either constructed or rehabilitated hand pumps in some villages, although hand pump in Monkey Tail was poorly constructed and hand pump lacks water during the dry season. For further details see <https://bit.ly/3QIhNvc>.

SRC noted that it uses a third-party company, JBE Contractors, to recruit contract labor. The company asserts that it monitors recruitment of contractors closely to ensure that JBE Contractors follows SRC's Code of Ethics and Employment Policies. The company notes that it has a workers' grievance mechanism.

b) Requirements

PS2 establishes requirements for the client to follow when using contractors. The client is required to comply with national legal requirements covering minimum wages, hours of work, overtime payments, and health and safety conditions. Where the client is party to a collective bargaining agreement with a workers' organization, it will respect such agreement. The client will also implement a workers' grievance mechanism to handle reasonable workplace concerns.¹⁸⁶

The client is required to use commercially reasonable efforts to ensure they do not benefit from unfair labor practices. This includes establishing contractual obligations on contractor agencies, making unannounced visits to worksites, and exercising due diligence in supervising contract workers. The client should enquire about a contractor agency track record and ensure the agency satisfies all legal requirements in procuring contract workers.¹⁸⁷

The client is required to provide workers with a safe and healthy work environment, considering inherent risks in the sector and the workplace. The client must take steps to prevent accidents, injury, and disease arising from the workplace. The client is required to (1) identify potential hazards to workers; (2) provide personal protective equipment (PPE);¹⁸⁸ (3) provide training to workers; (4) document and report occupational accidents, diseases, and incidents; and (5) make arrangements for emergency prevention, preparedness, and response.¹⁸⁹

c) IFC Pre-Investment Review and Supervision

In 2008, the Company had 1659 staff, of which 706 were contract workers.¹⁹⁰

IFC's pre-investment review did not comment on the company's use of contract workers. In relation to occupational health and safety risks to workers on the plantation, IFC noted that the company used pesticides with known human health risks. As part of its investment, the company was required to develop written procedures on pesticides use, train workers on handling and application, and provide PPE.

The 2008 ESIA of the company's operations observed that there was a lack of PPE use at the plantation, and that this presented an increased occupational risk.¹⁹¹ IFC acknowledged this as an ongoing issue during its 2009 site visit.

IFC's 2011 and 2013 site visits noted that the company compensated contract workers at the rate of US\$3 per day. A review of the contract agreement at this time does not indicate that contract workers received any performance bonus. In 2013, the company submitted to IFC an

¹⁸⁶ PS2, paras. 8, 13, 17; PS2, GN64.

¹⁸⁷ PS2, GN65.

¹⁸⁸ PPE should be checked at regular intervals and replaced when it is damaged or worn out. IFC EHS Guidelines: Occupational Health and Safety (2007).

¹⁸⁹ PS2, para. 16.

¹⁹⁰ ESIA 2008.

¹⁹¹ Ibid.

Occupational Health and Safety Audit Report that indicated that some workers used PPE while others did not.

By 2019, the company's workforce has decreased to 719, of which 379 were contractors.

The third-party consultant (2019) review of this issue noted that in several situations there were problems with weak enforcement of responsible employment practices. The consultant noted that while contractors were paid the minimum wage (US\$3.50) or up to US\$5.50 per day, their salary included deductions for work equipment (such as tapping knives and files) and PPE. The consultant noted that permanent and contract workers brought family members to the plantation to work in order for them to reach their daily target or bonus. Such family members (wives, children) had no written contract, were not registered on the company's payroll, and did not receive wages or PPE. The consultant noted that the workers' grievance mechanism was not implemented.

IFC 2019 supervision noted similar conclusions in relation to the workers' grievance mechanism. Further, IFC noted that the occupational injuries at the company were very high and needed to be further investigated.

At the time of loan repayment, IFC's supervision had no evidence that measures necessary to improve the company's PS2 performance had been effectively implemented.

d) CAO Compliance Analysis

CAO finds that IFC failed to adequately supervise the company's compliance with PS2 requirements (Sustainability Policy, paras. 11 and 26). CAO makes this finding on the basis that throughout the 12-year supervision period, IFC's supervision documentation provides limited comment on the company's PS2 compliance regarding contract workers, even though they represented approximately half of the workforce. In particular, IFC has not retained evidence that demonstrates that the company had taken commercially reasonable efforts to ensure they did not benefit from unfair labor practices, as alleged by the complainants. Rather, the third-party consultant (2019) report indicated several PS2 violations. IFC's subsequent supervision did not require the company to take any action in response to these PS2 violations. Further, CAO notes that the issuing of PPE to workers on an annual basis is insufficient in the plantation sector.

e) CAO Assessment of Related Harm

CAO concludes there are indications of Harm to complainants. CAO reaches this conclusion on the basis that IFC and third-party supervision documentation indicated PS2 violations, including salary deductions for work equipment and PPE, and instances of workers bringing family members to plantation to ensure they met daily targets. Furthermore, the company issued PPE on an annual basis, which is insufficient in the plantation sector. Likely harms experienced as a result include lost wages, family members at risk of workplace injuries, children non-attendance at school, and increase risk of health impacts due to acute and chronic exposure to pesticides.

4.9. Limited Access to Schools and Health Facilities

Summary of Non-Compliance Findings and Related Harm

CAO makes no non-compliance findings.

a) Complainants and Company Views

According to the complainants, SRC's school policy discriminates against children of non-employees, who were charged higher fees than employees' children. The complainants consider these fees to be prohibitive. They note that as a result of the plantation expansion, farmers no longer have access to farmland and thus to the possibility to secure an income. Moreover, the complainants claim that SRC's health facilities provided limited access to non-employees and overcharged for the services.

SRC stated that priority for school enrollment is given to employees; however, members of the public have access to the school with annual fees similar to those of government schools in the area. The company also stated that medical facilities, which include a health center, outpost, and ambulance, are available free of charge to all employees and their dependents, and accessible to all community members. The company reported that educational and medical services cost the company more than US\$500,000 per year.

b) Requirements

Through implementation of the Performance Standards, IFC seeks to enhance positive development outcomes on the ground (Sustainability Policy, para. 5).

For projects with significant adverse impacts on affected communities, or impacts on Indigenous Peoples, PS1 (para. 21) and PS7 (para. 10) require the client to implement a consultation process that includes discussion of development benefits to affected communities. An expected outcome of this process would be a development sharing agreement with the client and the affected communities.

c) IFC Pre-Investment Review and Supervision

IFC's pre-investment review and supervision record provide limited substantive comment on the provision of schools and health facilities. IFC's supervision in 2013 and 2019 noted concerns from workers and communities that schools were overcrowded. More broadly, IFC's supervision required the company to develop and implement a Stakeholder Engagement Plan (SEP), including consultation on community development.

d) CAO Compliance Analysis

CAO notes that the claim in this instance is that non-employee community members have less access to company-provided schools and health facilities. The Performance Standards do not explicitly require a company to provide such services to affected communities. However, they can be agreed to as part of a development-sharing agreement following the consultation process in PS1 and PS7. In this instance, IFC's supervision notes that such a consultation process did not

occur. If the company and the affected communities had reached a development-sharing agreement in relation to these issues as an outcome of a consultation process that was then not implemented by the company, this would present a Performance Standard compliance issue. However, because such an agreement was not reached, there is no indication of non-compliance with a Performance Standard in relation to the provision of schools and health facilities to non-employees.

e) CAO Assessment of Related Harm

CAO observes that concession plantation operators in Liberia are required to provide for employees' access to children's education and health services. Non-employee/contractors and communities in and surrounding SRC's plantation have voiced concerns that lack of access to the company's facilities presents a harm to them. While CAO does not question the veracity of this concern and the impact it has upon the complainants, this harm is not related to an IFC non-compliance with the Sustainability Policy.

5. Remedial and Preventative Recommendations for IFC's Consideration in the Development of Its Management Action Plan

In accordance with the CAO Policy,¹⁹² in order to address CAO's findings of non-compliance and related Harm, CAO makes the following recommendations for IFC to consider when developing a Management Action Plan. These recommendations relate to remediation of project-level non-compliance and related Harm, as well as steps needed to prevent future non-compliance.

The CAO Policy (para.120) requires CAO to make recommendations taking into account the implications of an IFC exit. In this instance, the company repaid its loan to IFC on schedule in March 2020. As of that point, IFC has not had a formal investment relationship with the company. This creates a challenge for IFC in implementing project-level actions in response to this investigation. It is important for IFC to assess whether it has any leverage with the company, its parent company, and shareholders, either directly or via financial intermediaries. In instances where a formal relationship no longer exists, IFC senior management should engage directly with the company and its parent company to mitigate any remaining impact to the greatest extent possible.

CAO Project-Level Recommendations
Complaint Issue 1. Physical Displacement, Economic Displacement, and Loss of Livelihood
IFC should work with SRC to: <ul style="list-style-type: none">• Retroactively enhance the compensation rates to meet full replacement costs and provide the affected people with the outstanding payments.• Establish a Retroactive Resettlement Action Plan (RAP) in line with the requirements of PS5. To regain the confidence of the local communities, this Retroactive RAP needs to be highly participatory and include consultations and agreements with the affected people at each stage (ToR, Selection of Contractor, Surveys, Reporting)• In addition, in consultation with the affected people, define the livelihood restoration measures needed to improve or restore the livelihoods and living conditions of the affected households. IFC should work with SRC and the representatives from the 22 affected communities and their supporting organizations to identify and secure the technical assistance necessary to supervise the development and implementation of the Retroactive RAP and conduct stakeholder engagement, monitoring, and reporting.
Complaint Issue 2. Historical Land Claims
IFC should work with SRC to commission an independent assessment of historical land claims. The selection of a consultant should be discussed with representatives from the 22 affected communities and their supporting organizations.
Complaint Issue 3. Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants

¹⁹² CAO Policy, para. 113.

In an effort to deescalate tensions within communities and between the company and communities, IFC should work with SRC to find a mutually acceptable mediator to restart dialogue and aim for mutually acceptable solutions. The selection of a mediator should be a consultative, inclusive, and participatory process involving the representatives from the 22 affected communities and their supporting organizations.

Compliant Issue 4. Gender-Based Violence and Harassment

IFC should work with SRC on the following measures:

Preventative Actions

- Salala should conduct a GBVH risk assessment in its plantations.
- Based on this assessment, Salala should update its sexual harassment policy to ensure the policy aligns to IFC's 2020 Good Practice Note on Addressing Gender-Based Violence and Harassment, Emerging Good Practice for the Private Sector. Importantly, this should include an independent grievance mechanism, and a process for investigating reported incidents of GBVH. These investigations should be conducted by qualified individuals. The policy should stipulate services SRC can refer to GBVH survivors.
- Salala should have a GBVH code of conduct for its staff and contractors. The code of conduct should explain how workers are expected to behave when going about their work and when interacting with service users and community members.
- Salala should publicize the policy, code of conduct, the grievance mechanism to all staff and contractors, and within the local communities.
- Salala should keep confidential records of all GBVH grievances received and any follow-up actions taken upon them.
- Salala should sign agreements with those individuals and organizations that can provide specific services to the company for training, investigation, expert guidance, and survivor counselling and assistance.
- Salala should conduct periodic worker surveys to collect workers' views on the effectiveness of the company measures to prevent and respond to GBVH.

Remedial Actions

Establish a facility to support a claims process for survivors to receive remedy. The facility should, at a minimum, provide the following for survivors:

- Short-term/long-term counselling for survivors and their families
- Healthcare support, including sexual and reproductive health services and treatment of sexually transmitted diseases
- Community and workforce reintegration support
- Funding and referrals to legal services for survivors seeking legal redress
- A mechanism that allows survivors come forward, identify themselves if they wish, and consent to any remedial action that is made available to them
- Financial compensation, as appropriate.

Remedial measures should safeguard claimants' confidentiality and protect claimants and their families against any risk of threats or reprisals. In developing the facility, CAO encourages IFC to consider partnering with nongovernmental organizations that have the appropriate local knowledge, capacity and community trust to effectively implement the claims process.

Further, Salala should take action to ensure that survivors are not intimidated, including public statements at CRC-organized meetings.

Complaint Issue 5. Indigenous Peoples Recognition

IFC should commission a qualified social scientist to conduct a PS7 assessment of whether the Kpelle possess the characteristics of Indigenous Peoples (PS7, para. 5) in varying degrees, and disclose the results.

If the assessment concludes that PS7 should have been applied, IFC should work with SRC to:

- Conduct a participatory mapping of the entire development area to identify customary boundaries between the various Indigenous Peoples' communities in and around SRC's plantation.
- Support the Indigenous Peoples' communities to obtain land titles for this land by funding the necessary surveys and paperwork.
- Facilitate negotiations to reach an agreement between SRC and the affected people.

Pay cash compensation at full replacement costs for Indigenous Peoples' land transformed by SRC's extension program since 2008.

Complaint Issue 6. Destruction of Ancestral Graves and Sacred Sites

Together with a qualified and experience expert, IFC should work with SRC to engage with the aggrieved members of sacred societies to assess impacts and agree on the rituals to address any harm caused by the destruction of sacred sites and ancestral burial sites.

Complaint Issue 7. Water Pollution

IFC should work with SRC to include those water points claimed to be polluted in the 2013 Green Advocates report and 2019 Bread for All report into SRC's annual water testing program, to be conducted by an independent laboratory. The result shall be disclosed to the Liberia Environmental Protection Agency (EPA) and the local communities on a quarterly basis.

SRC should ensure that at least one secure access point to potable water is operational in each of the settlements in the plantation and all affected communities outside the plantation per the Ministry of Health and Social Welfare Standards and environmental permit.

Complaint Issue 8. Poor Employment Conditions and Labor Rights Violations

IFC should commission a PS2 review of SRC operations to confirm compliance with PS2/international core labor standards.

IFC should work with SRC directly or commission an audit firm to review company documentation and hold engagements with workers to understand instances where workers had their salary deducted for personal protective equipment, and ensure that such workers are refunded these deductions.

Complaint Issue 9. Limited Access to Schools and Health Facilities

CAO does not make a recommendation in relation to this complaint issue.

CAO Systemic Recommendations

IFC should not proceed with Board approval where client environmental and social (E&S) assessments of project risks and impacts, including as relevant ESIA's, have not been reviewed by IFC and where IFC have confirmed they are adequate.

IFC should implement controls to ensure that it does not disburse funds to projects where material risk mitigation frameworks have yet to be developed and reviewed by IFC.
IFC should implement controls to ensure that IFC clients with non-compliant ratings (rating of Partly Unsatisfactory or Unsatisfactory) are supervised at least once per year as per IFC's environmental and social review procedure
IFC should develop and implement clear procedures, with timeframes, for when and how IFC should exercise remedies for E&S non-compliance.
Where there are material deviations from client E&S requirements, including amending an ESAP, this should be approved by IFC management and legally agreed with the client.
Beyond legal divestment, IFC should develop other interim remedial measures (in reference to IFC Sustainability Policy 2006 and 2012, para. 26 and 45).

6. Conclusion

Fourteen years of intermittent civil conflict devastated Liberia. Out of a prewar population of 3 million people, approximately 250,000 people were killed and 1.5 million were displaced from their homes. Salala Rubber Corporation (SRC, “the company”), which has operated a rubber plantation in Liberia since 1959, also suffered significant damage to its facilities and operations during the conflict. It was in this context that in late 2007 IFC began appraising an investment in the company. The company sought a 12-year loan investment from IFC to finance replanting of existing rubber trees; expand the rubber plantation from 3,182 ha to 7,200 ha with new rubber trees; rebuild the company’s infrastructure and equipment; and meet the company’s working capital needs. IFC approved the loan in 2008 and it was repaid on schedule in 2020. As a condition of the loan agreement, the company was required to apply IFC’s Performance Standards to its operations, including implementation of the plantation rehabilitation and expansion project between 2008 and 2014.

In May 2019, CAO received a complaint from communities living on and surrounding the Salala Rubber Corporation rubber plantation. The complainants raised a series of concerns regarding the company’s operations and implementation of the plantation rehabilitation and expansion plan, which they allege resulted in harm to them. Specifically, they raised the following concerns regarding the company’s operations and implementation of its plantation rehabilitation and expansion project: stakeholder engagement, grievance handling, and threats and reprisals against complainants; historical land claims; recognition of Indigenous Peoples; destruction of ancestral graves and sacred sites; physical displacement, economic displacement and loss of livelihood; water pollution; poor employment conditions and labor rights violations; limited access to schools and health facilities; and gender-based violence and harassment.

In its investment in Salala Rubber Corporation, IFC’s role was to assess and monitor the environmental and social (E&S) risks and impacts of the company’s operations to ensure that the company operated in accordance with the IFC Performance Standards. Where IFC identified underperformance or non-compliance with the IFC Performance Standards, IFC was required to review with the company opportunities for improvement and work with the company to bring it back into compliance to the extent feasible or exercise remedies.

CAO’s compliance investigation has considered whether IFC’s pre-investment review (2008) and investment supervision (2008–20) were conducted in accordance with applicable IFC Sustainability Policy requirements at the time, and in particular to the issues the complainants raised. CAO’s compliance investigation report has documented a series of non-compliance findings in relation to IFC’s assessment and monitoring of E&S risks and impacts of the company’s operations to ensure that the company operated in accordance with the IFC Performance Standards.

CAO has identified material failures in IFC’s pre-investment review for this investment. IFC completed its pre-investment review without the company’s own E&S assessment (to PS standards) of project risks and impacts of its ongoing operations and plantation rehabilitation and expansion project (contrary to Sustainability Policy, para. 15). In the absence of the company’s own E&S assessment, IFC did not have a basis to make an informed decision about the E&S risk categorization for this investment (contrary to Sustainability Policy, para. 18). Given that the plantation rehabilitation and expansion project proposed a significant expansion on lands on which the company held rights over but that were used by community members for their economic livelihood, IFC was required to assure itself that the project had broad community support. IFC did not trigger this provision (contrary to Sustainability Policy, para. 20). IFC did also did not present an adequate assessment of its decision to not trigger Performance Standard 7 (Indigenous

Peoples) requirements for this investment. This was done despite information that would indicate that such an assessment was necessary. Given the material weaknesses in IFC's review of the E&S risks and impacts of the company's operations, IFC did not prepare an adequate E&S Action Plan (ESAP) for the company to implement, and which would have ensured that the plantation rehabilitation and expansion project proceeded in accordance with the Performance Standards. Given that the ESAP represents the client's contractual obligation to address the project's E&S risks and impact, the absence of an adequate ESAP established a challenging trajectory for IFC supervision from the start of the investment. Accordingly, CAO finds that IFC's pre-investment review did not lead to an expectation that the project would meet the Performance Standards within a reasonable period of time (contrary to Sustainability Policy, para. 17).

An underlying cause for these pre-investment review non-compliances was the lack of assessment of the country context and a realistic understanding of company's status following a devastating civil war without adequately considering how realistic it was for the company to implement international E&S standards (notably, IFC's Performance Standards). In particular, IFC did not adequately assess the contextual environment in which the investment was being made (including weak institutions and very limited E&S expertise in country), and the implications this would have on the company's likelihood of implementing the IFC Performance Standards.

IFC's supervision was non-compliant with its Sustainability Policy commitments. A key objective of IFC's investment was to finance the plantation rehabilitation and expansion project. In 2008 and 2010, IFC disbursed funds to support this objective. IFC proceeded with these disbursements while the company had still not completed a Performance Standard-compliant E&S assessment of its risk and impacts, and where critical mitigation measures had not been implemented. Specifically, in advance of starting the plantation rehabilitation and expansion project, IFC had not ensured that the company (1) had implemented a community consultation process and disclosure of information in accordance with PS1; (2) had adequately assessed and implemented measures to protect cultural heritage; and (3) had implemented a PS5-compliant livelihood resettlement/restoration plan. Rather, in the absence of these measures, the plantation expanded by 1,450 ha between 2008 and 2014, and it had replanted 1,442ha. This resulted in the clearing of lands used by communities who lived on and surrounding the plantation concession area. While IFC's supervision documentation between 2009 and 2014 recorded some of these gaps, they were not resolved.

In 2015, IFC considered a corporate investment with the Salala's parent corporation, Socfin Group. IFC anticipated that this investment would give it leverage to instigate improvements at Salala. In the preparation of this corporate investment, IFC commissioned a third-party consultant (2015) to review Salala's operations, including the plantation rehabilitation and expansion project. This consultant documented significant gaps in the company's approach to assessing and managing E&S risk and impacts in its operations, in particular, biodiversity and social impacts to neighboring communities. Further, the consultant noted that the plantation rehabilitation and expansion project was non-compliant with PS5 in terms of consultation process, compensation paid, and livelihood restoration support provided, and with PS8 in terms of identifying sites of cultural heritage.

Unrelated to E&S issues, IFC's corporate investment did not proceed. Thereafter, IFC's E&S supervision of Salala Rubber Corporation effectively ceased until 2019. This is particularly concerning as IFC's prior supervision had resulted in the company receiving an E&S performance rating of Unsatisfactory, and the 2015 consultant report recorded significant gaps in the company's Performance Standard compliance.

Following a Bread for All report in 2019 alleging that operations by Salala and a related company violated international human rights standards and were non-compliant with the IFC Performance Standards, IFC actively supervised the investment until the loan was repaid on schedule by the company in March 2020. During this period, IFC concluded that many of the issues IFC identified in its last site visit in 2013 remained outstanding. In order to reach Performance Standard compliance, IFC noted that the company needed to: (i) appoint a qualified individual to manage community engagement and social risk assessment and monitoring; (ii) develop a social management plan; (iii) complete a security management plan; (iv) develop and implement a Livelihood Restoration Plan; and (v) map sites of cultural heritage and buffer zones around communities. Further, in order to respond to gender-based violence and harassment (GBVH) issues and reach Performance Standard compliance, IFC noted that the company needed to update its Human Resource policies and procedures to address sexual harassment in the workplace and in communities. At the time of loan repayment, IFC's supervision had not evidence that these gaps had been effectively addressed and measures implemented.

Taken together, CAO finds IFC's supervision during the course of the 12-year investment period non-compliant with its commitment to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, exercise remedies when appropriate (Sustainability Policy, para. 26). The investment was on IFC's high risk list since 2013. As a result, IFC management was aware of the performance gaps. Further, in the context of the 2015 propose corporate investment in Socfin, the company's performance was discussed with IFC senior management. Nevertheless, escalation of company E&S performance gaps did not result in persistent IFC management engagement with the company to ensure E&S performance gaps were addressed or IFC consideration of exercising remedies. Underlying causes for IFC's supervision non-compliance include (i) a failure to ensure that the company prepared an environmental and social impact assessments to PS standards; ii) not binding IFC financial disbursements to the implementation of E&S requirements and mitigation measures of the plantation rehabilitation and expansion project; (iii) a failure to consider exercising remedies after multiple years of E&S underperformance; and (iv) in the context of the company's E&S underperformance, not conducting a site visit between 2014-18, and not supervising the company between 2016-18.

As documented in this compliance investigation report, CAO concludes there has been Harm to complainants related to CAO findings of non-compliance. Specifically, available evidence supports that:

- The plantation rehabilitation and expansion project was not implemented with disclosure of information and community consultation provisions of Performance Standard 1. Accordingly, there was a missed opportunity for communities to understand the company's plantation rehabilitation and expansion project, and have their views considered prior to project implementation.
- Compensation paid to those economically displaced by the plantation rehabilitation and expansion project was not at the Performance Standard 5 replacement cost level. Accordingly, economically displaced individuals were compensated at a rate (US\$3 per rubber tree) significantly below the PS5 replacement cost rate (US\$10-34 per rubber tree).
- Key provisions to protect workers against GBVH incidents were not implemented by the company. In the context of a high prevalence of GBVH incidents in Liberia, the lack of measures to protect workers against GBVH incidents constitutes Harm.

Further, CAO concludes that there are indications of Harm to complainants related to CAO's findings of non-compliance. Specifically, available evidence supports that:

- There are indications of significant and unaddressed harm to GBVH survivors at the company's plantation.
- The failure to adequately ensure that the company has implemented PS4 security requirements is a potential harm to complainants.
- IFC missed an opportunity to assess whether there were significant historical impacts regarding prior land acquisition concerns that could have been addressed by IFC's 2008 investment.
- The failure to adequately assess the application of PS7 (Indigenous Peoples) has potentially resulted in complainant harm. If the assessment had required the application of PS7, additional protections on the implementation of the plantation rehabilitation and expansion project would have been required.
- The plantation rehabilitation and expansion project was implemented in an area that was not adequately assessed and protected for cultural heritage impacts.
- IFC's failure to ensure that the client conducted adequate water quality monitoring contributed to a lack of information necessary to determine Harm with certainty. Without such data, complainant concerns regarding water quality remain unaddressed and the possibility of Harm cannot be discounted.
- The company's labor practices, and IFC's supervision of them, did not evidence compliance with PS2 provisions. Likely harms include salary deductions for work equipment and PPE, and instances of workers bringing family members including children to the plantation to ensure they met daily targets thus impacting children's welfare and increase risk of workplace injuries.

The failure to adequately ensure that the company has implemented PS4 security requirements is a potential harm to complainants. In order to address CAO's non-compliance findings and related Harm, Section 5 of this report includes CAO recommendations for IFC to consider when developing a Management Action Plan.

CAO Case Status

As of the date of this report, CAO has finalized its investigation report and sent it to IFC Management. In accordance with CAO Policy, IFC prepares a Management Report which includes a Management Action Plan (MAP) for the purposes of addressing CAO's findings. Once the IFC Board approves the MAP, CAO publishes this investigation report and IFC's Management Report. CAO's role thereafter is to verify effective implementation of the actions set out in the MAP.

Annex A. Overview of the CAO Investigation Process

*“The purpose of the CAO Compliance function is to carry out reviews of IFC/MIGA’s compliance with E&S [Environmental and Social] Policies, assess related Harm, and recommend remedial actions where appropriate.”*¹⁹³ The Compliance function does not evaluate the adequacy or suitability of E&S Policies, nor does it make findings in relation to the compliance of a project, sub-project, client, or sub-client with the IFC Performance Standards.¹⁹⁴ However, in carrying out its role, the CAO Compliance function will assess IFC/MIGA’s review and supervision of its E&S requirements at the project- or sub-project level, and consider project- or sub-project level environmental and social performance.¹⁹⁵

Notably, CAO has no authority with respect to judicial processes. It is not a court of appeal, a legal enforcement mechanism, or a substitute for international court systems or court systems in host countries.

In line with the Transitional Arrangements agreed as part of the CAO Policy process in 2021,¹⁹⁶ this compliance investigation report was prepared following CAO’s Policy. All prior work, including the compliance appraisal, was prepared following CAO’s 2013 Operational Guidelines.

Investigation

A CAO compliance investigation focuses on IFC/MIGA and how it assured of a project’s E&S performance. The objective of a compliance investigation is to determine:

- (1) whether IFC/MIGA has complied with its E&S Policies; and
- (2) whether there is harm or potential harm related to any IFC/MIGA non-compliance.¹⁹⁷

In assessing IFC/MIGA’s E&S performance, it is often necessary for CAO to review the actions of IFC/MIGA’s client and to verify E&S outcomes in the field.

Scope and Methodological Approach¹⁹⁸

The scope of a compliance investigation is determined in the Investigation Terms of Reference, published in CAO’s Appraisal Report. Compliance investigation is based on information available to CAO from documents, interviews, statements, reports, correspondence, CAO observations of activities and conditions, and other sources that CAO deems relevant. CAO’s Investigation Report will include the investigation findings with respect to compliance, non-compliance, and any related harm. The report will also include context, evidence, and reasoning to support CAO’s findings, and conclusions regarding the underlying causes of any non-compliance identified.¹⁹⁹

Sufficient, relevant evidence is required to afford a reasonable basis for CAO’s compliance findings and conclusions. CAO will not make findings and conclusions with the benefit of

¹⁹³ CAO Policy, Sec. IX.A, available at www.cao-ombudsman.org.

¹⁹⁴ Ibid.

¹⁹⁵ CAO Policy, Sec. IX.C.1.

¹⁹⁶ IFC/MIGA Independent Accountability Mechanism (CAO) Policy Transitional Arrangements, available at: <https://bit.ly/3TaYoTZ>.

¹⁹⁷ CAO Policy, Sec. IX.C.2.a-c.

¹⁹⁸ CAO Policy, Sec. IX.C.1.

¹⁹⁹ CAO Policy, Sec. IX.C.3.

hindsight. Rather, CAO will assess whether there is evidence that IFC/MIGA applied relevant E&S Requirements considering the sources of information available at the time the decisions were made.²⁰⁰ Furthermore, while CAO may seek clarifications during the investigation, it will not accept an expansion away from the scope identified in the TOR. Should additional issues or concerns emerge during an investigation, these may be subject to a separate appraisal at the discretion of the CAO Director General.

In relation to any findings of IFC/MIGA non-compliance and related harm, CAO will make recommendations for IFC/MIGA to consider in the development of a Management Action Plan (MAP) relating to the remediation of project or sub-project -level non-compliance and related harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances. Recommendations will take into account the implications of any IFC/MIGA exit.²⁰¹

Investigation Report Finalization

Upon receiving comments on the draft investigation report from IFC/MIGA and the complainants, CAO will finalize its investigation report. Once the final investigation report is officially submitted to IFC/MIGA Senior Management and circulated to the Board, CAO's website will notify the public of the investigation's completion.²⁰²

Upon CAO's official submission of the compliance investigation report to IFC/MIGA, IFC/MIGA Management has 50 business days to submit a Management Report to the Board for consideration. The management report must include a Management Action Plan (MAP) for Board approval. A MAP outlines actions that IFC/MIGA proposes in response to CAO's investigation findings. IFC/MIGA must consult with complainants and the client during its MAP preparation process.²⁰³

At the same time that IFC/MIGA presents the MAP for Board approval, CAO will submit comments on the proposed MAP to the Board. Upon the Board's approval of the MAP, the compliance investigation report, management report, and MAP will be published on CAO's website.²⁰⁴

²⁰⁰ CAO Policy, Sec. IX.C.1.

²⁰¹ CAO Policy, Sec. IX.C.3.

²⁰² CAO Policy, Section IX.C.4–5.

²⁰³ CAO Policy, Section IX.C.6.

²⁰⁴ Ibid.

Annex B. CAO Compliance Findings of Non-Compliance and Related Harm, and Recommendations

In accordance with the CAO Policy, in response to this compliance investigation, IFC management is required to prepare a Management Report (CAO Policy, para 130). For the purposes of addressing CAO findings of non-compliance and related Harm, if any, the Management Report will include, for Board approval, a Management Action Plan (MAP) comprising time-bound remedial actions proposed by Management (CAO Policy, para. 131). Alternatively, the Management Report should include a reasoned response to CAO's findings or recommendations regarding non-compliance or related Harm that IFC is unable to address in the MAP (CAO Policy, para. 132). If the Board approves a MAP, CAO's monitoring will verify effective implementation of the actions set out in the MAP (CAO Policy, para. 140). CAO compliance monitoring will not consider non-compliance findings for which there is no corresponding corrective action in the MAP (CAO Policy, para. 141).

In table B.1, the first column presents CAO compliance findings and assessment of related Harm. The second column will be completed by CAO during its compliance monitoring of this case on the basis of IFC's Board-approved Management Action Plan.

In table B.2, in accordance with the CAO Policy,²⁰⁵ in order to address CAO's findings of non-compliance and related Harm, CAO makes the following recommendations for IFC to consider when developing a Management Action Plan. These recommendations relate to remediation of project-level non-compliance and related Harm, as well as steps need to prevent future non-compliance.

Table B.1. CAO Findings of Non-Compliance and Related Harm

CAO FINDING OF NON-COMPLIANCE AND RELATED HARM	
IFC Pre-Investment Review – General	
IFC's pre-investment review (i) was not commensurate to risk (2006 Sustainability Policy para. 13) and (ii) did not include a review of the client's E&S assessment of project risks and impacts and adequately consider client's commitment and capacity to manage project impacts in accordance with the Performance Standard requirements (2006 Sustainability Policy para. 11 and 15).	
IFC did not have sufficient information to make an informed decision regarding the E&S risk category of the investment (2006 Sustainability Policy, para. 18).	
IFC did not meet its Sustainability Policy requirement to assure itself that there was broad community support for the project with significant adverse impact on affected communities (2006 Sustainability Policy, para. 20).	
IFC's pre-investment review did not lead to an expectation that the project would meet the Performance Standards within a reasonable period of time (2006 Sustainability Policy, para. 17).	
IFC Investment Supervision – General	

²⁰⁵ CAO Policy, para. 113.

IFC proceeded with the first disbursement knowing that there were material gaps in the company's E&S assessment and with no immediate intention to require an improved version. This is non-compliant with IFC's commitment to work with the client to bring it into compliance (2006 Sustainability Policy, para. 26).

During the 2008-2014 period, IFC supervision was non-compliant with its Sustainability Policy requirement to work with the client to bring it into compliance with agreed E&S requirements, or where the client failed to reestablish compliance, to exercise remedies when appropriate (2006 Sustainability Policy, para. 26).

During the 2015-2018 period, IFC's supervision was non-compliant with its Sustainability Policy commitment to monitor client E&S performance (2006 Sustainability Policy, para. 11).

During the 12-year investment period, IFC's supervision was non-compliant with its commitment to work with the client to bring it back into compliance to the extent feasible, and if the client fails to reestablish compliance, to exercise remedies when appropriate (2006 Sustainability Policy, para. 26).

Complaint Issue 1. Physical Displacement, Economic Displacement, and Loss of Livelihood

IFC's pre-investment review of PS5 was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

CAO finds IFC non-compliant in its supervision of the company's plantation expansion program (2006 Sustainability Policy, paras. 11 and 26).

Regarding physical displacement, the available evidence is not conclusive on whether there has been Harm to complainants.

Regarding economic displacement, CAO concludes there has been Harm to complainants related to IFC's non-compliance. In particular, available evidence records that the company paid compensation at an agreed special rate significantly below the 2006 Performance Standard 5 replacement cost standard, resulting in loss of income and livelihoods to affected people.

Complaint Issue 2. Historical Land Claims

IFC's pre-investment review did not meet its Sustainability Policy (2006) requirement to consider whether there were significant historical impacts with respect to land acquisition associated with the company, including impacts caused by others (2006 Sustainability Policy, para. 13).

CAO concludes there are indications of Harm to complainants. The failure to adequately assess whether there were significant historical impacts regarding land acquisition associated with the company has potentially resulted in a missed opportunity to address complainant Harm.

Complaint Issue 3. Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants

In relation to the company's approach to community engagement, IFC's pre-investment review was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

IFC was non-compliant in its supervision of the company's community engagement program (2006 Performance Standard 1) and the company's implementation of security requirements in Performance Standard 4 (Community Health, Safety, and Security) (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes there has been Harm to complainants related to IFC's non-compliance. Disclosure of information, community consultation, and handling of grievances are key aspects of a company's operations to ensure project risks and impacts are avoided or minimized. The absence of a community engagement program and community grievance mechanism in accordance with the requirements of Performance Standard 1 has resulted in Harm to communities as a result of the plantation expansion.

CAO further concludes there are indications of Harm to complainants due to the company's use of private security forces

Complaint Issue 4. Gender-Based Violence and Harassment

IFC's pre-investment review was not commensurate to the level of E&S risks and impacts (2006 Sustainability Policy, para. 13).

CAO finds IFC non-compliant in its supervision of the company's application of the non-discrimination and equal opportunity requirements of Performance Standard 2 (PS2) (Labor and Working Conditions), particularly regarding workplace harassment (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes that there has been Harm to the complainants related to IFC's non-compliance findings. Specifically, the absence of key provisions at the company to prevent instances of gender-based violence and harassment (GBVH) is a Harm to the complainants. Further, there are indications of significant and unaddressed Harm to GBVH survivors at the company's plantation. During its investigation, CAO heard testimonies from several survivors and from NGOs that have worked with survivors at the company. Survivors described instances of being pressured into sexual acts to retain their job or avoid having their wages for their work on the plantation withheld; when women refused, they were unable to obtain employment or lost their wages. In the country context in which the company operated during the period of IFC's investment, and where adequate measures to prevent GBVH were lacking (see box 4.1), CAO has no reason to doubt these claims.

Complaint Issue 5. Assessment of Risks and Impacts to Indigenous Peoples

IFC's pre-investment review did not present an adequate assessment of its decision to not trigger Performance Standard 7 (PS7) (Indigenous Peoples) for its investment. In the context of the project's location, community use of a language distinct from the official language, and individuals' expression that they are indigenous, a PS7 assessment should have been conducted. As a result, IFC's pre-investment review was not appropriate to the nature and scale of the project and commensurate with the level of E&S risks and impacts, as required by 2006 Sustainability Policy, para. 13.

CAO concludes there are indications of Harm to complainants. If an assessment had required that PS7 be triggered, additional protections on the implementation of the IFC-financed plantation expansion program and the company's stakeholder engagement and recognition of customary land rights would have been necessary.

Complaint Issue 6. Destruction of Ancestral Graves and Sacred Sites

IFC's pre-investment review of cultural heritage issues was not appropriate to the nature and scale of the project or commensurate with the level of identified E&S risks and impacts (2006 Sustainability Policy, para. 13).

IFC was non-compliant in its supervision of the company's commitment to document all cultural heritage issues and ensure compliance with Performance Standard 8 (PS8) (Cultural Heritage) in its expansion program (2006 Sustainability Policy, paras. 11 and 26).

Considering that the concession area includes areas of cultural heritage (graves and sacred forests), and the expansion program affected a significant area (1,450 ha and 1,442 ha replanted), CAO concludes that there are indications of Harm to complainants as a result of the expansion program.

Complaint Issue 7. Water Pollution

CAO finds IFC non-compliant in its review of the company's assessment and monitoring of risks and impacts of its operations on water quality (2006 Sustainability Policy, para. 11).

CAO concludes that there are indications of Harm to complainants. IFC's failure to ensure that the client conducted adequate water quality monitoring contributed to a lack of information necessary to

determine Harm with certainty. Without such data, complainant concerns regarding water quality remain unaddressed and the possibility of Harm cannot be discounted.

Complaint Issue 8. Poor Employment Conditions and Labor Rights Violations

IFC failed to adequately supervise the company's compliance with the requirements of Performance Standard 2 (PS2) (2006 Sustainability Policy, paras. 11 and 26).

CAO concludes there are indications of Harm to complainants. CAO reaches this conclusion on the following basis. (1) IFC supervision provided limited assurance regarding the company's compliance with PS2 requirements. (2) A 2019 third-party consultant report indicated PS2 violations, including salary deductions for work equipment and personal protective equipment (PPE), and instances of workers bringing unpaid family members, including children, to the plantation to work to ensure they met daily targets. (3) the company issued PPE to workers on an annual basis, which is insufficient in the plantation sector.

Complaint Issue 9. Limited Access to Schools and Health Facilities

CAO makes no non-compliance findings.

Table B.2. CAO Project-Level and Systemic Recommendations

CAO Project-Level Recommendations
Complaint Issue 1. Physical Displacement, Economic Displacement, and Loss of Livelihood
<p>IFC should work with SRC to:</p> <ul style="list-style-type: none"> • Retroactively enhance the compensation rates to meet full replacement costs and provide the affected people with the outstanding payments. • Establish a Retroactive Resettlement Action Plan (RAP) in line with the requirements of PS5. To regain the confidence of the local communities, this Retroactive RAP needs to be highly participatory and include consultations and agreements with the affected people at each stage (ToR, Selection of Contractor, Surveys, Reporting) • In addition, in consultation with the affected people, define the livelihood restoration measures needed to improve or restore the livelihoods and living conditions of the affected households. <p>IFC should work with SRC and the representatives from the 22 affected communities and their supporting organizations to identify and secure the technical assistance necessary to supervise the development and implementation of the Retroactive RAP and conduct stakeholder engagement, monitoring, and reporting.</p>
Complaint Issue 2. Historical Land Claims
<p>IFC should work with SRC to commission an independent assessment of historical land claims. The selection of a consultant should be discussed with representatives from the 22 affected communities and their supporting organizations.</p>
Complaint Issue 3. Stakeholder Engagement, Grievance Handling, and Threats and Reprisals against Complainants
<p>In an effort to deescalate tensions within communities and between the company and communities, IFC should work with SRC to find a mutually acceptable mediator to restart dialogue and aim for mutually acceptable solutions. The selection of a mediator should be a consultative, inclusive, and participatory process involving the representatives from the 22 affected communities and their supporting organizations.</p>
Complaint Issue 4. Gender-Based Violence and Harassment
<p>IFC should work with SRC on the following measures:</p> <p><u>Preventative Actions</u></p> <ul style="list-style-type: none"> • Salala should conduct a GBVH risk assessment in its plantations. • Based on this assessment, Salala should update its sexual harassment policy to ensure the policy aligns to IFC’s 2020 Good Practice Note on Addressing Gender-Based Violence and Harassment, Emerging Good Practice for the Private Sector. Importantly, this should include an independent grievance mechanism, and a process for investigating reported incidents of GBVH. These investigations should be conducted by qualified individuals. The policy should stipulate services SRC can refer to GBVH survivors. • Salala should have a GBVH code of conduct for its staff and contractors. The code of conduct should explain how workers are expected to behave when going about their work and when interacting with service users and community members. • Salala should publicize the policy, code of conduct, the grievance mechanism to all staff and contractors, and within the local communities. • Salala should keep confidential records of all GBVH grievances received and any follow-up actions taken upon them.

- Salala should sign agreements with those individuals and organizations that can provide specific services to the company for training, investigation, expert guidance, and survivor counselling and assistance.
- Salala should conduct periodic worker surveys to collect workers' views on the effectiveness of the company measures to prevent and respond to GBVH.

Remedial Actions

Establish a facility to support a claims process for survivors to receive remedy. The facility should, at a minimum, provide the following for survivors:

- Short-term/long-term counselling for survivors and their families
- Healthcare support, including sexual and reproductive health services and treatment of sexually transmitted diseases
- Community and workforce reintegration support
- Funding and referrals to legal services for survivors seeking legal redress
- A mechanism that allows survivors come forward, identify themselves if they wish, and consent to any remedial action that is made available to them
- Financial compensation, as appropriate.

Remedial measures should safeguard claimants' confidentiality and protect claimants and their families against any risk of threats or reprisals. In developing the facility, CAO encourages IFC to consider partnering with nongovernmental organizations that have the appropriate local knowledge, capacity and community trust to effectively implement the claims process.

Further, Salala should take action to ensure that survivors are not intimidated, including public statements at CRC-organized meetings.

Complaint Issue 5. Indigenous Peoples Recognition

IFC should commission a qualified social scientist to conduct a PS7 assessment of whether the Kpelle possess the characteristics of Indigenous Peoples (PS7, para. 5) in varying degrees, and disclose the results.

If the assessment concludes that PS7 should have been applied, IFC should work with SRC to:

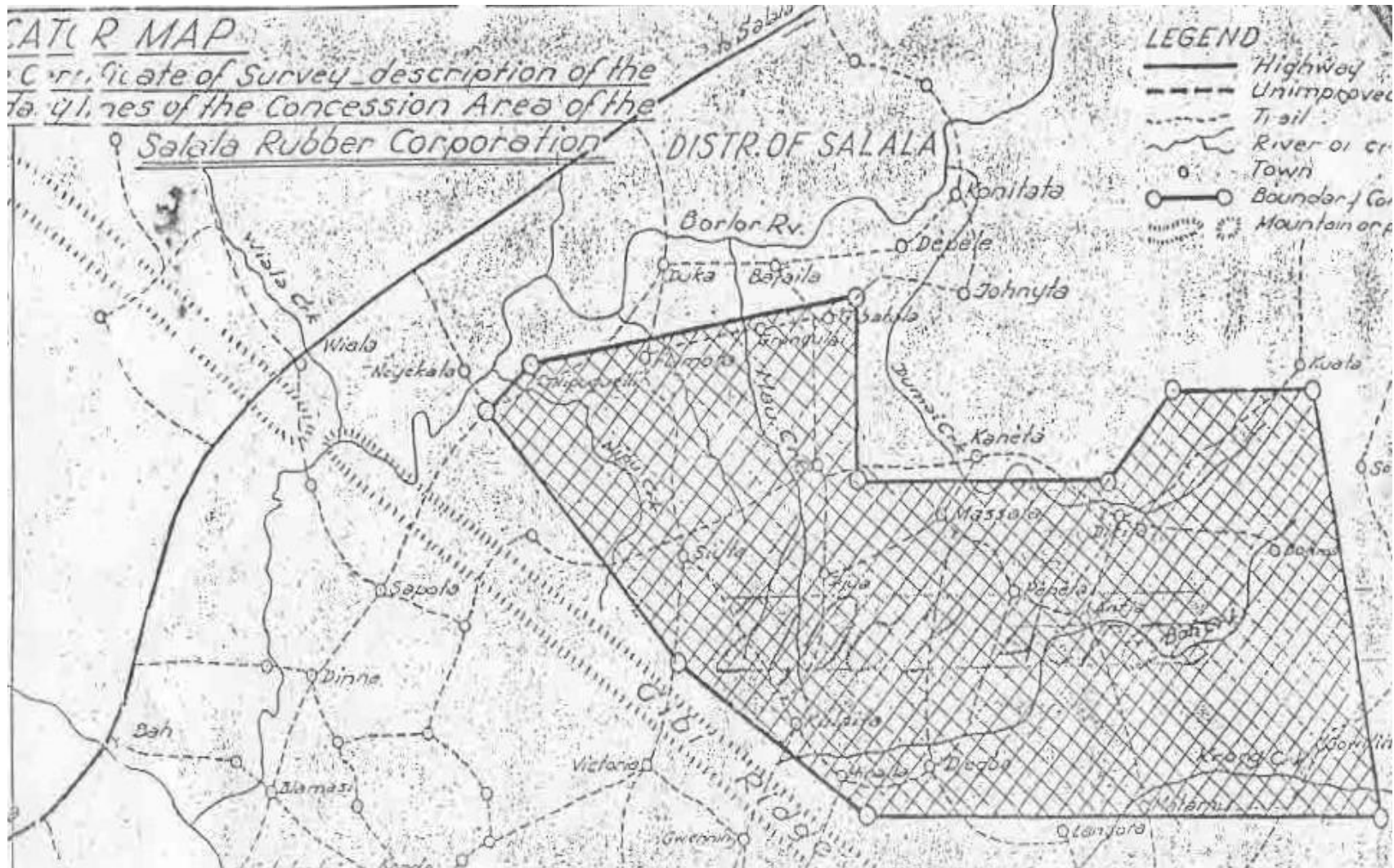
- Conduct a participatory mapping of the entire development area to identify customary boundaries between the various Indigenous Peoples' communities in and around SRC's plantation.
- Support the Indigenous Peoples' communities to obtain land titles for this land by funding the necessary surveys and paperwork.
- Facilitate negotiations to reach an agreement between SRC and the affected people.

Pay cash compensation at full replacement costs for Indigenous Peoples' land transformed by SRC's extension program since 2008.

Complaint Issue 6. Destruction of Ancestral Graves and Sacred Sites

Together with a qualified and experience expert, IFC should work with SRC to engage with the aggrieved members of sacred societies to assess impacts and agree on the rituals to address any harm caused by the destruction of sacred sites and ancestral burial sites.
Complaint Issue 7. Water Pollution
IFC should work with SRC to include those water points claimed to be polluted in the 2013 Green Advocates report and 2019 Bread for All report into SRC's annual water testing program, to be conducted by an independent laboratory. The result shall be disclosed to the Liberia Environmental Protection Agency (EPA) and the local communities on a quarterly basis.
SRC should ensure that at least one secure access point to potable water is operational in each of the settlements in the plantation and all affected communities outside the plantation per the Ministry of Health and Social Welfare Standards and environmental permit.
Complaint Issue 8. Poor Employment Conditions and Labor Rights Violations
IFC should commission a PS2 review of SRC operations to confirm compliance with PS2/international core labor standards.
IFC should work with SRC directly or commission an audit firm to review company documentation and hold engagements with workers to understand instances where workers had their salary deducted for personal protective equipment, and ensure that such workers are refunded these deductions.
Complaint Issue 9. Limited Access to Schools and Health Facilities
CAO does not make a recommendation in relation to this complaint issue.
CAO Systemic Recommendations
IFC should not proceed with Board approval where client environmental and social (E&S) assessments of project risks and impacts, including as relevant ESIA's, have not been reviewed by IFC and where IFC have confirmed they are adequate.
IFC should implement controls to ensure that it does not disburse funds to projects where material risk mitigation frameworks have yet to be developed and reviewed by IFC.
IFC should implement controls to ensure that IFC clients with non-compliant ratings (rating of Partly Unsatisfactory or Unsatisfactory) are supervised at least once per year as per IFC's environmental and social review procedure
IFC should develop and implement clear procedures, with timeframes, for when and how IFC should exercise remedies for E&S non-compliance.
Where there are material deviations from client E&S requirements, including amending an ESAP, this should be approved by IFC management and legally agreed with the client.
Beyond legal divestment, IFC should develop other interim remedial measures (in reference to IFC Sustainability Policy 2006 and 2012, para. 26 and 45).

Annex C. Map C.1 of Concession Area, 1960



Annex D. CAO Analysis of Full Replacement Cost of Rubber Trees

As opposed to an annual crop, for which the replacement cost is simply the market value of the lost harvest for one agricultural season, the replacement cost for a perennial tree such as the rubber tree has to cumulate the loss of income over the period required to re-establish the tree over between the removal of the tree and its future reinstatement to a similar level of production, that is the period during which the tree would have generated income should it not have been removed, which is typically several years. In addition, the cost of replanting the tree and the cost of maintaining it during that same period have to be added.

The compensation amount G (in US dollars) is determined by application of the following formula:

$$G = D + E + F, \text{ with } D = A \times B \times C$$

where:

- **A:** Selling price of fruit (in US dollars per kg)
- **B:** Yield (in kg per tree per year)
- **C:** Average time required to reestablish the tree to its previous production level, in years
- **D:** Value of lost production, in US dollars: $D = A \times B \times C$
- **E:** Cost of seedling and planting (seedling, soil preparation, and initial fertilization) at the new location, in US dollars
- **F:** Cost of labor and inputs required to maintain the crop during the time needed to reestablish it to its previous production level (fertilizer, pest control, pruning, and so on), in US dollars.

In a West-African community context, the parameters in the compensation formula are commonly obtained as follows:

- **A** (buying price at local markets) is obtained by a survey of regional markets and direct interviews with affected farmers, or by using market monitoring data where they exist. From a review of Liberia Market Price Monitor for 2009–11, CAO notes that the buying price of community-produced rubber on local markets in Liberia increased from an average of US\$0.8 per kg in November 2009 to an average of US\$2.2 per kg in June 2011. Furthermore, the international price reached a ten-year high in 2011, or US\$4.82 per kg. Accordingly, for CAO's analysis, two market price assumptions were considered.²⁰⁶

²⁰⁶ In the non-industrial, community plantation conditions that were prevailing in the area for trees that had to be compensated, it is common to assume that labor is provided by family workforce, and is therefore not monetized and not taken into consideration in the calculation of replacement cost (e.g., economically displaced individuals are assumed to not be hiring in other laborers to tend their crops, but rather relying on their own and family work input). Other costs such as fertilization or chemical treatment are usually negligible as such inputs are rarely applied (this is also taken account with a lower productive yield estimate). As a result, income is roughly equal to sales. This is common practice in similar situations in West Africa (community plantations).

- Low market price: US\$1 per kg
 - High market price: US\$2 per kg
- **B** (yield per tree) is sourced from scientific literature, research articles, interviews with local agronomists, or agricultural extension workers. CAO does not have specific data for rubber tree yield of community plantations nearby SRC. Annual kg yields per year in industrial conditions in West Africa range from 4kg to 8kg per tree per year. Literature on yields from community plantations in West Africa indicate 0.5kg to 2kg per year.²⁰⁷ Accordingly, for CAO’s analysis, two yield assumptions were considered.
 - Low yield: 1 kg per tree per year
 - High-yield: 2 kg per tree per year.
- **C** (re-establishment time) can be obtained from secondary agronomic references, usually available from research institutes and confirmed by the local agronomists. The time period required to reach a productive stage in community plantations is usually 6–8 years (as compared to 4–5 years in industrial plantations due to different genetic material being used). CAO uses 7 years for re-establishment in our calculations
- For the purpose of calculating **D** (value of lost production = $A \times B \times C$), affected trees are often categorized in three or four categories (such as seedling, immature, and adult productive). Each of these is assigned a different value of C in years.
- **E** (cost of planting) and **F** (cost of maintenance, including labor, during the re-establishment period) are estimated based on crop agronomic requirements and interviews with affected farmers and local agronomists. There is no specific data on the cost of seedling and maintenance during the tree re-establishment period. Based on information gathered during the CAO investigation visit, CAO has assumed a labor cost of planting of US\$0.50 in year 1 and an average maintenance cost of US\$0.20 per tree from years 2 to 9.

Tree Age Categorization

Usual good practice for this type of trees is to classify them in three age (and associated productivity) categories, as follows:

- Seedling (just planted, one year-old, two-year old)
- Immature (3 to 7 year old)
- Mature and fully productive (8 year-old and older).

A much lower rate is applied to the “seedling” category in order to limit the implications of potential opportunistic plantation (trees planted solely for the purpose of obtaining compensation). A yield equal to half that of the fully productive tree is usually applied to the “immature” category. Table E.1 presents the CAO calculations under two sets of assumptions: a low-yield/low-market price scenario and a high-yield/high-market price scenario.

²⁰⁷ “Mémento de l’agronome” (third issue, 1980), French Ministry of Cooperation, pages 575 and 580 (in French language).

Table D.1. Calculations for Replacement Costs under Two Sets of Assumptions

#	Tree category	A	B	C	D	E	F		D + E + F
		Buying price of rubber (USD per kg)	Yield (kg per year per tree)	Number of years for re-establishment	Loss of income (USD per tree) over the re-establishment period	Cost of seedling (USD per tree)	Cost of maintenance (USD per year per tree)	Cost of maintenance for the period of re-establishment (USD per tree)	Replacement cost (USD per tree)
1	Low yield / Low market price assumption								
11	Seedling (years 1 and 2)	1	0	2	0	0.5	0.2	0.4	0.9
12	Non-mature tree (years 3 to 7)	1	0.5	5	2.5	0.5	0.2	1	4
13	Mature trees (years 8 and further)	1	1	8	8	0.5	0.2	1.6	10.1
2	High yield / High market price assumption								
21	Seedling (years 1 and 2)	2	0	2	0	0.5	0.2	0.4	0.9
22	Non-mature tree (years 3 to 7)	2	1	5	10	0.5	0.2	1	11.5
23	Mature trees (years 8 and further)	2	2	8	32	0.5	0.2	1.6	34.1

Source: CAO.