

# HIGH CARBON STOCK APPROACH

Independent Grievance Panel  
Final Grievance Report

HCSA Grievance Case File:  
HCSA-GM-2018-01

*04 February 2021*

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## List of Acronyms

ACOP	Annual Communication of Progress (to the RSPO)
CA	Concession Agreement
CDF	Community Development Fund
CP	Complaints Panel of the RSPO
CSR	Corporate social responsibility
EC	Executive Committee of the HCSA
EFW	Earthworm Foundation
FCP	Forest Conservation Policy of GAR
FoE	Friends of the Earth
FPIC	Free, Prior and Informed Consent
FPP	Forests Peoples Programme
GAR	Golden Agri Resources
GoL	Government of Liberia
GVL	Golden Veroleum Liberia
HCSA	High Carbon Stock Approach
HCV	High Conservation Value
IBA	Important Bird Area
IFL	Intact Forest Landscape
IGP	Independent Grievance Panel of the HCSA
IVM	Independent Verification Mission of the RSPO
KBA	Key Biodiversity Area
LUCA	Land Use Change Analysis
MOU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NPP	New Planting Procedure
RBA	Rapid Biodiversity Assessment
RSPO	Roundtable on Sustainable Palm Oil
RTE	Rare, Threatened, Endangered
SAP	Sustainability Action Plan of GVL
SDI	Sustainable Development Institute
SEIA	Social and Environmental Impact Assessment
TFT	Tropical Forest Trust
TKN	Tartweh-Kabada-Nitrian
YRF	Young Regenerating Forest

## List of HCSA Social Requirements (SRs)

- SR1 Social knowledge
- SR2 Fair representation and agreeing a process for consent
- SR3 Recognising land rights as a basis for ensuring just acquisition of land or of rights to land access and use
- SR4 Securing ecosystem services for communities
- SR5 Securing livelihoods and local food security
- SR6 Cultural diversity and identity
- SR7 Free, prior, and informed consent
- SR8 Equitable incentive and benefit packages for conservation
- SR9 Management and monitoring of conservation area
- SR10 Grievance and redress procedures
- SR11 Protecting labour rights
- SR12 Ensuring non-discrimination
- SR13 Implementing the SRs when applying the HCSA to existing operations
- SR14 Implications for communities of HCS forest swaps

## List of HCVs

- HCV 1 Species diversity
- HCV 2 Landscape level ecosystem
- HCV 3 Ecosystems and habitat
- HCV 4 Ecosystem services
- HCV 5 Community needs
- HCV 6 Cultural values

# 1 Introduction

## 1.1 The complaint

On July 2<sup>nd</sup> 2018, the High Carbon Stock Approach (HCSA) received a letter of concern from a group of Non-Governmental Organisations (NGOs) - (Friends of the Earth (FOE) US, Milieudefensie (FOE Netherlands), and the Sustainable Development Institute (SDI), of Liberia ('the complainants'). This letter alleged that Golden Veroleum Liberia (GVL) and, by association, its investor Golden-Agri Resources (GAR),<sup>1</sup> had been responsible for clearing High Carbon Stock (HCS) forest and High Conservation Value (HCV) areas, and violations of Free, Prior and Informed Consent (FPIC) in the GVL concession in Liberia (Letter in Appendix 1). The documented evidence of these concerns was presented by the NGOs in their report 'High Risk in the Rainforest', published in July 2018.<sup>2</sup> GAR is a member of the HCSA Executive Committee (EC) and its Steering Group and is responsible for upholding its HCSA membership requirements in relation to its investment holding in GVL.<sup>3</sup>

In its initial response to the HCSA secretariat, GAR reported that GVL was developing a Sustainability Action Plan (SAP) and planned to conduct a re-evaluation of HCSA assessments in the disputed areas.<sup>4</sup> It was confirmed by GVL and GAR, that HCS forests were cleared and that an immediate moratorium on development had been imposed for Sinoe County.<sup>5</sup>

On 21st August 2018, the EC recognised this issue as a formal complaint against GAR, due to the potential breach of the HCSA membership requirements. In October 2018, an interim grievance mechanism was then developed by the HCSA.

A summary of the complaint is given in Table 1.

Table 1. Summary of HCSA GVL\_GAR Complaint

Complainant	Sustainable Development Institute, Liberia
	Milieudefensie, Netherlands
	Friends of the Earth, United States
Defendants	Golden Agri-Resources
Type of Allegations	HCS Forest Clearance
	HCV Area Clearance (HCVs 1-3 and 4)

<sup>1</sup> Via GAR's email response on 5<sup>th</sup> November 2019 to letter dated 5<sup>th</sup> November 2019 from the HCSA secretariat requesting clarification on GAR's ownership, investment and management relationship with GVL, the secretariat documented that GAR is the sole investor in the Verdant Fund LP which GVL is a fully owned subsidiary of the Verdant Fund LP. [GVL Press Release dated 20 July 2018](#): GVL also recognises GAR as its major investor and as such the company is required to meet the GAR Social and Environmental Policy (GSEP).

<sup>2</sup> Sustainable Development Institute (SDI), Milieudefensie and Friends of the Earth (FOE) United States. (2018). 'High Risk in the Rainforest - Golden Agri-Resources (GAR) and Golden Veroleum's Palm Oil Project in Liberia', [https://milieudefensie.nl/actueel/high\\_risk\\_in\\_the\\_rainforest](https://milieudefensie.nl/actueel/high_risk_in_the_rainforest)

<sup>3</sup> GAR is deemed responsible for upholding its HCSA SG membership requirements as it relates to its investment holding in GVL as per 'Code of Conduct for Members of The High Carbon Stock Approach Steering Group' HCSA Implementation membership requirements: 'Members in plantations and commodity sectors will actively implement the HCS Approach across their own operations, in their supply chains and in investment holdings regardless of stake. In cases where implementation is not currently possible, a full moratorium must be in place for potential high carbon stock forest areas.'

<sup>4</sup> Email communication from a GAR HCSA member representative, with GVL representative copied, to the HCSA Executive Director on 20th July 2018.

<sup>5</sup> High Carbon Stock Approach. (2018) 'Meeting Notes GVL Case Call 27 July 2018'. Internal minutes. Unpublished.

	<p>Social and Human Rights Violations related to:</p> <ul style="list-style-type: none"> <li>▪ FPIC and land rights (SRs 2,3, 7,12)</li> <li>▪ Basic needs rights - to ecosystem service provision (SR 4 and HCV 4), and to food security and livelihoods (SR 5 and HCV 5)</li> <li>▪ Cultural rights (SR 6 and HCV 6)</li> <li>▪ The right to grievance mechanisms and remedy (SR 10), and</li> <li>▪ Labour rights (SR 11)<sup>6</sup></li> </ul>
Date Complaint(s) Submitted	2nd July 2018
Date Complaint(s) Accepted	21st August 2018
Location of Complaint	Sinoe County, Liberia
	Grand Kru County, Liberia

## 1.2 The Independent Grievance Panel (IGP)

After consulting with both complaint parties (complainant and defendant) to the grievance on its composition, in July 2019 the HCSA Secretariat appointed an Independent Grievance Panel (IGP) to address the complaint. Its terms of reference (TOR) were to review the allegations against GVL and GAR, as set out by the NGO complainants in their letter and in the High Risk in the Rainforest Report, and to provide recommendations to the HCSA EC based on their findings (see Appendix 2 for the IGP TOR).

The IGP was initially comprised of 3 members with expertise in relevant areas, supported by the HCSA Executive Director and staff members of the secretariat Quality Assurance team, as set out below in Table 2.

Table 2. Independent Grievance Panel Composition and HCSA secretariat support team

Name	Organisation
Angeline Robertson	Acted Independently (Stepped down on 12 Dec 2019)
Philippa Atkinson	Independent consultant including on the HCSA SRs
Ruth Silva	High Conservation Value Resource Network
Judy Rodrigues	HCSA Executive Director
Darren Brown	HCSA Technical Manager
Daneetha Muniandy	HCSA Secretariat

The IGP conducted six virtual meetings in 2019 and 2020 to discuss the scope and division of the work, the investigative and reporting methodology, timeline for completion, and to review and finalise findings. Each IGP member was assigned different aspects of the complaint and different geographical areas. In December

<sup>6</sup> High Carbon Stock Approach (HCSA). (2017) 'Social Requirements', <http://highcarbonstock.org/wp-content/uploads/2017/11/HCSA-Toolkit-v2.0-Module-2-Social-Requirements-211117-web.pdf>

2019, the IGP member, Angeline Robertson, had to step down which limited the geographical coverage of the investigation.

It was decided that the IGP would assess the allegations against GVL in relation to the HCSA Toolkit, version 2.0, published in May 2017.<sup>7</sup> This was because GVL has not to date submitted an HCSA assessment which would be based on V2.0.

The findings of the IGP are presented in this Final Grievance report (IGP Final Grievance Report2020/HCSA-GM-2018-01). This summarises the detailed supporting documents, which are provided in Annexes 1-4 zip file. These are the HCS-HCV TKN Environmental Analysis (produced by IGP member Ruth de Silva); the Land Use Change Analysis (conducted by an independent external expert party Ata Maria); and the Social Aspects Report and Appendices (produced by IGP member Philippa Atkinson).

### 1.3 Background to the complaint

GVL signed a Concession Agreement (CA) with the Government of Liberia in September 2010. This granted the company a 65-year lease for the purpose of oil palm cultivation on 220,000 hectares of land spread across five counties in the southeast of the country (Sinoe, Grand Kru, Rivercess, River Gee and Maryland). The total designated area to date, located in Sinoe and Grand Kru counties, is 40,554 hectares (ha). Of this, 18,290 ha is planted, 11,482 ha allocated as HCV, and none allocated as HCS forest conservation.<sup>8</sup> The CA included a renewal option, and stated that at its end, the land will revert to the Government of Liberia, not to the communities.

This region is populated by various ethnic groups who still rely on the land and forest for most of their basic economic and cultural needs, and who regulate the use of and access to these resources based on customary rights and traditions.<sup>9</sup> Although the customary land rights of these groups were not protected by national laws at the time the CA was signed, and were not recognised in it, Liberia's new Land Rights Act, passed into law in September 2018, does legitimise customary rights.<sup>10</sup>

GVL's operations have been subject to sustained criticism by local and international NGOs and activists, and community members since they started. This has been set out in a series of reports (one in 2014, two in 2015 and two in 2016),<sup>11</sup> and in formal complaints to the RSPO, a process that started originally in October 2012, has continued since, and culminated most recently in a detailed Directive of February 2018.<sup>12</sup> GVL and GAR became members of the RSPO in early 2011, and GAR became a founding member of HCSA, which was formally incorporated in 2015. Note that the same local NGO, SDI, involved in the 2018 complaint to the HCSA, has also been involved in some of the past actions listed above.

These reports and complaints have highlighted various issues associated with the company's relationship with communities affected by its operation. These include inadequate FPIC processes, lack of assessment

<sup>7</sup>HCSA. (2017) *'The HCS Approach Toolkit'*, <http://highcarbonstock.org/the-hcs-approach-toolkit/>

<sup>8</sup>Roundtable on Sustainable Palm Oil (RSPO). (2018) *'GVL Annual Communication of Progress (ACOP) to the RSPO'*, <https://rspo.org/members/944/Golden-Veroleum-Liberia-Inc.-GVL>

<sup>9</sup>Sync Consultants. (2016) *'Liberia's Industrial Agriculture Livelihood Impact and Economic Value Study'*, [https://www.globalwitness.org/documents/18631/Sync\\_Consult\\_-\\_Liberia\\_Agriculture\\_Economic\\_Study\\_-\\_Oct\\_16.pdf](https://www.globalwitness.org/documents/18631/Sync_Consult_-_Liberia_Agriculture_Economic_Study_-_Oct_16.pdf)

<sup>10</sup>Ministry of Foreign Affairs (MOFA) Republic of Liberia. (2018) *'An Act to Establish the Land Rights Law of 2018, Republic of Liberia'*, [https://www.tlcafrica.com/Land\\_Rights\\_Act\\_Signed\\_Copy.pdf](https://www.tlcafrica.com/Land_Rights_Act_Signed_Copy.pdf)

<sup>11</sup>Forest Peoples Programme (FPP). (2015) *'Hollow promises: An FPIC assessment of Golden Veroleum and Golden Agri-Resource's palm oil project in south-eastern Liberia'*, <http://www.forestpeoples.org/sites/default/files/publication/2015/04/hollow-promises-report.pdf>

Global Witness. (2015) *'The New Snake Oil'*, <https://www.globalwitness.org/en/campaigns/land-deals/new-snake-oil/>

Sync Consultants. (2016), *'Liberia's Industrial Agriculture Livelihood Impact and Economic Value Study'*, [https://www.globalwitness.org/documents/18631/Sync\\_Consult\\_-\\_Liberia\\_Agriculture\\_Economic\\_Study\\_-\\_Oct\\_16.pdf](https://www.globalwitness.org/documents/18631/Sync_Consult_-_Liberia_Agriculture_Economic_Study_-_Oct_16.pdf)

Global Witness. (2016) *'Temples and Guns'* [https://www.globalwitness.org/documents/18637/Global\\_Witness\\_-\\_Temples\\_and\\_Guns\\_-\\_Oct\\_16\\_-\\_MR.pdf](https://www.globalwitness.org/documents/18637/Global_Witness_-_Temples_and_Guns_-_Oct_16_-_MR.pdf)

Greenpeace. (2014) *'Golden Agri Resources, a progress report'*, <http://www.greenpeace.org/archive-international/en/publications/Campaign-reports/Forests-Reports/GAR-Progress-Report>

<sup>12</sup>RSPO. (2012) *'Complaints Record on GVL'*, <https://askrspo.force.com/Complaint/s/case/50090000028ErzuAAC/>

procedures and reporting, ignoring of local territorial demarcations and ongoing land conflicts, and a failure to include all parties, with the content of MOUs also criticized for a lack of transparency and specificity of the benefits for affected communities.

In their 'High Risk in the Rainforest' report, the complainants follow up on these previous NGO reports and RSPO complaints, referring extensively to the findings of these previous efforts to hold the company accountable for its alleged violations. The complainants also draw on GVL's own reports and sustainability statements and policies. All of these are open-source secondary sources.

The complainants' report is also based on primary data collected in Sinoe and Grand Kru counties in 2017 and 2018, through public forums, interviews, and surveys, held with GVL workers, community members and other local stakeholders. Their report additionally presents the results of fieldwork and data analysis conducted in a sample area in 2017-2018 to identify any potential cleared HCS forest patches and HCV areas. This sample area was located in the Tartweh-Kabada-Nitrian (TKN) area in Kpanyan district, Sinoe county.

Based on this evidence, and with reference to the international environmental and human rights standards and norms of importance for GAR, GVL and their investors, the complainants contend that the company has failed to meet these obligations. A summary of these allegations are set out in full on pages 30-31 of the complainants' 2018 report (see Appendix 1) including those related to the alleged clearance of HCS and HCV areas (as demonstrated for the sample area) and those concerned its alleged violations of social and human rights.

## 2 Scope, Methods, and Limitations

### 2.1 Scope of the allegations

#### 2.1.1 Geographical scope

The allegations made by the NGO complainants concern the company's operations in Butaw, Tarjuowon and Kpanyan districts in Sinoe county, and in four districts in Grand Kru county, being Trembo, Barclayville, Grand Cess, and Gblebo. GVL has negotiated Memoranda of Understanding (MOUs) with various groupings of communities within each of these districts, which are referred to as 'MOU areas'. Each MOU area relates to a specific hectareage (ha) of land that is being ceded to the company for conversion to palm oil production (and potentially conservation).

There are five affected MOU areas in the three Sinoe county districts, each of which includes a number of settlements or communities. These are Butaw; Tarjuowon; Numupoh, Tartweh-Kabada-Nitrian (TKN), and Du-Wolee-Nyannue (DWN). In Grand Kru, there are 6 MOU areas in total. These include Sorroken, Garraway, and Wedabo, all in Trembo district; located in Barclayville; Grand Cess; and Gblebo.

#### 2.1.2 Categories of potential breaches of the HCSA toolkit (V2.0)

The violations alleged by the complainants can be categorised into six areas in which the alleged actions of the company represent a potential breach of the HCSA requirements, based on what is set out in the HCSA Toolkit V2.0, as follows:

- 1) **Potential clearing of HCV 1- 4 & of HCS forests:** HCV 1 (Species diversity), HCV 2 (Landscape level ecosystem), HCV 3 (Ecosystems and habitat) HCV 4 (Ecosystem services) areas & High Carbon Stock (HCS) forest clearance or degradation.



- 2) *Potential breach of the HCSA SRs related to FPIC and Land Rights.* These are SR 2 (Fair representation), SR 3 (Land Rights), SR 7 (FPIC), and SR 12 (Ensuring non-discrimination)
- 3) *Potential breach of the HCSA SRs related to basic needs.* These are SR 4 (Securing Ecosystem Services, encompassing HCV 4) and SR 5 (Protecting Livelihoods and Local Food Security, encompassing HCV 5).
- 4) *Potential breach of HCSA SRs related to cultural rights.* This relates to SR 6 (Cultural diversity and identity), which encompasses HCV 6 (Cultural values).
- 5) *Potential breach of the HCSA SRs related to grievance mechanisms and remedy.* This relates to SR 10 (Effective Grievance Mechanisms and remedy).
- 6) *Potential breach of the HCSA SRs related to Labour rights.* This relates to SR 11 (Protecting labour rights).

Table 3 shows the potential breaches that have occurred in each MOU area as set out by the complainants.<sup>13</sup> This summarises the information set out in more detail in the summary matrices in Section 3.

Some of the categories of potential breach apply to specific MOU areas, including the potential clearance of HCS and HCVs 1-4, which relates only to the TKN MOU area where the complainants’ sample was located. Some categories apply in more than one location, with alleged FPIC violations in three MOU areas, while in relation to others, including food security and labour rights, the allegations are broader, although testimonies and evidence is drawn from particular areas in which field research was conducted (Numupoh and elsewhere in Kpanyan district). While these areas are the focus of the complaint and the complainants’ report, the IGP has also identified two other categories of potential breach, being SR 10 on grievances and remedy, and SR 1 on Social knowledge, both of which are implied broadly by the overall complaint.

Table 3. MOU Areas and categories of potential breaches of HCSA requirements

MOU Area	Main Category of potential breach
<b>Sinoe County</b>	
Butaw	SRs related to FPIC and land right; grievance mechanisms and remedy
Tarjuowon	SRs related to FPIC and to cultural rights; grievance mechanisms and remedy
Tartweh-Kabada-Nitrian (TKN)	Clearance of HCV (1, 3, possibly 4) and HCS forest
Numupoh	SRs related to basic needs and labour rights
Du-Wolee-Nyennue (DWN)	SRs related to FPIC
<b>Grand Kru County</b>	
6 MOU areas in Trembo, Barclayville, Grandcess and Gblebo districts	SRs unspecified

<sup>13</sup> Note that the testimonies by those affected that are included in the complainants’ report refer to some of these communities directly, rather than to the MOU area where they are located.

## 2.2 Methodology

### 2.2.1 The approach of the IGP

Table 3 provided the framework for structuring the IGP's review of the complaint, and the MOU areas and the relevant categories of potential breach were allocated among the IGP members for further investigation. Firstly, information was set out on the specific complaints related to each MOU area, consisting of the allegations and the evidence for them given in the complainants' report. Then, further supporting evidence on the potential breaches was collated and reviewed in detail, again according to each MOU area. As part of the environmental analysis in relation to the TKN MOU area, a specialised LUCA (Land Use Change Analysis) of the potential breach related to HCS forest was also commissioned externally to the IGP (see Annex 2). Based on the evidence collated and reviewed in this way by the IGP, conclusions would be drawn on the validity of all the allegations related to each MOU area, and finally, recommendations and actions required in response could be developed.

The IGP thus aimed to collate and review the supporting evidence, and develop conclusions and recommendations, for each MOU area and relevant category of allegation, according to the following steps:

**Step 1: To set out the allegations in the complaint, the methodology used, and supporting evidence provided by the complainant,** for each MOU area.

**Step 2: To collate and review the evidence in Step 1, and additional supporting evidence** in relation to each allegation and **outline findings** based on the evidence reviewed

**Step 3: To develop conclusions on the allegations and supporting evidence and potential HCSA toolkit breaches,** based on steps 1 and 2.

**Step 4: To set out recommendations to the HCSA EC,** where the allegations have been validated, recommendations are made on how they should be addressed; along with further information needs where relevant.

The intention was to cover each MOU area and all the alleged violations in detail, but this was not possible in practice due to IGP resource constraints (and due to the departure of one of the IGP members). Instead, the full methodology has been applied to two MOU areas, which have been investigated in greater depth, one in relation to alleged environmental violations, being TKN MOU area, and the other in relation to Social Aspects Report, being Butaw MOU area. This has enabled a thorough investigation to be conducted in the specific alleged violations in these two locations. Although subject to some caveats, as discussed further below under the limitations section, relatively well-substantiated conclusions have been developed as a result, along with recommendations. In turn, tentative broader conclusions have also been drawn regarding the company's overall conservation and social record, in relation to the complainants' allegations.

The three summary matrices presented below in section 3 set show the completed steps 1-4, for the environmental aspects in relation to TKN MOU area, and for the Social Aspects Report, an overall summary matrix, and one specifically on the Butaw MOU area. These summary matrices are based on the detailed findings of the environmental analysis that are set out in full in Annexes 1 and 2, and for the Social Aspects Report in Annexes 3 and 4. These reports set out the methodologies, findings and conclusions that are summarised in the matrices in Section 3 of this report.

### 2.2.2 Approach to allegations related to clearance of HCS and HCV 1-4

The allegations related to violations of the HCSA's conservation requirements were explored through a case study on TKN MOU area, located in Kpanyan district, Sinoe county. This was a desk-based exercise

which mainly relied on information from secondary sources. These were contrasted with each other to provide a more complete picture of the situation, and to reach a conclusion on the validity of the allegations. A key question guiding this review of the evidence was whether the HCVs 1-4 and the HCS forest areas did exist in the past - i.e. by trying to determine what the baseline situation was before the company's operations commenced - and if so, whether and in what ways these environmental values have been impacted by GVL's activities.

The secondary sources used to answer to these questions were:

- Correspondence, reports, and operational documents produced/commissioned by GVL and for the most publicly available, or shared by GVL upon request from the HCSA Secretariat
- Letters, publications, and reports produced by local and international NGOs and activists (as set out above) mostly publicly available
- Letters and reports and other documents related to the RSPO handling of the complaints against GVL
- Publicly available information (maps) published by Global Forest Watch and some of its data sources for information that could help assess the potential historical presence of HCVs, mostly HCV 1.

The only new information produced for the IGP was a land use change Analysis (LUCA), which was also a desk-based review of potential HCS forest located in the area sampled by the complainants (LUCA report by Ata Marie, 2020, in Annex 2). This was commissioned by the HCSA Secretariat upon request by the IGP member responsible for reviewing the allegations related to clearance, in order to try to validate the findings of the complainants' own field study and data analysis on the alleged clearance of HCS forest. This included in relation to areas cleared, an analysis of land cover classifications, and type of HCS forest lost.

### 2.2.3 Approach to allegations related to potential breaches of the HCSA SRs

The review of the allegations related to social and human rights violations was approached firstly through the collation and analysis of more detailed information on the social aspects of GVL's operations overall, and then through focusing in depth on one MOU area, that of Butaw, located in Butaw district of Sinoe county. As with the conservation aspects, this review of the social aspects of the complaint was conducted through a desk review of the available secondary documentation. A number of key sources were used, which span the entire history of the company's operation since 2009-2010, reflect a wide range of perspectives, and were prepared for various different purposes. These include:

- The various NGO reports over the years (i.e., FPP 2015, Global Witness 2016, as well as SDI et al. 2018), and the testimonies and interviews with community members and their representatives, company staff, and other stakeholders, that these contain.
- Documents related to company sustainability policies over its decade of operation, including the Forest Conservation Policy (FCP) of 2012, and the Sustainability Action Plans (SAPs) of 2018 and progress reports on these (April and October 2019).
- Records related to the RSPO and its complaints process, including the Annual Communications of Progress (ACOPs 2013-2019), the GVL RSPO website entry (of 2011), the comprehensive report prepared for the Complaints Panel (CP) by its Independent Verification Mission (IVM) of 2017, along with its extensive sources, and the various detailed CP Decisions and Directives (2013, 2015 and 2018), and documents associated with these such as letters, re-statements of recommendations.
- Other miscellaneous primary and secondary sources, including reports on events that have taken place, statements in the media, letters, and other records.
- The summaries and analysis of the material prepared by the HCSA Secretariat (GVL\_GAR Case Information, October 2019).<sup>14</sup>

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<sup>14</sup> High Carbon Stock Approach (2019). 'HCSA GRV GVL\_GAR Case information'. Internal briefer prepared for the IGP. Unpublished.

All the sources for the Annex 3 Social Aspects Report and the other separate studies are referenced fully in the respective reports.

The Social Aspects Report first presents information and analysis related to the Social Aspects Report of GVL's operations more broadly. This was necessary both to provide historical context for the complaint, and to provide evidence and insight on the potential breach of SR 10 (Effective Grievance Mechanisms and Remedy). This information is set out in an overall chronology of relevant developments related to the company's operations (Annex 3 Social Aspects Report Table 1), and the rights implications are then analysed further, and some tentative overall conclusions drawn. These overall findings were then synthesised into the Overall summary matrix (3.2.1 below).

The information on Butaw was then compiled into a detailed chronology covering all the relevant events and developments related to the company's operations in that particular MOU area (Annex 3 Social Aspects Report Table 2).<sup>15</sup> Analysis was then conducted of the implications of the information compiled in relation to the alleged violations, which in turn yielded relatively firm conclusions and recommendations related to this MOU area specifically, as set out again in a summary matrix (3.2.2 below).

## 2.3 Limitations

The work of the IGP has faced various limitations, including the following:

- The IGP has not been able to conduct full investigations of all the MOU areas that are involved in this complaint due to time and resource constraints, as noted above. Two MOU areas have been covered, related to the conservation allegations in the TKN MOU area and to the social allegations in Butaw MOU area, and these have been able to address both aspects of the complaint in some depth and relatively conclusively. Considerable additional time and resources would be required to carry out similarly in-depth reviews and analysis of the evidence related to all the other MOU areas.
- Although the Social Aspects Report does cover some of the broader historical context of this 2018 HCSA complaint, as well as the specific history of Butaw in more detail, the IGP has not been able to address fully the history and background of the various allegations that have been made against GVL in the past, or the responses and actions by the parties involved (RSPO, GVL, GAR). A more comprehensive historical review of all the MOU areas would provide a deeper understanding, allowing stronger and more comprehensive conclusions to be drawn, and would contribute to better tailoring of the recommendations.
- Being a desk-based exercise, the IGP has not been able to encompass any feedback from the directly affected parties. This is necessary both to further fine-tune some of the findings and conclusions, and to provide input into the discussion of recommendations and next steps. In the absence of any fieldwork with stakeholders and rights-holders, the voices of those affected most directly also remains mediated, and possibly distorted, by third parties.
- The HCS and HCV analysis (Annexes 1 and 2) relies heavily on a mix of regional-level information (and hence not specific to the scale required) and local level information which may be incomplete, inconsistent, and/or lacking spatial reference. This is the case with the information on the presence of HCV 1, with the sources consulted themselves stating that further biodiversity assessments are necessary.
- Some of the available pre-existing information could not be validated. For example, the original intent of the LUCA analysis was to provide information that could help determine the historical presence of HCVs 1 and 3 in the HCV areas that the NGO complainants allege to have been destroyed. This would

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<sup>15</sup> Philippa Atkinson (PA). (2020) 'Annex 4: Social Aspects Report Appendices'

be done by overlaying the TKN area maps with global or national information commonly used to inform HCV identification, and with GVL's own information on HCV presence. This could not be done, however, as the maps included in the GVL HCV study on TKN were distorted<sup>16</sup>.

- The secondary information used to understand the presence of, and the impacts of the company's operations on, the social HCV values (HCVs 4,5 and 6), may have been produced with varying engagement with local communities, and thus may represent an incomplete or inaccurate view of HCV-related community basic needs, and of the impacts of the company's operations.
- In relation to the Social Aspects Report, for the most recent period following the complainants' 2018 report, there appear to be few sources (secondary or primary), apart from the updates and other information produced by the company itself (including its SAPs, updates on them, and entries on the GVL sustainability webpages). This has made it more difficult to assess independently the progress that has been made towards implementing the SAPs, which were developed in direct response to the RSPO complaints process and earlier findings of the IVM.
- While all efforts have been made to cover comprehensively all the available supporting evidence, due to the length of the relevant time period, the substantial amount of documentation, and the time limitations of this review, this has not always been possible. If key sources have been missed, the data they contain should still be incorporated into the findings where possible, especially where there is any material impact on these. Consultation on the report with stakeholders and rights holders could help to address any omissions.

Due to these many limitations, the IGP recommends that its findings related to specific HCS vegetation classes and environmental HCVs should be further and independently verified on the ground (as discussed further in the recommendations section below). In relation to the Social Aspects Report (including HCVs 4, 5 and 6), as set out in the recommendations section of the relevant matrices, the IGP similarly suggests that further information should first be sought from stakeholders and rights holders. This is necessary both to verify and potentially modify and update the conclusions that have been drawn so far, and to discover further details relevant to the remediation process that must now form part of the company's next steps.

But even despite these limitations, it has been possible to draw relatively robust if tentative conclusions in relation to the two MOU areas which have been analysed in depth, covering the conservation and Social Aspects Report of the complaint, and to make recommendations based on these.

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<sup>16</sup> Daemeter. (2014) 'Summary Report of SEIA and HCV Assessment RSPO New Planting Procedures', <https://goldenveroleumliberia.com/wp-content/uploads/2014/09/2014-09-19-RSPO-NPP-Summary-SEIA-and-HCV-GVL-TKN-Project.pdf>

### 3 IGP Findings, Conclusions, and Recommendations

#### 3.1 Summary Matrix for TKN MOU Area

##### Complainant Allegation(s) Category: Clearance of HCS forest and HCV area

Table 4. TKN MOU Area, Kpanyan District, Sinoe county, Liberia,

<p><b>Step 1.</b></p> <p><b>Complainant Allegations/ Methodology/ Supportive Evidence</b></p>	<p><b><u>A. Allegations of HCS forest clearance</u></b></p> <p><b>Methodology</b></p> <p>Mapping of 1180 ha area using handheld GPS, overlaid with GVL’s 2014 HCS maps, and applying the HCSA methodology and from geo-referenced satellite images, to identify any clearance of potential HCS forest.</p> <p><b>Supporting Evidence</b></p> <p><i>‘In a 1180-hectare sample area mapped with handheld GPS devices, 158 hectares were identified as cleared HCS patches. Another 222 hectares of cleared HCS patches were identified from geo-referenced satellite images.’ (SDI et al. 2018, p.18)</i></p> <p><b>380 hectares</b> of potential HCS forest was found to be cleared with the following characteristics:</p> <ul style="list-style-type: none"> <li>i. 268 hectares in high priority protection patches (core area of more than 100 hectares) that are prohibited from clearing;</li> <li>ii. 66 hectares in connected patches (border less than 200 meters from high priority patch) which are crucial for landscape scale connectivity and forest size;</li> <li>iii. 46 hectares that, might have been allowed for clearing in exchange for restoration elsewhere following biodiversity and other assessments.</li> </ul> <p><b><u>B. Allegation of HCV forest clearance</u></b></p> <p><i>‘Since March 2017 GVL also cleared or fragmented some 320 hectares of High Conservation Value (HCV) areas, including chimpanzee habitat identified by the company through its own biodiversity assessments.’ (SDI et al. 2018, p.6) <sup>2</sup> Also indication habitat for pygmy hippopotamus and other large fauna may have been converted (see Supportive Evidence iii) below).</i></p>
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*'Field surveys in September and November 2017 revealed several cases of destruction of riparian buffer zones.'* (potential HCV 4) (SDI et al. 2018, p.20)<sup>2</sup>.

### Methodology

- Clearance of HCV areas was mapped by geo-referencing satellite images and comparing them to maps generated by GVL's 2014 biodiversity and HCV assessments
- Interviews with hunters and community members and "community reports" from the Nitrian MoU<sup>17</sup> Area.
- Field surveys

### Supportive Evidence

- (i) A nationwide chimpanzee survey shows the presence of chimpanzees around GVL's concession area. (SDI et al. 2018, p.20)
- (ii) GVL's 2014 HCV assessment found signs of chimpanzee habitation in the south and west of GVL's Tartweh-Kabada-Nitrian (TKN) Area of Interest, and signs of pygmy hippo habitation in the west. The assessment specifically noted that "The chimpanzee is an HCV 1.2 species of particular concern in the [TKN- Area of Interest] and surrounding Landscape." Clearing in this critical area started in March 2017. (SDI et al. 2018, p.20)
- (iii) Hunters and other community members from the Nitrian MoU area confirmed to Friends of the Earth in April 2018 that before GVL arrived, there were several "big animals," such as pygmy hippopotamus and groups of chimpanzee moving in and out of the Nitrian MoU area. (SDI et al. 2018, p.20)
- (iv) Communities report that currently these chimpanzees are only seen in the Nitrian community forest area east of GVLs plantation estate, as "the GVL tractors have chased them away." (SDI et al. 2018, p.20)

<sup>17</sup> The 'Nitrian MoU' was referred to in allegations by complainant in their High Risk in Rainforest Report which is within the Tartweh-Kabada-Nitrian community area.

## Step 2

### IGP Methodology and supporting evidence

#### A. Allegations of HCS forest clearance

##### Methodology

The HCSA Secretariat appointed an independent specialist third party, Ata Marie Consultants, to conduct a Land Use Change Assessment (LUCA) to evaluate whether forest clearance, including of distinct HCS forest areas, has taken place since 1 January 2015, and to classify any cleared HCS forest using the HCSA toolkit. In the absence of definitive shape files of land cover or final HCS forest areas from a peer reviewed assessment, Ata Marie used satellite imagery to re-stratify land cover in the area of interest (AOI). The satellite imagery covered January 2015, March 2018, and December 2018. The HCSA patch analysis decision tree (HCSA Toolkit Module 5) was then followed to prioritise the forest patches. Comparison of the land cover for the different time periods and use of the patch analysis results enabled findings to be made regarding HCS forest clearance. The full LUCA report, *'Land Use Change Analysis on Potential HCS forest areas in GVL Ltd Plantations, Kpanyan District, Sinoe County in Liberia'* (Ata Maria 2020), is provided in Annex 2.

**Important note:** When the complaint was launched with HCSA, GVL and GAR had confirmed to the HCSA secretariat (via an email on 24 July 2018 and a physical meeting on 6 November 2019) that there was clearance of HCS forest areas but no specifics were shared with HCSA as GVL was updating its HCSA assessment which has yet to date to be received by the HCSA secretariat.

##### Supporting Evidence / Findings

The key findings of Ata Marie's LUCA report include:

- The total area of potential HCS forest converted (in the sample area they studied only), is 1,033 ha, mostly in high priority young regenerating forest (YRF, corresponding to 1,022 ha). The remaining 11 hectares are described as "forest," (*"the secondary forest stratum refers to areas with limited disturbance, and a complex multi-layered canopy, and no evidence of any previous land clearing"*).
- Of this 1,033ha, 955ha was determined to be located in High Priority Patches (HPP) (11ha of forest and 953ha of YRF) and 78ha (all YRF) in Medium Priority Patches (MPP).

The report cautions that these results are indicative only. A more comprehensive review is recommended, including use of the original GVL HCSA 2013/14 pilot analysis, and/or ground truthing, to ensure that the vegetation stratification used for the LUCA is reliable. The consultants note that the YRF and scrub strata exist in a heterogeneous matrix of small patches, as part of a continuum, with the difference between these categories being time elapsed from the previous clearance. These boundaries may thus be unreliable. This is especially important given that nearly all the HCS forest that appears to have been cleared is classified as YRF.



To determine whether GVL's estimates of HCS forest are correct, the GVL HCS assessments and supporting data should be submitted for review. If the revision indicates the analysis was correct, then comparison of current land cover against GVL results will provide more conclusive findings as to the extent of any forest clearing. If the HCS assessment is not made available, or if it is and the results are found to be inaccurate, ground truthing would be needed to verify the vegetation stratification used for the LUCA and ensure more reliable findings.

## **B. Allegations of HCV forest clearance**

### **Methodology**

Desk-based research relying on secondary sources to determine whether HCVs did exist (baseline), and if so, whether these may have been impacted by GVL activities. Information and maps included in the SEIA-HCV (Daemeter 2014) summary report have been compared with what is known (secondary sources) about the potential presence of HCV 1 in the region, with public information about tree cover loss by 2018 and with the outcomes of the LUCA. Consultancy. Refer to the full report for limitations of the methods and sources.

### **Supporting Evidence/Findings**

#### ***Evidence***

Evidence for findings emerges largely from information provided by GVL's HCV report (2012) and SEIA-HCV Report (2014), and uses references to biodiversity found in other sources, and publicly available information on tree cover loss.

The secondary sources used included:

- mailing, reports, and operational documents produced/commissioned by GVL and for the most publicly available, or shared by GVL upon request from the HCSA secretariat
- letters, publications, and reports produced by different complainants mostly publicly available
- letters and reports related to the RSPO handling of the complaints against GVL
- publicly available information (maps) published by Global Forest Watch and some of its data sources for information that could help assess the historical potential presence of HCV 1.
- The Ata Marie's LUCA report (to superimpose manually to areas identified in GVL's HCV and SEAI-HCV studies as in need of further RBA.

**Findings:**

- The allegation of **conversion of HCV 1 area** could not be verified **specifically for the area (320 ha)** identified as converted HCV area by the High-Risk report.
- it is likely that TKN MoU **areas that should have been identified as HCV 1 were not identified as such**, and hence **may have been or will be (at least partially) affected by clearing**. This may include habitat for chimpanzee and other RTE species. The specific allegation of destruction of Chimpanzee habitat within the concession could not be verified, but **areas GVL itself acknowledged to be potential habitat for chimpanzee in 2014 appear to have been converted**:
  - **there has been clearing in at least one area of young regeneration forest / scrub** (identified as Block 4 in the LUCA report – see Annex 1) **which had been identified in 2014 as an area where “RBA necessary based on chimpanzee signs and pygmy hippo sign near northern block.”** (SEIA-HCV Report (2014))
  - **areas designated in 2014 for RBA beyond those included in the High Risk report may have also been converted**, as shown through a manual overlap of the GVL HCV 1 Map (SEIA-HCV Report 2014) with information on tree loss up to 2018 (GFW 2014 accessed in 2020).
- **Wetlands, which may be HCV areas with significant/critical temporal concentrations of species may have not been identified with sufficient detail** (location and extent) **as to ensure their protection**, even if the GVL 2014 study acknowledged them as *“key areas for protecting concentrations of HCV 1.2 species.”* Mapping them was crucial since the **CA included provisions that allowed GVL to drain wetlands**.
- **The likelihood of conversion of HCVs increases as the 2014 Maps and recommendations had some limitations**:
  - Confusing colours and unexplained land cover acronyms
  - HCV 1 areas designated for protection according to the discussion are not reflected in the HCV 1 map
  - Some designations and recommended management measures are not conclusive
  - There is an inconsistency in designation of non-surveyed or insufficiently surveyed areas
  - The scale of the HCV maps seems small for proper identification of the HCV areas and HCV management areas on the ground
- While the complainants do not explicitly **refer to destruction of HCV 3 or HCV 4**, destruction of wetlands and riparian areas may be relevant both to HCV 3 (RTE habitats) and HCV 4 (regulation of hydrological flows and provisioning of quality and quantity of water). These complaints could not be verified since no specific location was provided for the incidents, but the issues discussed in HCV 1 regarding identification of wetlands, and the acknowledged lack of information about their specific location in the HCV 3 section of the SEIA-HCV report (2014), suggest **these values may have been at risk of destruction**, and without delineation on the ground may have been indeed destroyed.

Step 3

**A. Conclusions on allegations of HCS forest clearance**

**IGP Conclusions on validity of Allegation(s)**

The allegation that HCS forest clearance has taken place within GVL TKN MOU Area is valid. HCS forest has been converted in the areas surveyed by the High Risk in the Rainforest Report, as acknowledged already by GVL. Additional areas in the concession have also been converted. Most conversion concerns HCS Forest in high priority patches of Young Regenerating Forest (YRF). Field work is required to finalise the stratification, with attention to the YRF/scrub boundary.

**B. Conclusions on allegations of HCV forest clearance**

**HCV 1**

Allegations of conversion of HCV 1 area could not be verified specifically for the area (320 ha) identified as converted HCV 1 area by the complainants. However, considering information in GVL's HCV report (2012)<sup>18</sup> and SEIA-HCV Report (2014),<sup>19</sup> references to biodiversity found in other sources, and publicly available information on tree cover loss, some conclusions can be drawn for the TKN area indicating the complaint may be valid, as follows:

- It is likely that areas that should have been identified as HCV 1 were not identified and hence may have been or will be (at least partially) affected by clearing. This may include habitat for chimpanzee and other RTE species. Areas GVL itself acknowledged to be potential habitat for chimpanzee in 2014, do appear to have been converted. It remains unclear whether the presence or potential presence of chimpanzees is acknowledged, and if so whether there are any measures in place to protect its habitat from further damage.
- It is likely that areas identified as HCV 1 areas by GVL's own HCV studies have been cleared or are at risk of being (at least partially) cleared.

**HCV 3 and HCV 4**

These complaints could not be verified, as no specific location was provided for the alleged incidence of wetland destruction, but the issues discussed in HCV 1 regarding the identification of wetlands, and the acknowledged lack of information about their specific location in the HCV 3 section of the SEIA-HCV report (2014), suggest that these values may also have been at risk of destruction, and without any delineation on the ground having taken place, they may well indeed have been destroyed or will be if no measures are taken.

<sup>18</sup>Solomon P. Wright and E. Abraham T. Tumbey Jr (2012) 'Golden Veroleum (Liberia) Inc. Priority Planting Areas 5,000, & 7,000 Hectares In Butaw District And 8,000 Hectares In Kpanyan District, Sinoe County, Republic Of Liberia-Assessment of High Conservation Values Report', <https://goldenveroleumliberia.com/wp-content/uploads/2019/01/2012-12-07-RSPO-Assessment-of-HCV-Report-BD.pdf>

<sup>19</sup> Daemeter. (2014) 'Summary Report of SEIA and HCV Assessment RSPO New Planting Procedures', <https://goldenveroleumliberia.com/wp-content/uploads/2014/09/2014-09-19-RSPO-NPP-Summary-SEIA-and-HCV-GVL-TKN-Project.pdf>

#### Step 4.

#### IGP Recommendations

1. GVL must commission independent integrated HCV-HCSA assessments for all areas with outstanding complaints and for areas where information required to decide on presence of HCVs and HCS forest has not been collected yet (RBAs, participatory mapping of wetlands and other areas where basic needs are sourced, etc.) where development has taken place since GVL registered its first HCSA assessments in 2011 or where new development plans exist and/or where outstanding registered GVL HCSA assessments have not been completed. Assessments must not start until:
  - i. GVL has discussed and agreed an effective moratorium of all land development with all communities engaged with GVL through MOUs.
  - ii. Areas in conflict have been identified by GVL with all affected parties and a decision has been made with them to either not commence any assessments until the conflict is resolved or to proceed under clear coordination mechanisms agreed by all parties.
  - iii. GVL has completed to satisfaction all relevant required previous studies (participatory land tenure and land use assessment, participatory social and environmental social impact assessment).
  - iv. GVL has met all preconditions set in the HCSA Toolkit.
2. GVL must revise and update its Sustainability Action Plan (GVL, 2018) as follows:
  - i. including HCV-HCSA assessments as the first action to be undertaken under its Sustainability Action Plan B2 activity (No development of and conservation of HCV areas),
  - ii. updating all HCV and HCS forest maps once additional assessments are completed and updated maps agreed with the communities,
  - iii. updating the detail of HCV and HCS forest conservation and restoration management and monitoring activities to reflect additional/updated assessment results, and the urgency of implementation of some measures
  - iv. prioritizing demarcation of no-go zones on the ground
3. GVL must revise and update all MOUs in coordination with the affected communities, to reflect the agreements following update of HCV, HCS forest and people's lands identification and ongoing FPIC processes conducted by the company to produce an Integrated Conservation and Land Use Plan.

Recommendation for HCSA to support the above IGP recommendations:

- i. The HCSA must provide more detailed guidance on how to retrofit the HCS Approach into pre-existing operations. Ideally, this process should precede the GVL HCV-HCSA assessments, as the current guidance for these assessments is not intended for retrospective identification of HCV and HCS forest (when clearing has already happened) nor for identification of measures to "redress any lack of application of the above requirements."

- ii. HCSA must provide guidance on how GAR and GVL will act to restore the full extent of HCS forest and HCV areas that have been cleared.

See Appendix 3 for additional detailed guidance for supporting the implementation of the above recommendations.

## 3.2 Summary Matrices on social aspects

### 3.2.1 Summary Matrices - Overall<sup>20</sup>

**Complainant Allegation(s) Category(s): A. Grievance mechanisms and remedy (SR 10); B. FPIC and land rights related (SRs 7, 3); C. Basic needs rights (SRs 4 and 5); D. Cultural Rights (SR 6); E. Labour rights (SR 11); F. SR 1 Social knowledge**

<p><b>Step 1.</b></p> <p><b>Complainant Allegations,</b></p> <p><b>Methodology, and Supportive evidence</b></p>	<p><b>Methodology</b></p> <p>Primary field research conducted in a number of the GVL-affected communities over time, using a variety of social research methods. These include public community forums, key informant interviews, and surveys with community members and GVL workers.</p> <p>This is combined with extensive references to existing secondary sources, which are similarly based on a mix of primary research and information from secondary sources. These include reports by other NGOs (FPP 2015, Sync Consult 2016, GW 2016) referred to in SDI et al. (2018), pp. 23, 28). These reports contain allegations and evidence for the same set of rights violations. Reference is also made to material related to the RSPO complaints process (on-going since October 2012), including the report of the IVM (2017), and most recent RSPO CP Directive of Feb 2018, again related to the same rights violations (SDI et al. 2018, p.25).</p> <p>These allegations are summarised on SDI et al. (2018), pp.30-31 (Appendix 1). The alleged breaches have been categorised by the IGP according to the relevant SRs, with testimonies from the report related to each area of breach now set out.</p> <p><b>Supportive evidence according to category of breach</b></p> <p><b>A. Grievance mechanisms and remedy (SR 10)</b></p>
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<sup>20</sup> See also Annex 3 Social Aspects Report, Part 2, especially pp.16-23, for discussion of these findings which relate to breaches by the company’s overall operations across all the MOU areas, as opposed to those related to a specific MOU area (Butaw summary matrix is below in 3.2.2)

- “I stayed in my village for three years. I left cocoa trees and other cash crops. But they cleared it all in my village. Who will I go to? They never came to me to say, 'old man we have spoiled your place.' Who will listen to me?” – Johnson Julukon, Jacksonville, Tarjouwon district, Sinoe County, (SDI et al. 2018, p.28).
- In Kpanyan and Unification Towns, farmers said their farmlands were cleared without compensation (Ibid.)
- In Kpanyan town, a farmer explained, “My cassava farm, they took it and they haven’t given me anything yet.” (Ibid.)
- ‘Community members confirmed to Friends of the Earth researchers in 2017 and again in 2018 that the hill is a sacred site and that they were neither consulted nor compensated for the land’ (Ibid., p, 23)

#### **B. FPIC and land rights related (SRs 7, 3)**

- “When GVL came to this land, it never consulted the citizens of Butaw. They brought in machines and started operating and clearing towns, villages, money trees, and food supplies”. – Richard Sherwin, Butaw Junction, Sinoe County (SDI et al. 2018, p.23).
- “The place where my parents borne me that is my land. That is the place they left for me. This land is for every one of us. Aren’t I the one working here? Let the company come and sit down and talk to us. I will say come and take this piece [of land]. Leave this piece for me, this is where I will make my farm. That is not what they want to do. – Beatrice Flahn, Jacksonville, Tarjouwon district, Sinoe County (SDI et al. 2018, p.24).
- “The day the Memorandum of Understanding was signed with GVL we saw three pickup trucks full of armed police putting guns on our people. GVL forced our people to sign that MOU. When our people see armed police, they are confused. Here’s a man who can’t even read or write, and he is forced to put his fingerprints to sign the MOU.” – Ricky Kanswea Numupoh, Sinoe County (SDI et al. 2018, p.25)

#### **C. Basic needs rights (SRs 4 and 5)**

- Five out of six communities interviewed by complainants indicated that they were significantly more food insecure now than before GVL began operations, and two communities indicated they were more water insecure (SDI et al. p.28).
- In Tubmanville, Kpanyan district, one community member said that the community used to be able to get palm nuts from the forest but now must buy them at a substantially higher rate. “People used to benefit from the forest, but all of those benefits are gone,” said another. (Ibid., p.25)
- In Unification Town, Kpanyan district, community members angrily explained that they can no longer access their traditional lands, resulting in a decline in available farmland (Ibid.)
- Women in Kpanyan, Unification Town and Beloken, all in Kpanyan district, reported spending their limited funds on staples such as cassava, rice and palm nuts that were previously cultivated in the community (Ibid.)
- In Kpanyan and Unification Towns, farmers said their farmlands were cleared without compensation. (Ibid.)
- In Kpanyan town, a farmer explained, “My cassava farm, they took it and they haven’t given me anything yet.” (Ibid. p.28)

- Residents of Kabada and Unification Town also expressed frustration with the lack of functioning water pumps built by GVL in response to negative impacts on drinking water (Ibid.)
- Reference to general finding of Sync Consultants (2016) (see SDI et al, p.28):  
*“Of the nearly 14,000 people estimated to live in the section of plantation under analysis, the direct benefits will be felt by only a small number of people, the 1,650 people who get jobs with the company. In contrast, the plantation poses economic risks to the wider community, which obtains significant values from its lands, including through farming, hunting, and building supplies. These values are much higher than those gained by the smaller employed group”*

#### **D. Cultural Rights (SR 6)**

Complainants draw on Global Witness’ 2016 Report on pp.23-24, as follows:

*‘Community members confirmed to Friends of the Earth researchers in 2017 and again in 2018 that the hill is a sacred site and that they were neither consulted nor compensated for the land’ (SDI et al. 2018, p, 23)*

*“GVL has desecrated two important religious sites, including bulldozing the Palotro Hill at which Blogbo women would pray for fertility, turning it into a muddy construction site for a large palm oil mill. GVL is fully aware that it is building on a sacred place, having been told by communities of the hill’s importance two years ago. (Global Witness 2016, p.3, SDI et al. 2018, p.23)*

#### **E. Labour rights (SR 11)<sup>21</sup>**

- Workers in the Numupoh area in Kpanyan district, undertook a two-day work stoppage on April 25-26, 2018, due to unfair treatment and the recent arbitrary firing of a worker.
- Many workers interviewed about health and safety issues cited that on-site job training by supervisors was insufficient and that broken safety gear was not replaced or was only replaced every six months.
- One senior GVL manager said he could not defend current safety conditions and the lack of proper safety regulations.
- Representatives of the Concerned Workers Committee of Kpanyan, reported that sick workers who report to the clinic are categorically given a “fit to work” statement, and that when workers have family medical needs they are categorically noted as absent.
- Safe transport was another area of concern highlighted by GVL workers. Workers are transported to GVL plantations in overcrowded trucks or tractors, in many cases with as many as 200 people.
- A GVL senior manager said he was convinced a worker would sooner or later get killed by the dangerous transport.
- Testimonies provided by GVL workers also suggest that GVL’s wage policy and structure is out of compliance with international norms. Workers report receiving a monthly salary of \$100-130 dollars after deductions, assuming they meet daily production quotas.

<sup>21</sup> All information on Labour rights from SDI et al. (2018), p.27

	<ul style="list-style-type: none"> <li>• Interviewees reported that if workers fail to meet quotas, they receive a half-day’s salary—which is half the legal minimum wage.</li> <li>• Also note the general references to ‘unfair wages, unsafe transport, insufficient health and safety’ (p.27)</li> </ul>
<p><b>Step 2</b></p> <p><b>IGP Methodology and supporting evidence</b></p>	<p><b>Overall methodological approach for social aspects</b></p> <p>A framework was first developed to understand the wide range of allegations and affected communities involved, as discussed above in Section 2.2 on methodology. This included a consideration of the applicability of SRs and the broader social sustainability context, and the categorisation of the alleged breaches according to the relevant SRs as well as by location and timing.</p> <p><b>Supportive evidence</b></p> <p>The key sources used to investigate the allegations further include reports by other NGOs; RSPO-related documentation, including the IVM of the RSPO CP; the companies’ own sustainability-related documentation; HCSA-related material – see more details on the sources used in Section 2.2.3. These sources include factual information and descriptive policy documents, as well as testimonial evidence from members of affected communities. Most sources relate to the period up until the complaint was made in July 2018, and evidence on developments since then to date is more limited.<sup>22</sup></p> <p><b>Application of methodology</b></p> <p>Information from these key sources was compiled into comprehensive chronologies<sup>23</sup> of events and actions related to the company’s operations overall, and to the Butaw MOU area. The rights implications of these detailed factual accounts were then considered, and conclusions drawn in relation to each potential SRs breach. Recommendations were made and those aspects requiring further input were identified.</p> <p><b>Broad Findings</b></p> <p>Primary and secondary sources are combined into the complainants’ detailed and carefully referenced report (SDI et al. 2018), which gives a clear and consistent account of the company’s alleged SR violations, and the continued failure to address these effectively, across a range of rights and affected communities, as set out in Table 3 Section 2.1.1. The weight of the cumulative evidence from the primary and secondary sources combines to support the specific and broad allegations being made of a historical and current pattern relating to a range of breaches.</p> <p>There is strong consistency between the findings of the complainants’ primary research and what is reported historically in all the secondary sources. So, the testimonies across all these documents give similar accounts of what has happened and assert the same violations – which have also been validated at various points as part of the RSPO complaints process. There is also no reason to doubt the veracity of these</p>

<sup>22</sup> These sources are set out in detail in the Annex 3 Social Aspects Report under the ‘Sources’ section.

<sup>23</sup> Detailed under Annex 4 Social Aspects Report Appendices



	<p>testimonies given consistently by community members, whether to the complainants or to other NGOs and to the RSPO IVM. Reference is also made to the actual records of this field research. There are presumably similar records of earlier research. The IVM report alone was based on nearly thirty thousand documents and extensive field work in affected communities.</p> <p>The information from members of the affected communities themselves - the rights holders - is being mediated by another set of actors (local and international NGOs), however, with their own agendas and perspectives. Moreover, each individual report, including SDI et al. 2018, does not tell anything like the whole or full story of GVL’s engagement in these two southeast Liberian counties, but rather provides a snapshot of that point in time, and the specific field locations in which research has been conducted.</p> <p>Each does however set out considerable primary evidence to support the same range of allegations, and the record that they form together does suggest a consistent historical pattern of these allegations being made and validated but have not been sufficiently addressed.</p>
<p><b>Step 3</b></p> <p><b>Conclusions on validity of Allegation(s)</b></p>	<p>These conclusions are based on the detailed evidence surveyed so far on the company’s overall operations and the Butaw MOU area, as set out in detail in the Annex 3 Social Aspects Report. Some of these are more tentative or preliminary, as indicated, due to the incomplete application of the IGP methodology in terms of location and category of SR breach.</p> <p><b><u>A. Conclusions on allegations related to breaches of Grievance mechanisms and remedy (SR 10)</u></b></p> <ul style="list-style-type: none"> <li>• There appears to have been an on-going, clear, and egregious breach of SR 10 by the company, which dates back to the first complaint of late 2012 and has continued since. This overall conclusion is based on the strong finding of a breach in this area of rights in relation to the Butaw MOU area, as well as the strong likelihood of a similar conclusion in relation to Tarjuowon MOU area. Further information is still needed to determine more precisely the nature and extent of outstanding grievances in each MOU area, as well as take account of any recent developments that may have been omitted.</li> <li>• This finding is based on a comparison of the detailed plans set out in the company’s SAPs (themselves based on the 2018 RSPO CP Directive), with what the company’s two updates during 2019 suggest has actually been implemented since that time. These updates give the impression of little concrete progress on the key areas of the RSPO CP Directive, being mediation and conflict resolution, social re-assessment, and review of MOUs.<sup>24</sup> This suggests that the communities’ original complaints related to FPIC, land and cultural rights violations, have yet to be resolved, meaning that they remain as outstanding grievances.</li> <li>• While this breach relates ultimately to the company’s failure to fulfil the terms of the RSPO complaints process related to the violations in these two locations, the failure of the company to provide adequate grievance mechanisms and remedy for past harms has also represented a breach of SR 10, since the SRs were adopted by the HCSA in 2017. The confirmed violations of SR 7 on FPIC and by association, SR 3 on land rights, equally have yet to be resolved, and so also remain outstanding.</li> </ul>

<sup>24</sup> The detailed references on which this assessment is based are given in the Annex 3 Social Aspects Report, especially in Part 2 and Part 3.

- The suggestion that this breach is ‘egregious’, i.e. particularly serious, is made because of the apparently repeated pattern of behaviour that the company has displayed. This has involved first resisting and delaying the RSPO complaints process, before agreeing to respond to its terms, and developing detailed policies for doing so, followed by further delays in implementing these. On the basis of the information in the two updates on the company’s SAPs published during 2019, this pattern appears to be continuing to date.
- The recent visit to GAR investors in the Netherlands of a Butaw community representative, and comment by a leading campaigner from one of the NGO complainants that *‘little has changed on the ground’* (both in October 2019), suggests that grievances remain outstanding both for Butaw and more broadly.<sup>25,26</sup>

**Firm conclusion that clear and on-going breach of SR 10, subject to up to date input from stakeholders and rights holders to take account of any recent developments or omissions.**

**B. Conclusions on allegations related to breaches of FPIC and land rights (SRs 7 and 3)**

- Breaches by the company of these two closely related areas of rights are confirmed fully and repeatedly in the detailed evidence surveyed in relation to the Butaw MOU area. The flawed nature of the original FPIC process there in 2011-2012, the subject of the complaint of October 2012, was confirmed at the time by the RSPO Complaints Panel in their first decision of February 2013 and reiterated in April and September 2015. This validation of the FPIC violation implies that land rights were also violated, as community lands were converted into oil palm plantations without free, prior, and informed consent. Despite the validation, this issue remained unresolved, and then intensified further, before the on-going RSPO complaints led to a new MOU in early 2017. But the associated FPIC process was found by the IVM to have also been seriously flawed.
- As the corrective actions then required by the RSPO CP in relation to these FPIC violations, including the review of the MOU, still do not appear to have been implemented, the company remains in breach of both these rights, in Butaw at least, in relation to its FPIC process of 2011-2012 and its MOU of February 2017. From the initial evidence gathered on Tarjuowon MOU area, it appears that FPIC and associated land rights breaches have also occurred there, that similarly have yet to be adequately addressed by the company.
- While further detailed information is required to assess these allegations in relation to other MOU areas, the firm conclusion is that GVL has been in breach of the FPIC and land rights of GVL affected communities, both historically, and more recently, and the company does not appear to have adequately addressed these breaches to date, despite having agreed to do so, as far as the available information suggests.

<sup>25</sup> Jeff Conant and Guarav Madan of FOE US (2019). *‘Enough is too much: The growing case for investors to drop Golden Agri-Resources’*, <http://news.mongabay.com/2019/10/enough-is-too-much-the-growing-case-for-investors-to-drop-golden-agri-resources-commentary>

<sup>26</sup> Daniel Nyakonah (2019). *‘Butaw Land defender takes campaign to financiers of Golden Veroleum’*, <https://newspublictrust.com/butaw-land-defender-takes-campaign-to-financers-of-golden-veroleum/>  
See also social aspects report

**Firm conclusion that past breaches of SRs 7 and 3, which appear to remain unresolved and un-remedied despite multiple confirmations by RSPO CP and clear instructions on how to approach. Again, subject to caveat of up to date input from stakeholders and rights holders to take account of any recent developments or omissions**

**C. Conclusions on allegations related to breaches of basic needs rights (SRs/HCVs 4 and 5)**

- This aspect has not been investigated as yet in any depth by the IGP and so the conclusions in relation to these breaches are tentative only, pending further information and analysis.
- The complainants' evidence includes testimonies gathered during fieldwork conducted in Numupoh and elsewhere in Kpanyan district, as set out above. They also refer to the Sync Consultants report of 2016, which gave a highly detailed account of expected and actual food security and livelihood impacts of the company's operations in Sinoe district (SDI et al. 2018, p. 28). These sources consistently emphasise the negative impacts that have been experienced in relation to livelihoods, food security and ecosystem services.
- Negative outcomes would also be expected a priori, as a result of the conversion to oil palm production of land and forest areas previously used by communities, but without any adequate social assessment having taken place, or protection mechanisms being developed, as appears to be the case, again, at least in relation to the MOU area of Butaw for which a highly detailed factual account has been set out. See also SR 1 below.
- Based on the consistent testimonies reported by the complainants and other NGOs, and the absence of any apparent social assessment processes or associated protection measures, for some communities at least, the tentative conclusion is that breaches of SRs 4 and 5 are likely to have occurred, with the on-going negative impacts likely to be continuing in some locations.
- Further local-level investigation is required in order to confirm this tentative conclusion, and to ascertain in more detail the specific ways in which ecosystem services provision, livelihoods, and food security have been affected in each location. This would need to generate detailed information on any impacts from the loss of access to land, water and forest resources that has been experienced by communities, and then to balance these negative socio-economic impacts with the positive ones that have also resulted from the company's operations, including through employment creation, increased economic activity, and other contributions through CSR, and as mandated by the CA through the community development fund (CDF).

**Tentative conclusion that breaches of these basic needs' rights, with further information on actual socio-economic impacts required in order to understand better the nature of these breaches in each location.**

**D. Conclusions on allegations related to breaches of cultural rights (SR 6/HCV 6)**

- This category is particularly relevant for Tarjuowon MOU area, where the sitting by the company of a processing mill on land claimed by local communities to be of strong cultural significance, has been a source of long-standing and apparently still-unresolved grievance. The complainants present evidence for this breach that is drawn from another NGO report (Global Witness 2016, SDI et al. 2018, pp.23-24). An

initial attempt has been made by the IGP to compile the relevant facts of this complicated case into a comprehensive chronology, but further detailed analysis is necessary for this MOU area.

- From the research that has been conducted so far, and based on the evidence presented consistently by the complainants and in other NGO reports (particularly Global Witness 2016 and IVM 2017), the tentative conclusion can be drawn of a breach in this area as well, in relation to this location. As with the FPIC breach under B., this breach is also both historic in its original roots, but has apparently remained unresolved, until the date of the complaint in 2018, and since then to date.

**Tentative conclusion that past and on-going breach of cultural rights in this MOU area, as analysis has not been completed, and further information is again needed to account for any recent developments.**

#### **E. Conclusions related to breaches of labour rights (SR 11)**

The complainants' allegations in this area, set out above, relate to the company's operation more broadly, and are based on their survey of GVL workers across different MOU areas. As this aspect has not been analysed in any detail yet, no conclusions can be drawn until further analysis is conducted.

An initial positive finding drawn from the overall company chronology is its conduct of some transport safety training in June 2019 (as reported on the GVL website). This issue was one of those raised in relation to labour rights by the complainants in their report, as noted above.

Note that in relation to Butaw, early and subsequent redundancies, which were linked to community protests at the breaches of their rights that were occurring, appear to have formed part of the subsequent and continuing unresolved grievance of this group of communities. Further research is necessary on the role of employment in relation to this MOU area.

**Unable to reach any conclusion as Insufficient research on this aspect due to time limitations.**

#### **F. Conclusions on allegations related to breaches of Social Knowledge (SR 1)**

- Although the breach in this area was not explicitly part of the complainants' allegations in their report, it has been identified by the IGP in relation to the requirements of the HCSA SRs. This breach of SR 1 Social Knowledge can be asserted with some confidence, as unless there are other social assessments that have been missed by this research, there has clearly been a failure by the company to conduct these adequately. This means that this crucial foundation for the fulfilment of many other areas of rights (from FPIC to basic needs) has been

	<p>fundamentally lacking. This seems to have been the case since the start of the company’s operations, and to have continued right up to date.<sup>27</sup></p> <ul style="list-style-type: none"> <li>• Various social assessments and re-assessments that remain missing or absent include in relation to the HCSA itself. The company did register to conduct HCSA assessments, which include social aspects, back in August 2016, but these have not been completed or submitted, to date. HCSA members, and their affiliates, are expected to conduct HCSA assessments for expanding development – either stand-alone or combined with HCV – when applying the HCSA to their existing and new operations. The company was also required to conduct social assessment and re-assessment as part of recent and past RSPO CP Directives. These have specifically instructed the company to conduct social assessments including adequate participatory mapping, and for these to form the basis of possible review and reassessment of existing social arrangements.</li> <li>• As far as can be determined from the available evidence, the only social assessments that appear to be available are those that form part of the three HCV assessment reports, Green Consultancy (2012) for Butaw and Kpanyan, Daemeter (2014) for TKN MOU area, and Green Consultancy (June 2016) for MOUs areas located in Grand Kru county. A SEIA was also conducted in 2011 but no report appears to be available. References are made in other reports to some participatory mapping having been being conducted (Green Consultancy 2016), but no records are publicly available, and inadequacies in this area have long been identified by the RSPO CP, and form part of its required corrective actions.</li> <li>• If it is indeed the case that these three publicly available reports are the only social assessments to have been conducted to date, and that no social re-assessments have taken place since the publication of the Toolkit V.2 in May 2017, then, it does appear that GVL is in breach of SR 1, which requires the company to conduct adequate social assessment processes, as the foundation for the fulfilment of the other SRs.</li> <li>• It is possible that key information has been missed, in which case this conclusion may require modification. But based on the relatively wide range of sources that have been surveyed, it is concluded as a breach.</li> </ul> <p><b>Conclusion that breach of SR 1 in past and on-going, with caveat that research may not have been exhaustive. Not part of the complaint, but a foundational aspect of the other rights involved, and part of GAR’s commitments as an HCSA member.</b></p>
<p><b>Step 4</b> <b>IGP</b> <b>Recommendations<sup>28</sup></b></p>	<ul style="list-style-type: none"> <li>• Further input is now required from the stakeholders – being the company and complainants – and the rights holders – members of the affected communities and their designated representatives – in order to respond to these conclusions, and to provide any additional relevant information. This consultation on the findings so far is the first recommended next step in relation to the social aspects.</li> <li>• The next overall recommendation is to complete the remaining detailed analyses on the experiences of the other MOU areas. This further information on specific locations and violations will either confirm and further validate the conclusions set out above, or it may result in</li> </ul>

<sup>27</sup> See also social aspects report on SR 1 on p.23 and p.31

<sup>28</sup> See also social aspects report, pp.34-36

their modification to take account of new developments. Part of this further research will involve determining the extent to which existing RSPO CP directives and associated company SAPs have in fact been implemented as yet.

- The resulting greater understanding of all the specific breaches in more detail in each area, and the status of each RSPO CP mandated action where relevant (in most cases), will then allow the development of more tailored and specific recommendations for each MOU area. As is the case for Butaw, however, a key recommendation in these other cases is also likely to be a return to the existing detailed policy prescriptions of the RSPO CP and SAPs, as these already set out the required actions in detail in relation to each community.
- A key recommendation is to establish further the extent to which the planned policies and remedial actions set out in detail in the SAPs have in fact been implemented, and the terms of the RSPO Directive thus fulfilled, in areas overlapping with HCSA SR requirements (especially in relation to SRs 3, 7 and 10, for which clear breaches have been established), or the extent to which the company remains in breach of these processes and the corresponding HCSA SRs.
- Social assessment processes already form part of these plans and should be conducted as a priority. The objectives and methods of the HCSA assessment which the company is required to conduct as part of HCSA membership, overlap substantially with the RSPO directive to conduct adequate participatory mapping to inform boundary demarcation and MOU review. These processes can thus be combined – what is critical is to carry out the long overdue social assessments, rather than continuing to defer this foundational action.
- While this will also help the company towards addressing its breach of SR 1, the conduct of these required social assessment processes will allow for the review of the communities’ existing MOUs, which has long been mandated by the RSPO CP, and is necessary to address the breaches of SRs 3, 7 and 6. If the necessary mediation, and such a review of MOUs can be conducted, again, in accordance with what the RSPO CP has mandated, then the breach of SR 10 will also be addressed.

### 3.2.2 Summary Matrix for Butaw MOU area

**Complainant Allegation(s) Category(s): A. Grievance mechanisms and remedy (SR 10); B. FPIC and land rights related (SRs 7, 3); E. Labour rights (SR 11); F. Social knowledge (SR 1)**

<p><b>Step 1.</b></p> <p><b>Complainant Methodology and Supportive evidence</b></p>	<p><b>Methodology</b></p> <p>Primary field research conducted among GVL-affected communities using variety of social research methods, combined with extensive references to existing secondary sources, which are similarly based on a mix of primary and secondary sources.</p> <p><b>Supportive evidence</b></p>
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	<p>Ethnographic field research conducted with local stakeholders and rights holders, including public community forums, key informant interviews, and surveys with community members and GVL workers, across time, and in a range of the affected communities, including Butaw. The testimonies and quotes in the report that are related to Butaw specifically include the following:<sup>29</sup></p> <p><b>A. Grievance and remedy (SR 10) and B. FPIC (SR 7) and land rights (SR 3)</b></p> <ul style="list-style-type: none"> <li>• <i>“When GVL came to this land, it never consulted the citizens of Butaw. They brought in machines and started operating and clearing towns, villages, money trees, and food supplies.”</i> – Richard Sherwin, Butaw Junction, Sinoe County (SDI et al. 2018, p.23).</li> <li>• <i>‘2012 Butaw community complaints regarding clearing of HCV areas integral to community livelihoods, including wetlands. This was later confirmed by TFT, which made corrective recommendations. GVL claims that it has since complied with TFT’s recommendations, but this claim is contradicted by community testimonies and independent findings noted throughout this report’. (Ibid., p.17)</i></li> </ul> <p><b>E. Labour rights (SR 11)</b></p> <p><i>“According to Liberian labour law if someone works for three months they should be employed. But now contractors work for over a year and they are still on the contractor level.”</i> – Sackor, Butaw Junction, Sinoe County (SDI et al. 2018, p.26).</p>
<p><b>Step 2</b></p> <p><b>IGP Methodology and Supportive evidence</b></p>	<p><b>Application of IGP methodology to Butaw</b></p> <ul style="list-style-type: none"> <li>• The methodology detailed under Section 2.2 was applied to Butaw MOU area, with relevant information from the key sources compiled into a detailed chronology, and the rights implications of the entries considered. A narrative account was then developed, as well as further analysis of the rights implications, and some conclusions drawn on the basis of the evidence surveyed, and recommendations made (Annex 3 Social Aspects Report).</li> <li>• Although the aim was to collate information as comprehensively as possible from the available sources, the extent and complexity of events in relation to this one MOU area alone, meant that even this process could not be exhaustive. As more broadly, there may thus still be omissions from this account, which could have a material bearing on the conclusions drawn.</li> <li>• Based on the relatively extensive survey that has been conducted of the available information and evidence, however, a fairly complete and accurate account has been constructed of what happened in this location, and the conclusions on the Butaw MOU area are felt to be relatively robust.</li> </ul> <p><b>Supportive Evidence</b></p> <ul style="list-style-type: none"> <li>• The complainant’s report: The testimonies from Butaw specifically that are included and/or referred to directly in the complainants ‘report, contribute to its establishment of a clear historical record and pattern of rights violations, that has continued to date. The company’s historical record in Butaw, and the negative experiences that have been consistently reported by Butaw community members and are repeated in SDI et al. 2018 (p. 23 &amp; 26) documenting past and on-going rights violations.</li> </ul>

<sup>29</sup> Other potential breaches, including of SR 5 on food security and livelihoods, and SR 2 on fair representation are discussed in the social aspects report, pp.31-34

	<ul style="list-style-type: none"> <li>• A key source for this process of compiling the ‘facts of the case’ for Butaw MOU area was the RSPO CP’s IVM report of 2017. This was very thorough in its work on the long-standing alleged and validated violations in this location, surveying nearly 30,000 documents and conducting fieldwork in this location with stakeholders and rights holders. The IVM findings formed the basis of the RSPO CP Decision and Directive of Feb 2018, repeated in July 2018, and closely reflected in the two SAPs of 2018. The 2017 report and the Feb 2018 Directive are taken here as representing a more or less definitive statement of what had happened in relation to Butaw up until that date.</li> <li>• It is more difficult to assess more recent developments in relation to Butaw on the basis of the more limited information available. This is drawn mainly from company sources, including the two progress updates on the SAPs published by GVL during 2019 (in April and October),<sup>30</sup> as well as local media reports.</li> <li>• It is possible that further progress has been made during this recent period by the company to meet the terms of the RSPO complaints process that hasn’t been captured as yet, and up to date input from stakeholders will help to ensure there are no key events or developments that have been missed. These could include actions taken by GVL in accordance with the RSPO CP Directive that have not been adequately reflected in the updates on the SAPs, or decisions taken by communities regarding particular aspects of their outstanding grievances.</li> <li>• For more details on the sources used, see Section 2.2.3 and the Annex 3 Social Aspects Report, Part 1.</li> </ul>
<p>Step 3</p> <p>Conclusions on validity of Allegation(s)</p>	<p><b>Conclusions are now presented with this caveat that key recent developments might have been inadvertently omitted, and they are thus only based on the research that has been conducted so far. As this has been relatively extensive in relation to this MOU area in particular, these are generally firm conclusions, unless otherwise indicated.</b></p> <p><b>A. Grievance and remedy (SR 10)</b></p> <ul style="list-style-type: none"> <li>• The strong conclusion is of a long-standing and continued breach of SR 10 by the company, in relation to two already confirmed violations of FPIC, as follows:             <ul style="list-style-type: none"> <li>○ Violations of the FPIC and related land rights of the Butaw community during the development of 2, 582 ha here by the company in 2011-12. These violations were fully validated by the RSPO CP and TFT at the time, and they have been repeated ever since, including to the complainants (as in the comment given above from Richard Sherwin). The company accepted the RSPO CP’s findings at the time, and developed new FPIC and GM SOPs, but these violations were not adequately remedied at the time and remained outstanding when the company’s relationship with the Butaw community deteriorated further during late May 2015, and subsequently.</li> </ul> </li> </ul>

<sup>30</sup> Golden Veroleum Liberia. (2018) ‘TFT\_GVL Action Plan’ Internal shared with HCSA. Unpublished,  
 Golden Veroleum Liberia. (2019) ‘Sustainability Action Plan’ <https://goldenveroleumlberia.com/sustainability-action-plan/>,  
 Golden Veroleum Liberia. (2020) ‘GVL Sustainability Action Plan February 2020 Update’, <https://goldenveroleumlberia.com/wp-content/uploads/2020/02/GVL-SUSTAINABILITY-ACTION-PLAN-2020-02-24>.



- FPIC rights were then violated again as part of the signing of a new MOU in February 2017, as identified and validated soon after by the IVM of the RSPO (June 2017), and reflected in the CP Directive of Feb 2018 (repeated in July 2018). The measures set out by the RSPO CP for Butaw, including mediation, social re-assessment including participatory mapping, and review of the MOU, if deemed necessary, based on the social mapping, do not appear to have been implemented to date.<sup>31</sup>
- As the historic grievances with the company of the Butaw community (related to FPIC (SR 7); Land rights (SR 3), and documented from 2012 and 2017) remained outstanding at the time of the complaint, a breach of SR (10) is thus also reflected in the testimonies included in the complainants’ report. That they remained outstanding until more recently, is implied by the October 2019 visit of a Butaw community representative to the Netherlands, to put the same historic case to Dutch GAR investors with social sustainability commitments. The apparent lack of any concrete progress towards implementing the key RSPO CP requirements that have been mentioned is clearly reflected in the two SAP updates of 2019. So, while the April update refers to a review of participatory mapping being ‘on-going’, the October one describes the ESIA as ‘deferred’. Progress appears limited to policies being completed rather than actual progress on the ground.<sup>32</sup>
- It is important to note that there has been a recent CSR contribution by the company, with the completion in June 2020 of the secondary school extension and teacher’s accommodation in Butaw, worth USD 120,000, that was agreed as part of the MOU of February 2017. It is unclear if this contribution forms part of the mandated CDF contributions that are set out in the Concession Agreement (CA), or not. The role of community members in developing this project, how it will be run, and other aspects, are also unknown. This contribution may also be relevant to basic needs rights in Butaw, as secondary school education costs can be a major expense for rural parents lacking these facilities locally, who have to fund living expenses in nearby urban areas. This project may also have other elements that have not been sufficiently reported or captured here, and further information is needed on this contribution, including from the perspective of local communities themselves.
- Even given this positive contribution, however, key aspects of the SAPs and RSPO CP Directive on which they were based have yet to be implemented. So no mediation activities or review of the 2017 MOU review appears to have taken place, and no social assessment, including participatory mapping, appears to have been conducted or even started as yet, now 3 years since these key action areas were set out clearly in the definitive report of the IVM. The October 2019 company update also suggests that MOU review is not even being planned for Butaw (and Tarjuowon) with the MOUs for these areas classed as permanent, although subject to annual review.

<sup>31</sup> The references for all the relevant reports and sections therein are given in the Annex 3 Social Aspects report.

<sup>32</sup> Full references in the social aspects report, especially pp.29-31 in Part 3

- Again, information may be missing from this analysis that may explain why this is this case, including any records of the annual review process. Up to date input from stakeholders and rights holders is necessary in order to assess in more detail the nature and extent of the outstanding grievances that are still held by Butaw community members.
- Because the grievances of the Butaw communities are so long-standing, dating right from the start of the company's operations, continuing into the period leading up to the complaint, and apparently still unresolved since, and to date, the breach of SR 10 is particularly apparent in this case, and as stated overall, it is also egregious.

**While more information is necessary on some of the details, this is a firm conclusion of an on-going breach of SR 10 based on the extensive information surveyed.**

#### **B. FPIC (SR 7) and land rights (SR 3)**

- As set out above in the overall summary matrix under **B. FPIC and land rights**, the flawed nature of the 2011-12 FPIC process was confirmed by the RSPO CP in Feb 2013 and since, which has repeatedly called for mediation, social assessment, or re-assessment, MOU review, as well as compensation if necessary. As land was given up under false pretences due to the flawed FPIC process, land rights have also thus been violated by association. Further confirmation of the details is required from rights holders, including which areas of land were given to the company, what it had been used for previously, and the extent of other land and forest to which community members still have access.
- As also discussed above in the overall summary matrix under **B. FPIC and land rights**, the IVM of 2017 then found the updated MOU of early 2017 to have been based on a seriously flawed FPIC process, so confirming an additional and later violation of FPIC. By association, this re-confirms again the associated on-going breach of land rights, which are violated if land is acquired without FPIC. As discussed, the recommended corrective actions set out by the IVM were taken up by the RSPO CP in their Feb 2018 Directive and closely reflected in GVL's SAPs. But limited if any progress appears to have been made in relation to the key aspects of mediation, social assessment and MOU review, all part of addressing the original and subsequent FPIC and land rights violations. This finding of on-going violations in relation to FPIC and land rights in Butaw is thus closely linked to the conclusion of a breach of SR 10.

- These earlier and more recent breaches of SRs 3 and 7 can only be addressed through the satisfactory implementation of the required corrective actions of mediation, social assessment, including participatory mapping, and the review of the 2017 MOU, as set out by the RSPO CP in Feb 2018 and reiterated by the Appeal Panel in July 2018.<sup>33</sup>

**This is a clear and robust conclusion of an on-going breach of SR 3 and SR 10, based on a thorough survey of the relevant evidence.**

#### **E. Labour rights**

- Various violations are referred to in SDI et al. 2018 (p.26, as set out above in the overall summary matrix), both specifically in relation to Butaw, and more broadly, as highlighted by the survey on labour undertaken by the complainants. This aspect has not been examined in any detail due to time constraints. Transport safety training is reported to have taken place in June 2019, helping to address one safety issue raised by GVL workers (SDI et al. 2018, p.27).
- Some entries in the Butaw chronology (Annex 3 Social Aspects Report, Appendix 2) refer to lay-offs associated with the RSPO complaint process, which raises questions about whether promises or agreement on employment of locals by the company formed part of its original engagement with Butaw communities, and Further information is needed on this aspect.

**It has not been possible to draw any conclusion based on the limited information that has been surveyed for Butaw on this aspect.**

#### **F. Social Knowledge**

- As also set out in the overall summary matrix above in relation to **F. Social Knowledge**, this breach was not directly part of the complainants' allegations but is an important aspect of the SRs.
- No recent social assessments appear to have been conducted in relation to communities in Butaw, despite this having been identified specifically as a requirement for Butaw in the RSPO CP Feb and July 2018 communications. The only available social assessment report that of Green Consultancy (2012), which includes parts of Butaw and Kpanyan district.<sup>34</sup> This does include relevant social information including detailed maps of the social HCVs for some communities, and records of community meetings held in September 2012.
- The conduct of social assessment including participatory mapping is required for HCSA members as part of their application of the HCSA to any expansions in their operations, with detailed guidance on this in the HCV-HCSA assessment manual of 2017 (Ibid.). This has been a clear requirement under the SRs since 2017, as well as previously as part of core social commitments, but does not appear to have been implemented to date.

	<p><b>Strong conclusion of a breach of SR 1 in relation to Butaw, although any relevant information that may have been missed may modify this conclusion.</b> Although the breach in this area was not explicitly part of the complainants’ allegations in their report, it has been identified by the IGP in relation to the requirements of the HCSA SRs.</p>
<p><b>Step 4</b> <b>IGP Recommendations<sup>35</sup></b></p>	<ul style="list-style-type: none"> <li>• Input from the stakeholders and rights holders is now necessary, in order to confirm or modify these conclusions. This includes particularly an up to date assessment of the nature and extent of outstanding grievances in the Butaw communities, taking into account fully any developments since mid-2018 that may not have been fully captured in this assessment. This will allow more tailored recommendations to be developed, if necessary, in response to particularly urgent aspects or matters of priority to rights holders.</li> <li>• A key recommendation is to establish further the extent to which the planned policies and remedial actions set out in detail in the SAPs have in fact been implemented, and the terms of the RSPO Directive thus fulfilled, in areas overlapping with HCSA SR requirements (especially in relation to SRs 3, 7 and 10, for which clear breaches have been established), or the extent to which the company remains in breach of these processes and the corresponding HCSA SRs.</li> <li>• These recommendations include the conduct of social assessment including participatory mapping, which is also part of the HCSA assessment process. As discussed in the recommendations in the overall summary matrix above, one social assessment can be conducted, which will then form the foundation for the process of resolving the breaches of SRs 7, 3 and SR 10. This action should be a priority and should not be delayed any further.</li> <li>• Further human rights impact assessment and analysis should be conducted on the Butaw case information to finding out more about who’s land was taken without adequate FPIC and determine what kind of HCSA SR remedy is appropriate; a process that has been started but remains incomplete due to lack of time. This includes assessing confirmed breaches in relation to various criteria including severity, numbers affected, ease of remedy, and others. This would form part of the basis for addressing the on-going breach of SR 10 and moving towards remediation, as this SR requires.</li> </ul>

<sup>33</sup>Roundtable on Sustainable Palm Oil. (2018) ‘Complaints Panel’s decision on the Golden Veroleum Liberia’s (GVL)’, <https://rspo.org/files/download/88ac572d1e4060b> and pg. 29-30 and 32-33 of the social aspects report

<sup>34</sup> T. Tumbey and S. Wright (of Green Consultancy) (December 2012) ‘Assessment of High Conservation Values Report’ <https://goldenveroleumliberia.com/wp-content/uploads/2019/01/2012-12-07-RSPO-Assessment-of-HCV-Report-BD.pdf>

<sup>35</sup> See also social aspects report, pp.34-35

## 4 Implications and Next steps

The below tables summarise the conclusions of the IGP of the conservation and social allegations examined for the TKN and Butaw MoU areas.

Based on the conclusions the IGP recommends that GVL needs to complete its High Carbon Stock Assessments, but before doing so the following conditions should be met:

- i ensure that a land development moratorium is in place until the assessments can be completed;
- ii only proceed where there are no outstanding conflicts and/or agreements with communities are in place; and
- iii when the preconditions for conducting HCSA assessments have been met.

As a priority, IGP also recommends conducting a social assessment including participatory mapping for all relevant MoU areas which is also part of the HCSA assessment process. Furthermore, a human rights impact assessment should be conducted on the Butaw case to find out more about who's land was taken without adequate FPIC and determine what kind of remedy is appropriate as part of addressing action to resolve its breach against HCSA SR 10.

For the GVL HCSA assessments, the IGP indicates additional advice from the HCSA is needed on how to retrofit the methodology and how to remediate HCS forest, HCV areas and/or social values where areas or values have been cleared or damaged.

Additionally, to develop more tailored recommendations linked to the HCSA social requirement breaches, the IGP recommends seeking input from: the stakeholders and rights holders to confirm or modify these IGP conclusions (*particularly to obtain an updated assessment of outstanding grievances as far back as mid-2018 in the Butaw communities*) and from GVL-GAR on pertinent updates progress on its SAPs and RSPO CP Directives where they overlap with HCSA toolkit requirements.

Lastly, as the IGP was unable to investigate all allegations it is recommended the remaining detailed analyses is completed on the other MOU areas to confirm and further validate the conclusions set out in this report - or it may result in their modification to take account of new developments.

The complainants and defendants were provided an opportunity to fact check the IGP's reports and/or to identify any pertinent information to the IGP's analysis was inadvertently omitted and should be considered by the IGP and/or the HCSA EC. The parties were asked to sign a Non-Disclosure Agreement (NDA) with the HCSA secretariat to maintain the confidentiality of the IGP reports. The complainant declined the offer to sign the NDA as they were concerned that the communities, they represent will not be able to review the information within the summary report and its annexes. The defendant, GAR and GVL signed the NDA and came back with some comments on the summary report and submitted additional supporting documents, which were reviewed by the

IGP and HCSA Secretariat. It was found that the comments and additional documents submitted by GVL was not substantial enough to alter the IGP’s initial findings and recommendations. See Annex 5.1, 5.2 and 5.3 for more feedback on GVL’s comments and the IGP’s responses.

This report and its supporting documents will be shared with the HCSA Executive Committee for their consideration and to make decisions on the validity of the allegations and the IGP recommendations for a time bound plan to be developed by the defendant resolve the grievance.

According to HCSA’s interim Grievance Mechanism and the IGP ToR, it is estimated that GAR will have 1-3 months to ensure that GVL adheres to the time bound action plan and adequately rectifies the failures to apply the High Carbon Stock Approach as per the methodology - a failure to do so will be considered a breach of membership requirements. The HCSA secretariat will aim to establish a sub-group of the EC, or request the IGP continue to support this case, to regularly meet and review progress on GVL’s timebound plan which will be in line with confirmed progress reporting timeline.

Pending the HCSA EC decision on the grievance case, IGP recommendations and next steps for the resolution to the grievance case, the HCSA Executive Director will send correspondence to the complainant and defendant outlining the final decision made by the EC and the HCSA secretariat will produce a public summary report to be published on the HCSA website.

Allegation	Summary of Conclusions for TKN MoU Area
Clearance of HCS forest	<p><b>The allegation that HCS forest clearance has taken place within GVL TKN MOU Area is valid.</b> The IGP notes the results are indicative and concurs with the LUCA consultant that a more comprehensive review is recommended, including use of the original GVL HCSA 2013/14 pilot analysis, GVL HCS assessments and supporting data and/or ground truthing, to ensure that the vegetation stratification used for the LUCA is reliable.</p>
Clearance of HCV areas	<p><u>HCV 1</u></p> <p><b>Allegations of conversion of the specific HCV 1 area (320 ha) could not be verified.</b> However, considering information in GVL’s HCV report (2012) and SEIA-HCV Report (2014), references to biodiversity found in other sources, and publicly available information on tree cover loss, <b>some conclusions can be drawn for the TKN area indicating the complaint may be valid and further investigation to confirm this is required.</b></p>
	<p><u>HCV 3 and HCV 4</u></p>

	While the complainants do not explicitly refer to destruction of HCV 3 or HCV 4, however, in the SEIA-HCV report (2014) indicates their potential presence and due to lack of: i) information about their specific location and ii) delineation on the ground there is a risk these values may have been destroyed.
<b>Allegation</b>	<b>Summary of Conclusions for Butaw MoU area</b>
<b>A. Grievance and remedy (SR 10)</b>	<p><b>While more information is necessary on some of the details, this is a firm conclusion of an on-going breach of SR 10 based on the extensive information surveyed.</b></p> <p>As the historic grievances with the company of the Butaw community (related to FPIC (SR 7); Land rights (SR 3) remained outstanding at the time of the complaint and until more recently <b>a breach of SR (10) can be concluded</b>. Additionally, key relative aspects of the SAPs and RSPO CP Directives have an apparent lack of concrete progress which imply outstanding HCSA SR issues may not be resolved with the Butaw communities.</p>
<b>B. FPIC (SR 7) and land rights (SR 3)</b>	<p><b>This is a clear and robust conclusion of an on-going breach of SR 3 and SR 7, based on a thorough survey of the relevant evidence.</b></p> <p>The flawed nature of the 2011-12 and updated MoU 2017 FPIC processes was confirmed by the RSPO CP in Feb 2013 and in Feb 2018 correspondingly (and reiterated by the Appeal Panel in July 2018) and have repeatedly called for mediation, social assessment, or re-assessment, MOU review, as well as compensation if necessary. Limited if any progress appears to have been made in relation to these actions.</p> <p>As land was given up under false pretences due to the flawed FPIC process, land rights have also thus been violated by association.</p>
<b>E. Labour rights</b>	<b>It was not possible to draw any conclusion based on the limited information that has been surveyed for Butaw on this aspect.</b>
<b>F. Social Knowledge</b>	<b>Strong conclusion of a breach of SR 1 in relation to Butaw, although any relevant information that may have been missed may modify this conclusion.</b> No recent social assessments, including participatory mapping, appear to have been conducted in relation to communities in Butaw, despite this having been identified specifically as a requirement for Butaw in the RSPO CP Feb and July 2018 communications and is under HCSA's toolkit requirement.

## 5 HCSA EC Conclusions on the GVL\_GAR Grievance Case

The HCSA EC had reviewed the Final Grievance Report and concurs with the conclusion of the IGP on the validation of the allegations outlined in the complaint submitted by Sustainable Development Institute (SDI) Liberia, Milieudefensie Netherlands, and Friends of the Earth (FOE) United States, against GAR's HCSA Membership breaches.

Taking into account conclusions and recommendations outlined by the IGP Final Grievance Report, the HCSA EC requires that GVL needs to complete its HCV – HCSA assessments using land cover data from March 2015, the date of the publication of the HCSA toolkit, and the quality assurance process to receive a satisfactory evaluation from the ALS. Before doing the HCV-HCS assessments, the following conditions must be met:

- i. Ensure that a land development moratorium is in place until the HCV-HCSA Assessments are be completed with the ICLUP that is validated and accepted by the local stakeholders and rights holders;
- ii. Only proceed where there are no outstanding conflicts and/or agreements with communities are in place; and
- iii. When other preconditions for conducting HCV-HCSA assessments as per the HCV-HCS assessment manual have been met.
- iv. As a priority, all HCSA Social Requirements must be fulfilled such as conducting a social assessment including participatory mapping and determining what kind of remedy is appropriate for resolving breaches against HCSA SR 10 for all relevant MoU areas.

The requirement outlined above must be used as the basis for a timebound plan that outlines the steps that GAR as the HCSA member, and GVL and its investee, will take to implement the recommendations and achieve compliance with the [HCSA's members Code of Conduct](#).

The [HCSA's Interim Grievance Resolution Procedure](#) also requires GAR to: regularly submit 3rd party issued progress reports against its time bound plan or submit evidence on how the breach is rectified within three months, that is independently gathered and reported upon. Progress reports will need to be linked to key outputs of the time bound plan and the timeline these reports will be identified in the time bound plan, and 3rd parties will only be considered independent if they do not have any prior involvement in activities related to the grievance.

A requirement to adhere to a zero-retaliation policy to ensure that rightsholders and affected communities are free of intimidation, coercion, or criminalization must be adopted. This policy must be enacted during the next phase of resolving this grievance via the completion of the corrective actions detailed in the timebound plan and maintained for the duration of operations.

Furthermore, the HCSA EC recommends that a human rights impact assessment should be conducted on the Butaw case to find out more about who's land was taken without adequate FPIC if requested by affected communities as part of the mutually agreed process for resolving grievance.

The HCSA will soon outline additional advice on how to remediate HCS forest, HCV areas and/or social values where areas or values have been cleared or damaged.

The HCSA EC requires formal response and acceptance to the above actions within one month this communication is received.



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## 7 Appendices

### Appendix 1: NGO Letter of Complaint and Summary of Allegations



To:  
HCS Approach Executive Committee  
Judy Rodrigues  
judy@highcarbonstock.org  
CC: Gemma Tillack, Grant Rosoman

2 July 2018

Dear Judy,

We would like to inform you about our newly published report : High Risk in the Rainforest, regarding palm oil company Golden Veroleum Liberia's operations in Sinoe County, Liberia. The report is an analysis of GVL's ongoing operations, including alarming new findings from our own recently conducted mapping of forest clearance in a sample area of GVL's concession. The report also examines GVL's ongoing operations in relation to recent RSPO complaints and the extensive documentation of human rights issues by FPP, Global Witness and Liberian NGOs,

The report affirms many of the issues raised by the RSPO regarding GVL's continued failure to comply with FPIC protocols, which we understand is of concern to the HCSA group. The new report also presents documentation of GVL's clearance of HCS forests and HCV areas.

GVL's HCS assessments were conducted in 2014., but have not yet been subject to peer review by the HCSA group. Over the past months, a team of Friends of the Earth researchers conducted GPS mapping in Kpanyan district in samples of recent clearances. We also examined overlays of recent satellite images and clearings. Following the HCS approach and the decision tree in the toolkit as best as we could with the data available, we found overlap between the clearings and HCS patches (HK2, HK1, BT). Also we found that GVL cleared and fragmented in an area that was indicated as HCV because of potential chimpanzee habitat.

Our research also shows that clearing was ongoing, including in disputed areas subject to RSPO stop work orders, as recently as April 2018. As you might be aware, GVL has appealed the RSPO most recent decision, including the stop work orders in disputed areas.

GVL has seen our findings and contests that they are clearing any HCS. For one HCS area in the Nitrian MoU, they wrote they only conducted clearing after a rapid biodiversity assessment. However, this was an area with a core of over 100 hectares and we consider the RBA to be insufficient to capture the HCS and HCV values that exist in this area.

We are aware that the HCSA peer review panel has not yet reviewed GVL's HCS assessments. We question the quality of GVL's HCS assessment, based on our finding that areas that GVL indicated as cleared open land were in fact forested to different degrees. We recommend GVL redo the assessment and have it reviewed as soon as possible by the HCS Approach steering group. This is

urgent, given current plans to extend the plantations into Tartweh and Nyennue where HCV and HCS values are at stake.

As we note, our recent mapping exercise covered a select sample area, and Friends of the Earth does not have GVL's HCS maps from all plantation estates – leaving open the question of how much HCS/HCV forest GVL may have cleared overall. We would therefore like to respectfully ask for the HCSA group's responses to the following concerns:

- Does the HCSA group have a timeline for reviewing GVL's 2014 HCS assessments?
- Does the HCSA group have a procedure to formally establish if and how much HCS area GVL has cleared or fragmented since the 2014 assessments, and to what extent such clearance is permitted by the 2014 assessments?
- Does the HCSA group have a procedure in place to advance the restoration of previously cleared HCS areas and to ensure ongoing monitoring to prevent any further HCS from being cleared?
- Does the HCSA group have a protocol for holding members accountable for failing to properly implement the HCS approach? If not, we respectfully request that you inform us as to the current status of developing such a protocol; and if so, we would like to know if GVL may be subject to any sort of accountability in this regard.

We would be happy to share the maps and files we used to conduct the analysis and look forward to your views on how to proceed with this case.

All the best,



Danielle van Oijen – Milieudefensie  
James Otto – Sustainable Development Institute  
Jeff Conant – Friends of the Earth USA

## Golden Veroleum Liberia's Violations of International Environmental and Human Rights Norms, National Laws, and Company Policies

	FPIC Non-Compliance	Desecration of Sacred Sites	Violence, Intimidation, and Conflicts	Unsafe Working Conditions
<b>UN Guiding Principles on Business and Human Rights</b>		✘ (12) Responsibility to respect human rights	✘ (11) Avoid causing or contributing to adverse human rights impacts  (18) Identify and assess actual or potential adverse human rights impacts	✘ (12) Responsibility to respect human rights and international labor rights
<b>RSPO Principles and Criteria</b>	✘ (11) Provide adequate information to stakeholders on environmental, social and legal issues to allow for effective participation in decision making  (2.3) Use of the land for oil palm does not diminish legal, customary or user rights without FPIC  (6.2) Open and transparent methods for communication and consultation between growers, local communities and other parties  (7.5) No new plantings on communities' land without FPIC  (7.6) Customary rights holders are compensated for agreed land acquisitions and relinquishment of rights subject to FPIC.	✘ (6.13) Respect human rights	✘ (2.2) Land use is not contested by locals who have customary rights  (6.13) Respect human rights	✘ (4.7) Health and safety plan is communicated and implemented  (4.8) Appropriate training
<b>Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance</b>	✘ (2) Prior to establishment of plantation, respect legal and customary land ownership rights of Indigenous Peoples and local communities and respect right to FPIC			✘ (5) Prioritize worker health and safety
<b>Liberian Community Rights Law</b>	✘ (2.2.c) Any decision, agreement, or activity affecting community forest resources shall not proceed without FPIC			
<b>Liberian Land Rights Policy</b>	✘ (6.4.2) Decisions regarding formal transfer of Customary Land to concession must be fully representative and accountable to all community members			
<b>GVL Forest Conservation Policy</b>	✘ Commitment to FPIC			
<b>GVL Social and Community Engagement Policy</b>	✘ Obtain FPIC of local communities	✘ Respect human rights	✘ Responsibly resolve conflicts	
<b>GVL Human Rights and Sustainability Policy</b>		✘ Support and respect internationally proclaimed human rights. ✘ Ensure company is not complicit in human rights abuses	✘ Ensure company is not complicit in human rights abuses	✘ Occupational health and safety
<b>GAR Social and Environmental Policy</b>	✘ (2.1) Respecting the right to FPIC for indigenous peoples and local communities	✘ (2.2.3) Respecting human rights as articulated in UDHR	✘ (2.1.2) Responsible resolution of conflicts	✘ (3.1) Recognising, respecting and strengthening workers' rights

Golden Veroleum Liberia's Violations of International Environmental and Human Rights Norms, National Laws, and Company Policies					
	Clearance of HCS Forests and HCV areas	Destruction of Crops and Farmlands	Pollution of Water Sources	Lack of Proper Human Rights Due Diligence	Disregarding Customary Land Rights
UN Guiding Principles on Business and Human Rights		X (13) Avoid causing or contributing to adverse human rights impacts	X (13) Avoid causing or contributing to adverse human rights impacts	X (17) Carry out human rights due diligence	X (23) Comply with all applicable laws and respect internationally recognized human rights
RSPO Principles and Criteria	X (5.2) Maintain HCV habitats X (7.3) Do not replace primary forests or HCV areas X (5.6) Execute and monitor plan to reduce greenhouse gas emissions X (7.8) new plantation developments avoid high carbon stock areas	X (3.1) Achieve long-term economic and financial viability X (7.6) Compensation to local peoples for acquired land after FPIC	X (4.4) Maintain quality and availability of surface and ground water.		X (2.1) Compliance with local, national and ratified international laws and regulations. X (2.3) Use of the land for oil palm does not diminish legal, customary or user rights without FPIC X (7.5) No new plantings on communities' land without FPIC
Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance		X (2) Where plantations have been established without FPIC, provide compensation or return of lands for negative livelihood impacts		X (5) Commit to meaningful due diligence, transparency, and disclosure of human rights policies	X (2) Prior to establishment of plantation, respect legal and customary land ownership rights of Indigenous Peoples and local communities and respect right to FPIC
Liberian Community Rights Law	X (3.1a) Communities have the right to control the use, protection, management, and development of community forest resources				X (2.2.a) All forest resources on community forest lands are owned by local communities (2.2.c) Any decision, agreement, or activity affecting community forest resources shall not proceed without FPIC
Liberian Land Rights Policy					X (6.2.2) Communities' customary land ownership rights X (6.4.1) Communities' management authority over customary lands
GVL Forest Conservation Policy	X No development of and the conservation of High Carbon Stock forests No development of and the conservation of High Conservation Value areas				
GVL Social and Community Engagement Policy	X Compliance with All Relevant National Laws and RSPO Principles and Criteria				X Compliance with All Relevant National Laws and RSPO Principles and Criteria
GVL Human Rights and Sustainability Policy	X Comply with environmental laws	X Minimize adverse effects of operations	X Minimize adverse effects of operations		
GAR Social and Environmental Policy	X (1.1) No development of and the conservation of High Carbon Stock forests (1.2) No development of and the conservation of High Conservation Value areas			X (4.3) Due diligence and grievance procedures	X (2.2.4) Respecting land tenure rights

## Appendix 2: Terms of Reference for GVL-GAR Independent Grievance Panel Member Eligibility, Roles & Responsibilities

### Background

On 2<sup>nd</sup> July 2018, the High Carbon Stock Approach (HCSA) received letter of concern from Milieudefensie, Sustainable Development Institute and Friends of the Earth USA regarding Golden Veroleum Liberia (GVL), and its investor Golden-Agri Resources (GAR) – a HCSA member, clearing of High Carbon Stock (HCS) forest and High Conservation Value (HCV) areas in concessions in Liberia. The concerns were based on documented evidence presented in the NGO report '[High Risk in the Rainforest](#)'. A 2<sup>nd</sup> July 2018 e-mail response from the former HCSA Executive Committee (EC) Co-Chairs and HCSA Executive Director (ED) to the NGOs committed to investigating and taking appropriate actions to the concerns raised in the report.

Subsequent action on this matter included e-mail exchanges, a call and in-person meeting with GVL and GAR (GAR was not involved in the in-person meeting), with both companies acknowledging and committing to actions to address the raised HCSA, HCV and social concerns raised in the NGO report. GVL also committed to submitting its HCSA assessments for the HCSA peer review process as soon as possible. Additionally, the HCSA Secretariat:

- i. Published HCSA's [Interim Grievance Resolution Procedure](#) on 1<sup>st</sup> October 2018.
- ii. Documented that GAR is the sole investor in the Verdant Fund LP which GVL is a fully owned subsidiary of the Verdant Fund LP. Thus, GAR is deemed responsible for upholding its HCSA Steering Group membership requirements as it relates to its investment holding in GVL as detailed under the [HCSA Steering Group Terms of Reference](#) and HCSA [Membership Requirements and Code of Conduct](#).
- iii. The HCSA Secretariat met with GVL's representatives, Mr. Alwi Hafiz (Sustainability Advisor) and Dr. Michael Abedi-Lartey (General Manager of Sustainability) in Kota Kinabalu, Malaysia on 13<sup>th</sup> November 2018, where GVL reconfirmed there has been HCS clearing. Also, GVL actions to address issues related to Free, Prior and Informed Consent are detailed in GVL's public [action plan](#).

The full chronological details of this grievance are detailed in the document 'GVL\_GAR Grievance Case Overview'.

### Independent Grievance Panel (IGP)

#### A. Roles & Responsibilities

- i) An IGP member will be supplanting the role of the Co-Chairs in their named responsibilities in the '[HCSA Interim Grievance Resolution Procedure](#)' ((IGRP) October 2018). Succinctly, this entails taking the main lead with the HCSA ED



overseeing the grievance process and making recommendations to the EC for any formal decisions on the grievance resolution/outcome.

It is important to note as this NGO grievance was launched prior to the IGRP being approved and the former EC Co-Chairs and HCSA ED committed to investigating the concerns the IGRP the panel members will fulfil the duties detailed under IGRP 5.0 HCSA Grievance Resolution Process and oblige to all the other IGRP requirements within a timely fashion. *[A specific timeline on the grievance next steps and action plan needs to be set. The independent grievance panel members should strive to do this with HCSA ED as soon as the panel is established. See the GVL-GAR Grievance Process Next Steps section below for more details].*

- ii) The IGP and the grievance process will be coordinated by the HCSA ED. All panel meetings and deliberations will be done via conference calls and e-mails coordinated by the HCSA ED.

The IGP will conduct an assessment of the validity of allegations and supportive evidence on potential breaches of HCSA requirements and develop recommendations for the process that should be followed to reach a resolution, and the nature of the corrective actions that need to be detailed in a time-bound plan to resolve the grievance. The IGP will agree on the validity of allegations, or not, and develop recommendations by consensus. Where consensus cannot be achieved the EC will be provided with a summary of the findings and recommendations outlining the areas where consensus could not be reached.

Important: The final decision on accepting the findings of the IGP and the recommendations provided will be made by the Executive Committee, with the exception of the Defendants as GAR is member of the EC.

## B. Eligibility

The HCSA Secretariat will seek the recruitment of three (3) independent panel members meeting the following eligibility criteria:

- i) An IGP member must not have a conflict of interest with the defendants: GVL and GAR, nor the complainants: Friends of the Earth and Sustainable Development Institute to ensure the member acts with impartiality whilst adjudicating the grievance. Each panel member will be asked to sign a no-conflict of interest declaration with the HCSA Secretariat. Additionally, the HCSA secretariat will verify with the complainants and defendant that the IGP does not have a conflict of interest.
- ii) The potential IGP member must have some knowledge and/or experience of the HCSA and human/social rights/Free Prior, Informed Consent and/or due conflict/grievance resolution processes. Local knowledge and experience related to these areas of expertise is preferable.

- iii) IGP members will be required to sign a confidentiality agreement to ensure all details of this grievance case remain confidential.

**C. Time Requirements and Remuneration**

- i) An IGP member should be able to commit estimated 10 – 12 days (see GVL-GAR Grievance Process Next Steps section for more details) to support the grievance process until a satisfactory outcome is reached as approved by the HCSA EC.
- ii) A nominal payment of USD 2500 per IGP member will be made for the entire engagement as IGP on this grievance. Additionally, the only anticipated costs associated with becoming a panel member is the member's time.

**D. IGP Recruitment**

The recruitment of the IGP panel will be done through the HCSA EC and SG network. IGP candidates will be reviewed by the HCSA secretariat and approved by the EC. The aim is to recruit the IGP is by 3<sup>rd</sup> July 2019.

### GVL-GAR Grievance Process Next Steps

<i>Next Steps</i>	<i>Grievance Panel Mechanism &amp; Estimate Time (hours + day)</i>	<i>Time allocation (days based on an 8-hour day)</i>	<i>Timeline</i>	<i>Supporting Documents/Notes</i>
1. Introduction Call: HCSA ED to have an introduction call with each panel member to go through the ToR and expectations on roles and responsibilities for processing the grievance towards resolution.	0.5-hour prep to read ToR  1-hour call	0.20 day	Early- July	1. ToR for GVL_GAR Grievance
2. IGP to have its 1 <sup>st</sup> a call to understand the grievance chronology, supportive evidence submitted by both parties, and propose next steps including the process and roles of each panel member in an assessment of the validity of allegations.	0.5-day prep  2-hour conference call	0.75 day	Mid-July	<ol style="list-style-type: none"> <li>1. <a href="#">HCSA Steering Group Terms of Reference</a></li> <li>2. <a href="#">HCSA Membership Requirements and Code of Conduct</a></li> <li>3. 'GVL_GAR Grievance Case Overview'</li> <li>4. <a href="#">HCSA Interim Grievance Resolution Procedure</a></li> <li>5. All supportive evidence provided by the complainants and defendant that demonstrates a breach on the HCSA SG Code of Conduct including a breach of the requirements outlined in the High Carbon Stock Assessment Toolkit detailed in the HCSA SG Membership Document in regards to the application of the HCSA methodology.</li> <li>6. GVL's HCSA assessments for the HCSA peer review process [TBC]</li> </ol>

<i>Next Steps</i>	<i>Grievance Panel Mechanism &amp; Estimate Time (hours + day)</i>	<i>Time allocation (days based on an 8-hour day)</i>	<i>Timeline</i>	<i>Supporting Documents/Notes</i>
3. IGP members formulate a dossier of findings regarding the validity, or not, of each allegation and outline recommendations for a time bound plan towards resolution of the grievance for EC approval.	Finding analysis (estimate 1.5 day to review) 30-minute call prep 2-hour conference call  0.5 – 1 day follow up on recommendations	2.75 days	August/ September	1. Dossier of findings on validity of allegations. 2. Final recommendations on the process that should be followed to reach a resolution, and the nature of the corrective actions that need to be detailed in a time bound plan for the resolution of the grievance.
4. HCSA EC Meeting considers and makes a decision on the validity of the allegations and the recommendations for the time bound plan to resolve the grievance.	No involvement of the IGP in formal decision making.			The HCSA ED will send correspondence to the complainant and defendant outlining the final decision made by the EC.
5. Set panel meetings for reviewing progress on GVL’s timebound plan in line with confirmed progress report timeline.	(2-hour prep) 1.5-hour conference call) X 3	1.5 days	Tbc	GAR will have 1-3 months to ensure that GVL adheres to the time bound action plan and adequately rectifies the failures to apply the High Carbon Stock Approach as per the methodology. A failure to do so will be considered a breach of membership requirements.
6. IGP Panel convenes to verify actions taken by GVL to resolve grievance and formulates recommendations for the HCSA EC to formally close, document and communicate a final decision regarding the resolution of the Member’s breach of HCSA SG Code of Conduct and requirements of the HCSA toolkit.	1.5-hour prep 1.5-hour conference call 1.5 follow up	4.5 hours	Tbc	
	Total: <b>9.7 days</b> [+ 1.5 day to build in for unanticipated delays, extra deliberations etc.]			

## Appendix 3 - Additional detailed IGP guidance for supporting the implementation recommendations to address HCS forest clearance and potentially cleared HCV areas

- i. GVL must discuss and agree an effective moratorium of all land development with all communities engaged with GVL through MOUs. This moratorium is intended to avoid further destruction of unidentified HCVs and HCS forest. The economic and social consequences of the moratorium on the local communities must be acknowledged in this discussion and a clear strategy to manage and mitigate these consequences must be in place (including a clear timeline), involving national and regional agencies and independent parties, as necessary.
- ii. Before any further steps are taken regarding HCV and HCS forest identification, management, monitoring and restoration, GVL must provide the communities involved (and any sub-groups within them) with sufficient information to decide how they want to engage in these processes, and time must be given for them to designate their representatives and to propose mechanisms of participation and consent.
- iii. HCV-HCSA assessments rely heavily on participatory mapping and this must be part of the information shared by GVL during consultation, stressing the importance of representation of all sectors and types of users in these exercises.
- iv. Areas in conflict must be identified by GVL with all affected parties and a decision must be made with them to either suspend any assessments until the conflict is resolved or to proceed under clear coordination mechanisms agreed by all parties.
- v. The HCSA must provide more detailed guidance on how to retrofit the HCS Approach into pre-existing operations, further expanding on the discussion included in the Module 2 page 16 by providing a clear step by step process to conduct the “participatory review with independent advisors to assess the degree of compliance with the principles described in this [Social Requirements] module” (Rosoman et al. 2017).
- vi. GVL must commission independent integrated HCV-HCSA assessments for all areas with outstanding complaints and for areas where information required to decide on presence of HCVs and HCS forest has not been collected yet (RBAs, participatory mapping of wetlands and other areas where basic needs are sourced, etc.). Assessments must not start until preparation stage requirements are met and an assessment team knowledgeable and experienced on implementation of FPIC processes has been formed.
- vii. The assessment team(s) engaged with the HCV assessments in GVL areas must:
  - a. Conduct specific biodiversity assessments designed to confirm presence of HCV 1.2 species already identified through the previous HCV assessment (2014) such as chimpanzee, pygmy hippopotamus, and other RTE and endemic species listed in previous assessments or considered as potentially present based on credible secondary sources.
  - b. Carry out the biodiversity assessments at least for all the areas identified in the 2014 HCV assessment report as potentially containing HCV 1, regardless of their current land cover.
  - c. Coordinate with local communities, so the biodiversity survey teams include community experts / monitors reported to have documented chimpanzee traces (or indications of other potential HCV 1 species) as recently as 2018.
  - d. Refer to the outcomes of more detailed biodiversity assessments reported to have been conducted in 2014 (Greenpeace, 2014) if available, to be used as secondary information providing insights on the historical presence of these values.
  - e. Document the presence of chimpanzee in oil palm plantation and provide management recommendations to protect this species (including designation of management areas also within oil palm plantations, if these are used as corridors or temporary habitat).

- f. Carry out participatory mapping for the identification of all social HCVs, with particular emphasis on mapping of boundaries of wetlands, swamps and marshes and confirming with the communities their status as HCV 3, HCV4 and HCV 5; mapping of these values must refer (but not be limited to) findings of previous assessments and to related outcomes emerging from participatory exercises facilitated by the company during pre-assessment stage (land tenure and land use study, social and environmental impact study).
  - g. Document internal and external threats to all the values identified and consider these when discussing designation of HCV areas and proposing the management and monitoring recommendations.
  - h. Explicitly link the HCV management and monitoring recommendations to the places where these measures must be implemented (HCV Management maps).
  - i. Provide GVL with good quality maps at a relevant scale to ensure management measures are adequately implemented on the ground.
  - j. Involve conservation and social NGOs in consultations about presence and management and monitoring recommendations for all HCV values.
  - k. Discuss whether restoration of habitats and enhancement of connectivity for HCV 1 species may be necessary/possible considering their global and regional situation of their populations (such as when overall their habitat is reduced, such as chimpanzee). Discuss the importance of concerted action with neighbouring stakeholders for such a strategy to succeed.
  - l. Apply the precautionary approach if information is insufficient for an informed decision (protect until more data available) and clearly designate areas pending further study as no-go areas.
- viii. GVL must revise and update its Sustainability Action Plan to address HCS & HCV issues. Ensure HCV-HCSA assessments are conducted and any pending studies are commissioned to ensure that HCS and HCV areas are protected, to update HCS and HCV maps with communities, and update management and monitoring activities accordingly.
- ix. The HCSA must provide more detailed guidance on how to retrofit the HCS Approach into pre-existing operations, further expanding on the discussion included in the Module 2 page 16 by providing a clear step by step process to conduct the “participatory review with independent advisors to assess the degree of compliance with the principles described in this [Social Requirements] module” (Rosoman et al. 2017).

## 8 List of Annexes of Supporting Documents

The following annexes have been excluded from this report to avoid publication of potentially confidential information.

Annex 1: Environmental Analysis TKN

Annex 2: Land Use Change Analysis (LUCA)

Annex 3: Social Aspects Report

Annex 4: Social Aspects Report Appendices

Annex 5.1: GVL Comments on HCSA IGP Grievance Report

Annex 5.2: Comments to GVL's RBA

Annex 5.3: IGP Feedback on the GVL's comments