

MAY 05, 2023



SUMMARY NOTE OF SOME FAILURES IN THE IMPLEMENTATION OF THE ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN IN CONNECTION WITH THE OBSERVATION ON THE FIELD OF THE SIMANDOU PROJECT OF BLOCKS 1 AND 2 CARRIED OUT BY WINING CONSORTIUM SIMANDOU.

L'ONG ACION MINES GUINEE

Email : contact@actionminesguinee.org

www.actionminesguinee.org

Table of contents I.

Context.....	2
II. Goals.....	2
III. Results.....	3
IV. Methodology	3
V. Summary of impacts.....	4
VI. Table analyzing gaps between ESMP measures and realities.....	6
VII. Recommendations:.....	32

I. Contexte

In 2020, the Guinean government signed a mining agreement with Winning Consortium Simandou (WCS) for the exploitation of blocks 1 and 2. This iron ore exploitation project estimated at an investment of fourteen (14) billion US dollars , provides for the construction of a six hundred and fifty (650) kilometer long railway from Kérouané to Forécariah with the construction of a deep water port for the evacuation of ore.

Notwithstanding the estimated revenue of 15.5 billion US dollars for the Guinean State during 25 years of the full phase of the project and 150 million US dollars in community projects of an economic nature, enormous challenges remain to be taken up both in terms of promotion and protection of the environment, particularly the ecosystem, as well as human rights.

To help meet these challenges, Action Mines Guinée (AMINES) analyzed the Environmental and Social Impact Studies (ESIA) of the Simandou railway project (Kindia, Mamou, Kaba Tunnels and Associated Facilities of Simandou Rail the port, tunnels and railway) and WCS, Simandou-Guinea Mining Project, ESIA of river port infrastructure, volume IV, May 3, 2022 Then, we carried out a field mission to document the impacts of the project in the WCS project area, particularly in the prefectures of Forécariah, Kindia, Kérouané and Mamou. This is to support communities in restoring their rights through dialogue and advocacy actions with stakeholders.

This document is a legal analysis of some impacts planned in the ESIA's with the corrective measures and the impacts observed on the ground during the joint mission in accordance with the content of the basic project agreement and the Guinean laws in force in this area.

II. Goals

The objective of this document is to

- ÿ Read, analyze the impacts identified in the ESIA's and the measures planned in the ESIA's for the mitigation, improvement or compensation of the impacts of the WCS project
- ÿ Compare the impacts identified in the ESIA's with the findings of the field mission in the four prefectures and the testimonies of the communities ÿ Analyze the gaps between the field findings, the obligations as cited in the ESIA's as well as possible gaps in ESIA's;
- ÿ Inform stakeholders, especially Winning Consortium Simandou and the Government, on the shortcomings identified, the need to take into account these missing elements and remedy the gaps.

III. Results

At the end of the analysis, the results obtained are as follows:

- The identification of some predefined impacts as part of this analysis of the WCS project included in the ESIA, field mission report and community testimonies are compared;
- The identification of impacts observed on the ground not included in the Environmental and Social Impact studies are identified;
- Identification of measures planned in ESIA for mitigation, improvement or compensation of impacts are noted;
- A legal analysis of the identified impacts.

IV. Methodology

The development of this note was carried out through three approaches.

- (i). We have set up a team for reading and analyzing ESIA (port, railway and tunnels) carried out by WCS. We then identified major concerns of civil society and communities. We finally compared the measures planned in the ESIA and the realities on the ground.

Table of ESIA and Conventions analyzed

Short title of the ESIA	Full title of the ESIA	Prefectures and Localities visited during the mission
ESIA of the railway project	WCS, Simandou Rail Project, Environmental and Social Impact Study of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Associated Facilities of Simandou Rail), June 25, 2021	• Forécariah • Kabak, • Maferinyah, • Kindia • Madina first, • Cape Town • Damaro, • Konsankoro, • Kindia • Our Kaba
ESIA of the port infrastructure	WCS, Simandou-Guinea Mining Project, ESIA of river port infrastructure, volume IV, May 3, 2022.	
Basic agreement Republic of Guinea and Winning Consortium Simandou-SAU, basic agreement Simandou Blocks I and II, May 17, 2020, Ref 030/FYW/2020.		

(ii) This document identifies the following impacts:

- Air pollution
- Sound pollution
- Soil and subsoil management
- Land use and livelihoods
- Surface and underground water resources

On the basis of this document, we carried out a field verification mission in the localities of Forécariah, Kindia, Mamou and Kérouané as detailed in the table above impacted by the Winning Consortium Simandou railway and port project. This is to see if the corrective measures have actually been carried out up to what was planned in the Environmental and Social Management Plan (ESMP), and to see if all the impacts on the ground have been listed in the Environmental and Social Impact Studies (ESIA).

(III). We then triangulated the ESIA data, field observations and community testimonies.

This present document is the result of work and which aims to draw the attention of society and the State to elements which risk violating the environmental and social standards that the company says it wishes to respect, to contravene the laws of country, and not respecting the rights of communities.

V. Summary of impacts

The analysis of the implementation of the ESIA of the railway and port infrastructures of the Winning Consortium Simandou project, mentioned above in this document, with the AMINES field mission report revealed significant discrepancies which constitute the violation of certain rights essential to local communities. However, these rights are provided for and protected by national laws and included in the basic agreement of the project detailed in the analysis table below.

The main differences are presented below by localities concerned in the project area:

- Lack of measures to mitigate noise emissions in WCS ESIA's likely to harm human health and disrupt wildlife conservation, particularly in strict nature reserves (classified forest) in the localities of Mafreyiah, Sengueleh and Madinagbe- kabak in Forécariah; Madina Ouala/Sekousoria in Kindia; Oure kaba in Mamou; Damaro and Kounsankoro in Kérouané.
- Non-application of the intervention procedure provided for by the ESIA in agricultural areas (plains) polluted by drainage of piped water, silting and dumping of mud in the localities of the four (4) prefectures previously mentioned.
- Lack of active measures to repair damage to agricultural areas and lack of support for restoring livelihoods following impacts on the livelihoods of populations

impacted particularly in the localities of Kaback, Séngueleh and Madinagbe in Forécariah; Madina Oula/Sekousoriya in Kindia.

- Low level of consultation with impacted communities during the compensation and resettlement process in the localities of Oure kaba in Mamou, Madina oula/Sekousoriya in Kindia, Damaro and Kounsankoro in Kérouané.

- Failure to put in place sufficient measures to help affected communities obtain safe and sustainable sources of water following the pollution of waterways in the localities, Madina oula/Sekousoriya in Kindia, Damaro and Kounsankoro in Kérouané .

- Failure to popularize the complaints management mechanism by WCS at the location affected local communities to enable them to enjoy their rights of complaint in the localities of Kindia, Forécariah, Mamou and Kérouané cited in this document.

VI. Table analyzing gaps between ESMP measures and realities

Impacts	Corrective measures provided for in the OWNED	Field observations by project areas	Gaps in the identification of impacts or application of planned corrective actions	Contractual and legal provisions	Comments
Air pollution	<p>ÿ Implement regular spraying measures with water or patented anti-dust products on the zones dust generators (road, storage areas non vegetated)¹ ;</p> <p>ÿ Roads unpaved access roads which</p>	<p>FORECARIAH (Mafreyiah Sigh-Madinagbe-Kabak):</p> <ul style="list-style-type: none"> • Inhalation by residents of dust released by passing trucks on roads and access roads • Dumping of dust on vegetable crops 	<p>The routes Winning non of Consortium Simandou paved mines are not regularly watered, especially in the Forécariah prefecture.</p>	<p>Basic agreement of the 2020 project</p> <p>As part of carrying out the project, the company is required to:</p> <ul style="list-style-type: none"> - Take measures to prevent and minimize the effects of mining activities: dust emissions and pollution of water, air and soil, and the degradation of ecosystems and biodiversity, the use of harmful and dangerous chemicals ; noise emissions harmful to human health. (Arts 10.2 and 10.2.2). 	<p>Guinean legal provisions in this area protect citizens against noise and dust emissions for the well-being of citizens, particularly those of local communities.</p> <p>Winning Consortium Simandou is committed to</p>

¹ Firm ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Associated Facilities by Simandou Rail), June 25, 2021, page 296.

	<p>pass within 350 m of receivers</p> <p>residential will be watered in order to minimize emissions dust²</p> <p>ÿ Place concrete plants,^{there to them}</p> <p>conveyor belts and transfer points as far as possible from social receptors (concrete plants, conveyors and transfer points will be located more than 350m from homes)</p> <p>³</p>			<p>10.2.1- Comply with the provisions of the Environmental Code, the Environmental Decree and all applicable Law and Sectoral Good Practices relating to the Environment;</p> <p>L/2019/0034/AN of July 4, 2014 relating to the Environmental Code in Guinea: “It is to emit^{forbidden} or reject directly or indirectly in the air, soot, dust or toxic, corrosive or radioactive gas or any other chemical substances likely to generate atmospheric pollution beyond the limits set by regulatory authority” (art.66)</p> <p>- Take steps to promote and maintain the framework</p>	<p>implement measures to prevent and minimize dust and noise emissions in the communities covered by its project. On the other hand, human health and the conservation of certain animal species are promised in the area of intervention of WCS project. To restore rights violated by society, local communities, citizen(s), civil organizations intervening on</p>
--	--	--	--	--	--

² Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 297.

³ IBID, page 298.

<p>Pollution sound (Noise and vibration)</p>	<p>ÿ Avoid any blasting operations at night 4</p> <p>ÿ Plan the blasting according to a schedule and inform local communities in advance⁵ ;</p> <p>ÿ Take into account in the schedule of local residents, avoid the blasting operation during rest time⁶</p>	<p>FORECARIAH (Maferinyah Kaback) And</p> <p>ÿ House cracks due to blasting</p> <p>ÿ Scarcity/ removal of fish caused by ship noise</p> <p>KINDIA (Madina Oula/English)</p> <p>ÿ Disappearance or and removal of certain animal species (chimpanzees, monkeys, antelopes, etc.) due to At dynamiting and noise pollution produced by company machinery in the Sékou Soriya classified forest</p>	<p>Local communities are not informed about the blasting schedule. And the schedule of local residents is not taken into account at the time of blasting operations.</p> <p>Furthermore, no measures are provided for in the WCS ESIA for noise emissions likely to harm human health and</p>	<p>of life and the general good health of local populations (Art 10.2.3).</p> <p>The company will respect the law in force regarding forests (Art 10.6)</p> <p>Basic convention:</p> <p>The Company is responsible for any damage or health harm caused to its employees and Legitimate Occupants if it is established that the cause of the damage or harm results from Mining Activities or a violation of its Hygiene, Health and Safety Plan or its health obligations under the Mining Code, the Law in force or the Basic Agreement (Art 10.3).</p> <p>Law L/2017/060/AN of December 22, 2017 on the forest code</p>	<p>the environment can bring an action against it before the competent courts, in particular those of Gunné.</p>
---	---	--	---	---	--

⁴ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 302.

⁵ IBID, page 302.

⁶ IBID, page 302.

		<p>during tunnel works</p> <p>ÿ Cracks in habitats due to</p> <p>blasting at tunnel works</p> <p>MOM (Oure Kaba)</p> <p>ÿ Security risk of blasting in the village of Paikai</p> <p>KEROUANE (Damar Kounsankoro) ÿ</p> <p>Disappearance <small>And</small> or</p> <p>and removal of certain animal species due to blasting and noise</p> <p>pollution produced by company machinery</p>	<p>disrupt wildlife conservation, particularly in integral nature reserves (classified forest).</p>	<p>“The work of excavation, extraction, exploitation of quarries or mines, construction of large structures, the execution of which is envisaged in the forestry sector, are subject to authorization from the Ministry in charge of Forests, as well as, where applicable, to a cutting or clearing permit .</p> <p>This authorization determines the protection and restoration measures to be taken by the beneficiary, in accordance with the requirements of the implementing texts of this code” (article 123).</p> <p>2020 Constitution Everyone has the right to health and physical and mental well-being (Art 21, paragraph 1)</p> <p>Mining Code of 2011 amended in 2013</p>	
--	--	---	---	--	--

				<p>In order to ensure rational exploitation of mining resources in harmony with the protection of the environment and the preservation of health, the holders...of Mining Titles ensure: the prevention or minimization of any negative effects due to their activities about health and the environment...(Art 143)</p> <p>The holder is directly responsible for damage and health harm caused to workers and the local community in the event that he has not respected the terms of his health plan or has violated any of the health obligations provided for in this Code . (Art 143, paragraph 3)</p> <p>Wildlife Code of 1999</p> <p>Any act likely to harm or cause disturbance to the fauna or flora are strictly prohibited throughout the entire extent of integral nature reserves. (Art 21)</p> <p>Environmental Code of 2019</p>	
--	--	--	--	---	--

				<p>Article 9 of the Environmental Code requires project promoters to respect certain principles, including the polluter pays principle.</p> <p>Noise emissions likely to harm human health, constitute an excessive nuisance to the neighborhood or harm the environment are prohibited.</p> <p>The people responsible for these nuisances take all necessary measures to eliminate or reduce them. (Art 134)</p> <p>Notwithstanding the public prosecutor's right of prosecution, sworn agents are responsible for prosecuting any environmental offense. (Art 165)</p> <p>Without prejudice to the right of prosecution of the public prosecutor's office, public action may be initiated by approved environmental defense associations and those of society</p>	
--	--	--	--	---	--

				<p>civil society, local authorities or any other natural or legal person who has an interest in it. (Art 166)</p> <p>Civil Code of 2019 Any person responsible for ecological damage is required to repair it (Art 1173)</p> <p>Is reparable, under the conditions provided for in this section, the ecological damage consisting of an attack not negligible to the elements or functions of ecosystems or to the collective benefits derived by humans from the environment. (Art 1174) Action for compensation for ecological damage is open to any person with standing and interest to act, such as the State, local authorities and their groups whose territory is concerned, as well as public establishments and associations approved or created since at least 5 years from the date of institution of the proceedings, which have as their object the protection of the</p>	
--	--	--	--	--	--

				<p>nature and defense of the environment. (Art 1175)</p> <p>Reparation of ecological damage is carried out as a priority in kind.</p> <p>In the event of legal or factual impossibility or insufficiency of the reparation measures, the judge orders the person responsible to pay damages to the plaintiff or, if the latter cannot take the necessary measures for this purpose, to the State. and interests, for the repair of the environment.</p> <p>The assessment of the damage takes into account, where applicable, the remedial measures already taken, in particular within the framework of the implementation of the provisions of the environmental code. (Art 1176)</p> <p>In the event of a penalty, it is liquidated by the judge for the benefit of the applicant, who allocates it to repairing the environment or, if the applicant cannot take useful measures for this purpose, for the benefit of the State, which assigns it for this same purpose. (Art 1177)</p>	
--	--	--	--	---	--

				<p>Expenses incurred to prevent the imminent occurrence of damage, to avoid its aggravation or to reduce its consequences constitute reparable damage. (Art 1178)</p> <p>Regardless of _____ of _____ the compensation for ecological damage, the judge, upon receiving a request to this effect from a person mentioned in article 1175, may prescribe reasonable measures to prevent or stop the damage. (Art 1179)</p>	
	<p>ÿ Establishment of dedicated storage areas, marked and adapted to different types of waste⁷ ;</p> <p>ÿ CS_EC_Optimization of the work schedule (ME) by avoiding, in</p>	<p>FORECARIAH (Maferinyah Kaback) :</p> <p>ÿ Overflow of the sea into the _____ kabak agricultural fields</p> <p>ÿ Drainage of mud in fields</p> <p>KINDIA (Madina-Oula, Sekou Soriya)</p>	<p>And</p> <p>Non-application of the intervention procedure in polluted agricultural areas</p>	<p>Basic agreement of the 2020 project</p> <p>The company is required to establish and maintain a system that: ...prevents spills and discharges, and identifies treatment measures so as to neutralize and minimize their effect on the environment. (Art 10.1; 10.1.3)</p> <p>As part of carrying out the project, the company is required to:</p>	<p>The _____ Company</p> <p>Winning Consortium</p> <p>Simandou is committed to implementing prevention and rehabilitation measures for soils affected by activities</p> <p>son</p> <p>in accordance with _____ laws</p>

⁷ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Associated Installations of Simandou Rail), June 25, 2021, page 303.

<p>Soil and subsoil management</p>	<p>wherever possible, works involving significant earth movements (stripping, excavation, embankment, etc.) during the rainy season.⁸</p> <p>the of</p> <p>CS_EC_ Installation of drainage and sedimentation systems on construction sites (MR)⁹</p> <p>CS/ES_MO_ Regular watering of the slopes and the access road, as well as near all the sources</p>	<p>Low yield of agricultural activities due to the invasion of cultivation areas by mud from laterite</p> <p>MOM (Oure nervousness)</p> <p>The silting of the plain of Bantamayah following the drainage of water coming from the pipeline of the railway route</p> <p>Pollution of the agricultural plain of Bantamaya due to discharge of drainage sludge</p> <p>KEROUANE (Damar Kounsankoro) And</p> <p>Drainage of mud and sand</p>		<p>- Take measures to prevent and minimize the effects of mining activities: pollution of water, air and soil, and degradation of ecosystems and biodiversity; (Arts 10.2 and 10.2.2).</p> <p>“The rights of the Company under of the Mining Concession are not not exclusive and are granted subject to rights pre-existing conditions of any “Legitimate Occupant. The Company will then proceed at its own expense to mark the boundaries of the Project Land, carry out the necessary investigations to identify the Legitimate Occupants who must be resettled or who must benefit from compensation in accordance with the Resettlement Plan, then proceed with the resettlement activities and compensation » Art 11.1 Art: 11.2 “If access to or use of the land of a</p>	<p>Guineans in this matter. Default implementation his own measures, Winning Consortium Simandou a polluted arable land of communities by activities its mining. Deprived or hindered from the exploitation of their sources of existence, communities can sue WCS to answer for its actions and repair the damage caused.</p>
---	---	---	--	--	--

⁸ Cabinet ARTELIA, ESIA of port infrastructure for the Winning Consortium Simandou project, volume IV, April 2022, n°8512900, page 31.

⁹ IBID, page 39.

	<p>dust generators.¹⁰</p> <p>ÿ Establishment of an intervention procedure in the event of accidental discovery of soil polluted¹¹ ;</p> <p>ÿ Rehabilitation will take place as soon as possible after completion of the work and will take into account public safety, wildlife safety, habitats</p> <p>present before the disturbances and use</p>	<p>in the bed of the karako-watercourses</p> <p>Konsankoro</p>		<p>Occupant Legitimate is necessary for the Company to Mining activities, the Company is required »</p> <p>Art : 11.2.1 “to inform the Lawful Occupant of the area required for the Mining Activities (the “Required Area”) and</p> <p>Art: 11.2.2 “to obtain the consent of the Lawful Occupant to use the Required Area”.</p> <p>2020 Constitution Everyone has the right to health and physical and mental well-being (Art 21, paragraph 1)</p> <p>2011 mining code amended in 2013</p> <p>In order to ensure rational exploitation of mining resources in harmony with the protection of the environment and the preservation of health, the holders...of Mining Titles ensure: the prevention or minimization of any negative effects due to their activities about health</p>	
--	---	--	--	---	--

¹⁰ Cabinet ARTELIA, ESIA of port infrastructure for the Winning Consortium Simandou project, volume IV, April 2022, n°8512900, page 41.

¹¹ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 304.

	<p>profitable posterior¹² ;</p> <p>ÿ Reclamation will take place as soon as possible after completion of the work and will take into account public safety, wildlife safety, pre-disturbance habitats and future use</p> <p>beneficial¹³ ;</p> <p>ÿ If additional land outside of the right-of-way of the construction are necessary to eliminate</p>			<p>and the environment in particular...pollution of water, air and soil, degradation of ecosystems and biological diversity; the prevention and/or treatment of any spill and/or discharge so as to neutralize or minimize their effect in the nature ; (Art 143)</p> <p>Environmental Code 2019 The soil and subsoil and the wealth they contain are protected, as limited renewable or non-renewable resources, from all forms of counter-degradation and managed in a sustainable and rational manner. The measures provided for by the texts in force to ensure the preservation of soil against erosion may be declared of public utility and imposed on any land operator or occupant. (Art41)</p> <p>Public Health Code 1997 Burial, deposit or dumping of waste</p>	
--	---	--	--	---	--

¹² IBID, page 306.

¹³ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 306.

	<p>surplus excavated material, the above requirements will also apply and disposal will take place in accordance with any provision provided for in the resettlement plan during the preliminary works phase</p> <p>(PARTPTP) and in consultation with the government and local communities¹⁴ ;</p> <p>Define THE land use zones and</p>			<p>solid, industrial, sludge from stations, untreated sewage treatment on land cultivated with fruits and vegetables that can be consumed are formally prohibited (Art 84) crus</p>	
--	---	--	--	---	--

¹⁴ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 306.

	<p>management objectives and how lands and soils disturbed by the project will be rehabilitated after construction¹⁵</p> <p>ÿ Rehabilitate the zones disrupted as soon as possible after completion of the work¹⁶ ;</p>				
	<p>Prepare action and plan resettlement in and phase of ÿ Loss and destruction of preliminary works nets and (PARPTP) canoes in the intended fishing zone by collision with people physically boats of the and company at sea;</p>	<p>FORÉCARIAH ÿ (Kaback, Sengueleh Madinagbe)</p>	<p>No economic resettlement is carried out by WCS in local communities, despite the fact that their sources and livelihoods are</p>	<p>Basic project agreement The rights of the company under the mining agreement are not exclusive and are granted subject to the pre-existing rights of any "Occupant Legitimate" (Art 11) If access to or use of a Lawful Occupant's land is necessary for the company to</p>	<p>Guinean laws and the basic agreement of the project</p> <p>entre Winning Consortium Simandou and the Guinean State recognize and guarantee the rights of</p>

¹⁵ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 306.

¹⁶ IBID, page 308.

<p>Land use and livelihoods is</p>	<p>economically not affected by the right-of-way of the works</p> <p>first¹⁷</p> <p>CS/EX_MO_Ab increase the speed of ships in the inner channel (river part)</p> <p>(MR)¹⁸</p> <p>CS/EX_EC_ Optimizing journeys to reduce emissions</p> <p>aerial and underwater sound</p> <p>(MR)¹⁹</p>	<p>• Rarity/ removal of fish by ship noise</p> <p>(Mafreyiah, Sigh, Madinagbe, Zucchini)</p> <p>• House cracks due to blasting</p> <p>• Drainage of mud in fields</p> <p>• Overflow of the sea in the agricultural fields of kabak</p> <p>• The spilling of dust on vegetable crops</p> <p>• Work accidents and traffic accidents</p> <p>KINDIA (Madina-Oula, Sekou Soriya)</p>	<p>strongly affected.</p> <p>Resettlements physical are done without consultation by location and nor a fair and prior compensation.</p> <p>Noise reduction measures on the river section have not been implemented.</p>	<p>mining activities, the company is required:</p> <p>-d to inform the Lawful Occupant of the area required for mining activities; And</p> <p>-d to obtain the consent of the Lawful Occupant to use the required area (Arts 11.2, 11.2.1 and 11.2.2)</p> <p>In the absence of the consent of the Legitimate Occupant, he may be imposed by the State, in accordance with the law in force, the right of the company to occupy the required area and carry out the work there without obstruction, subject to the payment of adequate and prior compensation to the Lawful occupier. (Art 11.4)</p> <p>The company is required to pay all Legitimate Occupants of the required area compensation intended to cover:</p> <p>- disturbance of enjoyment (loss of use, land title,</p>	<p>properties for communities bordering the project.</p> <p>For any resettlement, Winning Consortium Simandou must comply with the country's legal and project contractual provisions as well as international good practices in this area.</p> <p>As for damages, WCS must prepare them as provided for in the mining convention and the laws of the country in force.</p> <p>On the other hand, communities</p>
---	--	---	--	---	---

¹⁷ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 306.

¹⁸ Cabinet ARTELIA, ESIA of port infrastructure for the Winning Consortium Simandou project, volume IV, April 2022, n°8512900, page 40.

¹⁹ IBID, page 88.

		<p>ÿ Low yield of agricultural activities due to the invasion of cultivation areas by mud from laterite dumped on the road as backfill</p> <p>ÿ Exceeding measures followed by compensation criticized by those concerned (certain people evicted from their land without appropriate compensation)</p> <p>ÿ Pollution of the watercourse by water from the pipeline at the level of the Sékousoriya tunnel</p> <p>ÿ Loss of human life within the community due to cases of accidents caused</p>		<p>housing, harvesting) suffered by the occupants; and -d damages for crops, buildings, trees, structures or installations and the establishment of new rights of passage, access and use, located in the required zone made unusable due to mining activities. (Art 11.5, 11.5.1 and 11.5.2)</p> <p>All the terms relating to the compensation to be paid to any Legitimate occupant, including the amount, frequency and method of payment, are: -d set in accordance with the provisions of the mining code and mining regulations, at PIN decree, and more generally the law in force as well as international standards of the mining industry; - reasonable so as not to compromise the viability of the project and taking into account the resettlement plan; proportionate disruption caused by mining activities;</p>	<p>residents of the project suffer damage without repairs.</p> <p>They are dispossessed of their arable and housing land without fair and prior compensation. For the violation of the basic agreement and the laws of the country in force in this matter, the communities can take legal action against Winning Consortium Simandou, however</p> <p>if</p> <p>amicable settlement the to it is</p> <p>does not allow those concerned to be restored to their rights.</p>
--	--	---	--	---	--

		<p>by company vehicles</p> <p>ÿ Cracks in habitats due to blasting</p> <p>MOM (Oure Kaba)</p> <p>ÿ Isolation of the inhabitants of the Heroko village by the railway and the access road</p> <p>ÿ Destruction of the camp Doudia without a prior resettlement procedure; of</p> <p>ÿ Exceeding measurements with a unsatisfactory compensation</p> <p>ÿ Demolition of homes in the village of Dhoudya without adequate relocation measures</p>		<p>- in the case of land or compensation due due to the establishment of easements or other dismemberment of real rights or occupation, the price is set for expropriation in accordance with article 11.7 below; (Art as in 11.6, 11.6.1, 11.6.2, 11.6.3)</p> <p>When the public interest requires it, the company may continue the expropriation of the necessary buildings and land. to mining activities under the conditions provided for by the law in force. (Art 11.7)</p> <p>The compensation linked to the expropriation for reasons of public utility referred to in this article must in no case be less than the amount granted to the Legitimate Occupants in accordance with article 11.6 (Art 11.8)</p> <p>The company is required to: -d avoid or minimize the displacement of communities as much as possible; and -d to put in place a resettlement plan for</p>	
--	--	---	--	---	--

		<p>KEROUANE</p> <p>(Damar And Kounsankoro) ÿ</p> <p>Loss of livelihoods from market gardening and agricultural activities due to drainage of water from rivers</p> <p>ÿ Pollution of the spring head (warada & Namba) by survey work -Damaro</p> <p>ÿ Drainage of mud and sand in the bed of Karako watercourses -</p> <p>Konsankoro</p> <p>ÿ Delay between the inventory period and compensation/co effective</p> <p style="text-align: right;">of the</p> <p>consideration of people affected by the project</p>		<p>resettlement jointly with the State of local communities which would have been displaced due to the project according to the modalities.</p> <p>(Art 11.9, 11.9.1 and 11.9.2)</p> <p>Constitution 2020</p> <p>The human person is sacred. Human rights are inviolable, inalienable and imprescriptible.</p> <p>(Art 5)</p> <p>Everyone has the right to property. No one may be deprived of their property except for reasons of public utility and in the manner provided for by law, subject to fair and prior compensation. (Art 16)</p> <p>2011 mining code amended in 2013</p> <p>Mining rights do not extinguish property rights. No right of research or exploitation is valid without the consent of the land owner, his beneficiaries, with regard to activities involving the surface or having an effect on it. (Art 123)</p>	
--	--	--	--	---	--

		<p>ÿ Scarcity of hunting products due to the disappearance of the usual wildlife species</p> <p>ÿ Scarcity of hunting products due to the ban on hunter hunting zones</p> <p>to</p>		<p>The holder of the Mining Title or Authorization must pay any legitimate occupants of the land necessary for its activities compensation intended to cover the disruption of enjoyment suffered by these occupants.</p> <p>The amount, frequency, method of payment and all other terms relating to the compensation referred to above will be fixed, in accordance with the provisions of this Code and its implementing texts. The amount of this compensation must be reasonable enough not to compromise the viability of the project and proportionate to the disruption caused by the Mining Activities according to the procedures provided for by the Law.</p> <p>(Art 124, paragraphs 2 and 3)</p> <p>All damage caused by the holder of a Mining Title to the owners, usufructuary and legitimate occupants of the land or to several beneficiaries will give rise to compensation through the payment of compensation.</p>	
--	--	---	--	---	--

				<p>referred to in article 124 above. (Art 126)</p> <p>The Resettlement Plan for Populations victims of forced displacements caused by Mining Activities must, in addition to the infrastructural aspect, integrate compensation for losses of income and means of subsistence following these displacements. (Art 142, paragraph 3)</p> <p>Wildlife Code 1999 Wildlife constitutes a heritage of general interest. Their interest is thus recognized economic, food and social, as well as its scientific, aesthetic, recreational and educational value. (Art 3 wildlife code)</p> <p>However, populations of animals of a given species can be subject to rational exploitation, in particular through hunting, whenever their level and productivity allow it. (Art 4)</p> <p>Law No. 2018/0049/AN of June 20, 2018 on the wildlife protection code</p>	
--	--	--	--	--	--

				<p>wildlife and hunting regulations and its implementing texts</p> <p>It also requires the carrying out of an ESIA prior for all development work in protected areas with the exception of integral nature reserves and natural zones (article 28).</p> <p>In these last two (2) zones, all work tending to</p> <p>modify the appearance of the land or vegetation, or any act likely to harm or cause disturbance to the fauna or flora (articles 14 and 15).</p> <p>Code civil 2019 Damage or prejudice is any property or extra-patrimonial injury suffered by a person.</p>	
--	--	--	--	---	--

				<p>It is patrimonial when the author of the harmful act damages the economic interests of the victim. It can consist of both an experienced loss and a missed gain.</p> <p>It is extrapatrimonial when it consists of the lesion of a moral interest.</p> <p>In all cases, material or moral damage gives rise to liability if it infringes a right. (Art 1125)</p> <p>The damage is in principle repaired by equivalence by awarding the victim damages.</p> <p>However, subject to respect for the freedom of individuals or the rights of third parties, the judge may ex officio prescribe, instead of in addition to damages, any measure intended to repair the damage or limit its importance. (Art 1131)</p> <p>Damages must be set in such a way that they are for the victim the</p>	
--	--	--	--	--	--

				<p>full compensation for the damage suffered.</p> <p>When the amount of damages depends directly or indirectly on the amount of the victim's income, the compensation awarded is assessed accordingly. (Art 1132)</p>	
<p>Ressourc is in surface water and</p>	<p>ÿ Implementation of control and monitoring means to verify the water used before its discharge into the natural environment²⁰ ;</p> <p>ÿ At watercourse crossings, bridges and culverts will be designed to be able to withstand the</p>	<p>KINDIA (Madina Oula/Sekhousoria)</p> <p>ÿ Pollution of the watercourse by water from the pipeline at the level of the Sékousoriya tunnel</p> <p>MOM (Oure nervousness)</p> <p>ÿ Pollution of the Balin river</p> <p>KEROUANE (Damar Kounsankoro)</p> <p>And</p>	<p>WCS has not helped affected communities obtain safe and sustainable water sources.</p> <p>Affected communities are not informed about the grievance procedure.</p> <p>Bridges and culverts are almost not made by WCS to maintain the</p>	<p>Basic project agreement</p> <p>As part of carrying out the project, the company is required to:</p> <p>- Take measures to prevent and minimize the effects of mining activities: pollution of water, air and soil, and degradation of ecosystems and biodiversity; (Arts 10.2 and 10.2.2)</p> <p>Mining Code 2011 amended in 2013</p> <p>In order to ensure rational exploitation of mining resources in harmony with the protection of the environment and the preservation of health, the holders...of Mining Titles ensure: prevention or</p>	<p>By violating the provisions of the basic agreement of the project and the laws in force, the neighboring communities</p> <p>are</p> <p>private project resources</p> <p>water resources for their well-being, particularly for agricultural and fishing activities and for human consumption. In addition, the heads of</p>

²⁰ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 316.

<p>waters underground is</p>	<p>forecast flow rates²¹</p> <p>• Sediment settling areas will be designed to treat water to acceptable a quality before pouring it into natural watercourses and constructs²² ;</p> <p>• Develop and implement in artwork a grievance procedure in the event of reduction of the resource one water and subsequent complaints</p>	<p>• Pollution of the spring head (warada & Namba) by the work of survey-Damaro and that of Karako in Konsankoro of the mud continued</p> <p>• Drainage of mud and sand in the bed of karako-watercourses</p> <p>Konsankoro</p>	<p>flow rates of watercourses in its project areas.</p> <p>There are almost no sediment settling zones</p> <p>designed for water to treat to a acceptable quality before pouring it into waterways. WCS barely checks the implementation of the means of control and monitoring for this purpose.</p>	<p>minimization of any negative effects due to their activities on health and the environment; pollution of water, air and soil, degradation of ecosystems and biological diversity; the prevention and/or treatment of any spill and/or discharge so as to neutralize or minimize their effect in nature; ... (Art 143)</p> <p>2020 Constitution</p> <p>The people of Guinea freely and sovereignly determine their institutions and the political, economic and social organization of the Nation.</p> <p>He has an inalienable right to his wealth. These must benefit Guineans equitably. All natural resources constitute a common good... (Art 27)</p> <p>Public Health Code 1997</p> <p>In principle, we distinguish between prepared waters coming from</p>	<p>sources of water are exposed to extensive degradation which will lead to their disappearance if the corrective measures it is are not implemented artwork.</p> <p>Faced with its behavior which compromises the State, local authorities, CSOs intervening in the environment as well as concerned citizens can take legal action against</p> <p>Winning Consortium Simandou in order to</p>
-------------------------------------	--	---	---	---	---

²¹ IBID, page 318.

²² Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 318.

	<p>on water availability²³ ;</p> <p>• The project will work with affected communities and help them obtain water sources and</p> <p>sure durable²⁴ ;</p>			<p>treatment stations, natural groundwater coming from catchments, surface water which is that of rivers, rivers, lakes, atmospheric ponds made up of rainwater. (Art 7)</p> <p>And THE waters</p> <p>burial dumping Any or of toxic products of organic, chemical or radioactive waste in the bed of a watercourse (river, lake, pond, river) and in the sea is prohibited under penalty of the sanctions provided for by the Law in force. (Art 33)</p> <p>Any discharge of raw industrial wastewater into the sea, watercourses, ponds, lakes, gutters or public sewers is strictly prohibited.</p> <p>(Art 48)</p> <p>Industrial wastewater, before any discharge, must</p>	<p>repair THE damage caused to the environment.</p>
--	--	--	--	---	---

²³ IBID, page 324.

²⁴ Cabinet ERM-Hong, Limited (ERM), ESIA of the railway infrastructure of Winning Consortium Simandou (Kindia, Mamou, Kaba Tunnels and Installations Associés de Simandou Rail), June 25, 2021, page 324.

				must undergo one or more treatments in accordance with the Regulations in force. (Art 49)i	
--	--	--	--	--	--

VII. Recommendations:

To the company Winning Consortium Simandou (WCS) of:

- ÿ Make the complaints management mechanism operational to provide opportunity for impacted communities to submit grievances/complaints and be heard;
- ÿ Implement measures to reduce dust emissions on roads, in non-vegetated storage areas...as provided for in the ESMP;

- ÿ Build a health center in each prefecture concerned to care for people sickened by the effect of air and noise pollution as well as accidents;

- ÿ Repair the damage caused by pollution of vegetable crops and cracks in houses of communities impacted by the project;
- ÿ Establish a blasting schedule in advance with the local communities concerned, taking into account their sleep and rest times; ÿ Limit the discharge of piped water into waterways to
Sékousoriya and the drainage of mud and sand in the river beds of Karako-Konsankoro;
- ÿ Avoid pollution of waterways, particularly the Balin watercourse and the agricultural fields particularly in Kabak;
- ÿ Carry out inventory and compensation/compensation within a reasonable time just people affected by the project;
- ÿ Open up the inhabitants of the Heroko village in the locality of Oure-Kaba in Mamou prefecture;
- ÿ Reduce underwater noise emissions and repair to impacted communities the damage caused by the destruction of nets and canoes in the localities of Kaback and Senguelet in the Forécariah prefecture; ÿ Strengthen inclusive consultations with impacted communities and
Civil Society Organizations (CSOs) on the implementation of the Plans Environmental and Social Management (PGES) through its popularization and rigorous implementation;
- ÿ Engage in ongoing dialogue with communities, CSOs and Prefectural Environmental and Social Monitoring Committees (CPSES).
- ÿ Integrate with appropriate measures the new impacts identified in the localities of the prefectures of Forécariah, Kindia, Mamou and Kérouané in the ESIA of the project's railway and port infrastructures;

At the Guinean Agency for Environmental Studies and Assessments (AGEEE) from :

- ÿ Require compliance with the strict application of the general environmental assessment guide and the ESMPs from the company Winning Consortium Simandou;
- ÿ Closely monitor impacts in the project area through a field mission; ÿ Carry out a mid-term evaluation of the implementation of ESMPs
- ÿ Make the impact studies and ESMPs of the project public, ensure that the impacted local communities have them and understand the content
- ÿ Make the project's environmental and social audits public. ÿ Increase contacts with the company and the communities impacted by the project to monitor the implementation of the ESMP
