

Oswaldo Gratacós
Vice President and CAO
Office of the Compliance Advisor Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA

E-mail: CAO@worldbankgroup.org

April 27, 2017

Dear Vice President Gratacós

Re: Complaint concerning IFC loan to NedBank Group Ltd (Project no. 26014)

1. Centre de Commerce International pour le Développement (“CECIDE”), Le Memes Droits Pour Tous (“MDT”), and Inclusive Development International (“IDI”) are submitting this complaint to the Office of the Compliance Ombudsman on behalf of families suffering serious harms from a multiple open-pit oxide gold mine in Kintinian, Prefecture of Siguiiri, in northeast Guinea (“the Siguiiri mine”). IFC is exposed to this project through its financial intermediary client Nedbank. Authorizations of representation accompany this letter of complaint.

2. The complainants are approximately 380 Kintinian families from a project-affected area known as “Area One”. Area One is located in the district of Kintinan 2 in the rural town of Kintinian. The families are artisanal gold miners and traders and small-holder farmers, whose ancestors have lived in Kintinian for more than 800 years. The complainants have suffered from violent forced evictions resulting in physical and economic displacement and a range of adverse impacts on their health and lives.

3. Due to concerns for their personal security, the complainants request that their identities are kept confidential at this time. They may consider waiving their confidentiality in the context of a CAO dispute resolution process, but only with security assurances and after providing their express consent.

4. Please direct all correspondence related to the complaint to:

- Aboubacar Diallo, CECIDE: aboubacardiallogn@gmail.com; Kabinet Cissé, Executive Director, CECIDE, cecideomc@yahoo.fr
- Foromo Frédéric Loua, MDT: fredericloua@gmail.com; and
- David Pred, IDI: david@inclusivedevelopment.net; and Natalie Bugalski, IDI: natalie@inclusivedevelopment.net

5. This complaint is set out as follows: **Section 1** explains the financial links between IFC and the Siguiiri mine that we are able to ascertain from available information; **Section 2** sets out IFC’s applicable policy requirements and the information available to us that demonstrates the failure of IFC and its client to comply with these requirements; **Section 3** describes the harms and human rights violations, amounting to forced evictions, experienced by the complainants and the attendant failures to meet the Performance Standards; and **Section 4** sets out outcomes sought by the complainants. Gaps and weaknesses in IFC’s Sustainability Framework are identified in relevant parts.

SECTION 1: FINANCIAL LINKS BETWEEN IFC AND THE SIGUIRI MINE

6. There is limited transparency of IFC's financial intermediary portfolio. IFC publicly releases very little information about its financial intermediary transactions, and what it does publish on its website is not always accurate and reliable. In relation to its investments in commercial banks, IFC does not publish any information on its sub-clients. As a result, it is extremely challenging for project affected people to find out whether IFC is linked to the project and whether, by consequence, they have access to the CAO. We wish to draw attention to this important gap and weakness in IFC policy and practice, which is badly inhibiting accountability and access to remedies.

7. In this case, we have managed to identify the financial links between the IFC and the project causing harms and bring this information to the attention of the complainants. These financial links, as we are able to ascertain, are set out below.

8. In 2007, IFC provided South African bank Nedbank with a loan of \$140.73 million to be used for "cross-border corporate lending across Africa, including capital intensive projects that support sustainable economic growth," among other objectives.¹ An IFC press release announcing the deal noted that the funding was designed to increase lending for, inter alia, "resource-extraction projects" in Africa.²

In July 2015, Nedbank was co-arranger of a \$105 million loan (in the form of a revolving credit facility) to South African publicly listed company AngloGold Ashanti to be used for general corporate purposes.³ Nedbank's contribution to the loan was approximately two thirds of the total.⁴

9. AngloGold Ashanti holds an 85% interest in the Siguiri mine with the balance of 15% held by the Government of Guinea.⁵ These interests are held through Société AngloGold Ashanti de Guinée ("**SAG**"). AngloGold Ashanti retains complete operational control over SAG's activities. AngloGold Ashanti, through SAG, is responsible for the ongoing operation of the gold mine, including its recent expansion that has caused the forced eviction of the complainants and other harmful impacts since March 2015.

SECTION 2: FAILURES TO COMPLY WITH IFC POLICY REQUIREMENTS

¹ IFC Project Information Portal, Project Number 26014.

² IFC Press Release, July 2, 2007:

<http://ifcext.ifc.org/ifcext/pressroom/ifcpressroom.nsf/1f70cd9a07d692d685256ee1001cdd37/ab073109ea552bde8525730c006c3afa?OpenDocument>

³ Agreement for Revolving Credit Facility for AngloGold Ashanti Limited with Nedbank Limited and ABSA Limited with Nedbank Limited, dated 7 July 2015 ("**Financing Agreement**").

⁴ Ibid.

⁵ AngloGold Ashanti in Guinea: <http://www.anglogoldashanti.com/en/About-Us/Regionsandoperations/Guinea/Pages/default.aspx>

10. The 2007 transaction is subject to IFC's 2006 Sustainability Framework, including its Policy and Performance Standards on Social and Environmental Sustainability. According to the policy, IFC had to place certain contractual requirements on Nedbank pertaining to social and environmental issues. One of these requirements was for Nedbank to require recipients of its corporate financing to follow national laws and apply the IFC Performance Standards where their activities would present significant social or environmental risks. Another requirement, according to the policy, was for Nedbank to establish and maintain a "Social and Environmental Management System" to ensure that its investments meet IFC's requirements. IFC then had to monitor Nedbank's environmental and social performance.

11. We do not have access to the loan agreement between IFC and Nedbank, so we do not know if the terms and conditions in that agreement were consistent with IFC policy. IFC does not publicly disclose this information, inhibiting public scrutiny and accountability.

12. We have, however, obtained a copy of the 2015 financing agreement between Nedbank and AngloGold Ashanti, which was disclosed to the US Securities and Exchange Commission (**Annex 1**). If the IFC policy were properly followed, we would expect to find in that agreement a requirement on AngloGold Ashanti to apply the Performance Standards to its mining operations in Guinea, since the high level of risks of industrial mining operations to people and the environment are well known. There is no such term in the agreement, save an undertaking by AngloGold Ashanti that it is in compliance with all applicable environmental laws and permits as necessary for the conduct of its business.⁶ The agreement does require AngloGold Ashanti to notify Nedbank of breaches of environmental laws, and of any related claim against it.⁷ However, the agreement also states that: "...no Finance Party is bound to monitor or verify the application of any Loan."⁸

13. Nedbank claims to be a responsible lender. It has adopted the Equator Principles, a Human Rights Statement, an Environmental Policy, a Corporate Responsibility Policy and other such instruments.⁹ The bank states that it conducts environmental assessments to ensure that the projects it finances do not damage the environment.¹⁰ Yet, when it comes to corporate loans, Nedbank's environmental, social and human rights policies and systems are clearly insufficient. This is pointedly evident by the timing of its loan agreement with AngloGold Ashanti. Nedbank provided significant financing right in the midst of the escalating events surrounding AngloGold Ashanti's operations in Siguiri that culminated in violence and severe human rights abuses (described in section 3).

14. AngloGold Ashanti has also adopted its own set of sustainability policies and standards, including a Human Rights Policy and a Land Access and Resettlement Management Standard and claims to adhere to a raft of mining industry standards and global sustainability and human rights initiatives, including the Voluntary Principles on

⁶ Financing Agreement, clause 16.15 and 16.16; 17.7.

⁷ Financing Agreement, clause 17.17.

⁸ Financing Agreement, clause 3.

⁹ Nedbank, Governance and Ethics:

<https://www.nedbank.co.za/content/nedbank/desktop/gt/en/aboutus/about-nedbank-group/corporate-governance/governance-and-ethics.html>

¹⁰ Nedbank, Sustainability:

<https://www.nedbank.co.za/content/nedbank/desktop/gt/en/corporates/about-us/sustainability.html>

Security and Human Rights.¹¹ Yet, it is evident from the plethora of serious harms to the complainants displaced and otherwise harmed by the project that the company does not take these commitments seriously and certainly did not apply them to the Siguiri mine.

15. It is apparent that IFC has not complied with its policies and procedures in relation to Nedbank. IFC has, either or both, failed to require Nedbank to place an obligation on its clients to apply the Performance Standards where their activities would present significant social or environmental risks, and/or failed to adequately monitor Nedbank's environmental and social systems and performance.

SECTION 3: HARMS AND CONTRAVENTIONS OF HUMAN RIGHTS AND PERFORMANCE STANDARDS

16. The residents of Area One are victims of a violent forced eviction, a gross violation of human rights, as defined in international law instruments.¹² They also have not been accorded most or all of their entitlements and protections under the IFC Performance Standards (PS), including PS 1, 3, 4 and 5. The objectives of these PSs, including the PS5 objective of improving or at least restoring the livelihoods and standards of living of displaced persons, have categorically not been achieved.

17. The experience of the complainants and attendant contraventions of human rights standards and PSs are described below. In addition, we refer CAO to the attached Fact-Finding Mission Report by CECIDE, MDT, Advocates for Community Alternatives, and Communities First, "Involuntary Resettlement for the Extension of a Gold Mine in Kintinian" (published January 2017) for additional information about the process and impacts (**Annex 2**).¹³ This complaint draws from that report and is supplemented by information gathered through a site visit and discussions with the complainants conducted by the representing NGOs in March 2017.

18. Timeline of events.

- In **1985**, a Guinean joint venture company was granted a concession to explore for gold and other minerals in Siguiri Prefecture. Until 1993, the company conducted certain alluvial gold mining activities with funds provided by the IFC.
- In **1993**, a new mining agreement was signed granting mining rights to the company within a Project Area encompassing 1500 square kilometers. Until **1996**, the joint venture was majority owned by Golden Shamrock Mines Ltd. of Australia (70%), with other equity held by the IFC (15%) and the Government of Guinea (15%).¹⁴

¹¹ AngloGold Ashanti, Sustainability Documents:

<http://www.anglogoldashanti.com/en/sustainability/policies/Pages/default.aspx>

¹² Under international law, forced eviction is "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection" (Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions). The UN Basic Principles and Guidelines on development-based Evictions and Displacement set out protections and conditions that must be in place before, during and after an eviction in order for it to be consistent with human rights.

¹³ Fact-Finding Mission Report, <https://communitiesfirst.net/2017/01/31/kintinian-report/>.

¹⁴ Convention de Base between The Republic of Guinea and Golden Shamrock Mines Ltd and Chevaning Mining Company Ltd (1993).

- **In 1996**, Ashanti Goldfields bought a majority stake in the joint venture.
- **In 2005**, Ashanti Goldfields merged with AngloGold to form Anglo Gold Ashanti. The joint venture company in Guinea was renamed Société AngloGold Ashanti de Guinée (SAG).
- In early **2013**, SAG commenced plans to expand its mining operations to a location in the District of Kintinian 2 known as Area One. The expansion required the resettlement of approximately 380 families. SAG hired a firm called INSUCO to create a Resettlement and Compensation Action Plan (“**RAP**”). The RAP notes that residents of District Kintinian 2, which encompasses Area One, were not consulted.¹⁵
- In **March 2015**, SAG requested that Area One be made available to it before the end of August or it would be forced to close the Siguiri mine by May 2016.¹⁶ The threat to close the mine altogether appears to have placed pressure on the government to hastily move ahead with the evictions in Area One.
- In **August 2015**, a “Master Agreement” regarding the transfer of Area One was signed by SAG and “representatives” of affected communities. The complainants dispute that they ever gave their consent to the Master Agreement and deny that they were represented by the signatories.¹⁷
- In **October 2015**, negotiations led by residents asking for, among other things local job creation, were held with the Prefect. These negotiations failed and led to arrest and detention of community negotiators. Protests erupted in response.
- In **November 2015**, military and security forces, including the Presidential Guards known as the Red Berets, came into the area. The alleged official aim of this operation was the removal illegal semi-industrial miners, but it is clear to the complainants that another purpose was to force them to agree to resettlement terms. The arrival of security forces was accompanied by theft, violence, intimidation and arrests of residents. Complainants were among the victims of these actions. The situation lasted **until the end of 2015**. Many people fled the area during this time.
- **Beginning on December 5, 2015**, while the military and security forces were present in the area, SAG came to conduct a census and obtain people’s “agreement” on the inventory of their lands and other possessions, which the residents had previously rejected. Within this highly coercive environment, most people signed the agreements. Around one hundred households refused to sign. Many had fled the area and thus were not present to sign. Most households did not understand the contents of the document that they signed. Moreover, the document contained references to the 2013 RAP, to which the residents did not have access.
- **In April 2016**, the Siguiri Prefect, a local government official, held a meeting and convinced the households that had refused to sign the agreements that he would defend their interests. Representatives of the households signed the agreements, saying later that they felt obliged to do so out of respect for the Prefect.
- In **June 2016**, bulldozers started to arrive to demolish housing, and the evictions and demolitions increased in intensity in **late 2016**. With their houses destroyed,

¹⁵ INSUCO, RAP: AngloGold Seguelen Project, October 2013, pp. 18-19.

¹⁶ Memorandum regarding the situation of SAG and its relationship with Siguiri communities, SAG, not dated.

¹⁷ Master Agreement regarding the transfer of Area One, dated 27 August 2015.

families had to leave and find temporary housing because the resettlement site had not been prepared.

- As of **March 2017**, some people had moved to the resettlement site, while others still lived in temporary housing because the site was still unfinished. Conditions remain inadequate, including a lack of basic services and infrastructure, including water, electricity, drainage and maintained roads, and virtually no access to livelihood opportunities, including artisanal mining or agriculture.

19. A note on the application of PS5: PS5 applies to displacement resulting from the acquisition of land rights for a private sector project acquired through, or that could have been acquired through, expropriation or other compulsory procedures. The residents of Area One have customary tenure rights to the land that are recognizable under Guinean Law.¹⁸ The Guinean Land Code requires the issuance of a public interest decree, among other actions, in order for a legal expropriation to occur.¹⁹ Such a decree was not issued in this case. In the absence of a public interest decree, the only lawful channel open to SAG to acquire the land for its project was to make an offer to the owners on a willing-buyer willing-seller basis. The owners should not have been obliged to sell, and SAG had no right to initiate expropriation proceedings if the owners refused its offer.²⁰ Nonetheless, SAG was complicit in the Guinean state's use of force during the resettlement process. The negotiations were coercive in nature and the transactions were clearly not voluntary on the part of the complainants. The resettlement agreements are therefore null and void under Guinean law.²¹ This case therefore exposes a gap in the scope of PS5 (which continues in the 2012 version of the PS). Land taken by force and coercion, but not through legal expropriation, is not technically covered by PS5. Nonetheless, because in this case displacement occurred as a result of forced land acquisition and IFC's sub-client carried out a resettlement process, deeply flawed as it was, we set out below the ways in which PS5, in addition to other PSs, was not applied.

Failure to disclose relevant information and consult:

20. International human rights standards require that relevant information is disclosed and explained to people subject to eviction, and that their right to full consultation and participation is respected throughout the resettlement process.²² International standards for mining operations require the free, prior and informed consent of affected people to be obtained prior to exploration activities and prior to each phase of mining operations that affects local communities.²³

21. The IFC Performance Standards also require information disclosure and effective consultation. PS1 states: "The purpose of community engagement is to build and maintain over time a constructive relationship with these communities" (paragraph 19). Importantly, PS1 states: "Community engagement will be free of external

¹⁸ Guinean Land Code, article 39

¹⁹ Guinean Land Code, articles 56 to 60.

²⁰ Guinean Land Code articles 57-60; Mining Code, articles 123 and 125.

²¹ Guinean Civil Code, articles 649-655.

²² UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18, para. 38.

²³ The ECOWAS Mining Directive (2009) states that mining rights holders in member states "shall obtain free, prior, and informed consent of local communities before exploration begins and prior to each subsequent phase of mining and post-mining operations" (Article 16(3)), and that companies "shall maintain consultations and negotiations on important decisions affecting local communities throughout the mining cycle" (Article 16(4)).

manipulation, interference, or coercion, and intimidation, and conducted on the basis of timely, relevant, understandable and accessible information (paragraph 19). Pursuant to PS1, IFC clients and sub-clients are to provide affected communities early on and on an ongoing basis with “access to information on the purpose, nature and scale of the project, the duration of proposed project activities, and any risks to and potential impacts on such communities (paragraph 20). For projects with significant adverse impacts on affected communities, PS1 further requires that “the consultation process will ensure their free, prior and informed consultation and facilitate their informed participation. Informed participation involves organized and iterative consultation, leading to the client’s incorporating into their decision-making process the views of the affected communities on matters that affect them directly, such as proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues. PS5 echoes these requirements with respect to land acquisition and resettlement processes in particular (at paragraph 9).

22. None of these requirements were met by IFC’s sub-client, AngloGold Ashanti, which failed to provide relevant information and conduct genuine consultations. The RAP, created in 2013, was never shown or explained to the complainants or their legitimate representatives. The complainants were never consulted about the contents of the RAP, let alone the expansion of the mine. The RAP itself states that the residents of District Kintinian 2, which encompasses Area One, were “excluded” from consultations during INSUCO’s work on the RAP. The document notes “the impossibility to conduct any consultation in the villages of Kintinian” and affirms that “no consultation was conducted [in these villages].”²⁴

23. AngloGold Ashanti claims that the RAP had been explained to a “local negotiation committee” from the impacted areas to enable the consultation of all affected communities. AngloGold Ashanti specified that government officials and village chiefs had, in this context, answered questions raised by residents.²⁵ We assume that AngloGold Ashanti is referring here to the events in August 2015 in which the Master Agreement was signed. This “local negotiation committee” did not, however, conduct any additional consultation with the wider community and the complainants deny that this committee represented them or their interests at any time.

24. In September and October 2015, there were several meetings between the Siguiri Prefect and eleven Area One residents who were appointed as community negotiators. During this negotiation, the community negotiators presented demands infrastructure, connection to water and electricity for all Kintinian communities, and healthcare coverage for five years. The negotiators also insisted that the company must offer jobs to affected household. This negotiation failed and ended with the arrest of the eleven community negotiators. Protests erupted, followed by the influx of military and security forces into the area. Households were then forced to sign resettlement documentation as described below.

25. While SAG failed to consult with project affected people, the community did nonetheless reach out to SAG to make their objections to the project known. A letter signed by over 22 local clan leaders and elders illustrates a clear objection to SAG’s operations on Area One, stating: “We, clan leaders of the village, feel obligated to inform

²⁴ INSUCO, RAP, October 2013, pp. 18-19.

²⁵ Fact-Finding Mission Report (p. 24) citing teleconference between authors and AngloGold Ashanti on 31 August 2016.

you of the consensus reached by the entire population regarding the non-exploitation of Area One.”

Use of force, threats and intimidation throughout resettlement process:

26. **In addition to the requirements of PS1 and PS5 set out above requiring free and non-coercive consultation processes, PS4 institutes safeguards in cases in which IFC clients or sub-clients are provided with services by government security personnel.** Any security personnel involved in past abuses should not provide services to IFC clients. Security personnel must display appropriate conduct towards the local community and act within the law. The IFC client must not sanction any use of force except when used for preventative and defense purposes in proportion to the nature and extent of the threat. (Paragraphs 13 and 14). The client must investigate any credible allegations of unlawful or abusive acts of security personnel, take action to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate (paragraph 15).

27. **IFC’s sub-client, AngloGold Ashanti, has failed completely to meet requirements of PS 1, 4 and 5, and appears to have been complicit in violent crimes and serious human rights abuses perpetrated by military and security personnel.** Threats and use of force permeated the project area and the resettlement process.

28. Soon after negotiations with the community failed, on November 23, 2015, military and security forces arrived in the area. This included the Red Bérets, which are known for their violation of human rights among Guineans; notably, they were implicated in serious human rights abuses during a massacre that took place on 28 September 2009.²⁶

29. According to the complainants, the military and security forces set up road checkpoints and looted homes and businesses, taking all kinds of merchandise (motorcycles, telephones, rice bags, large sums of money, etc.). Armed forces used tear gas in private homes, beating their occupants and, on occasion, overturning the food that was being prepared. Huts were set on fire. Several people were shot during this time, including a young woman who was shot in the back and today lives in constant pain, both physical and mental. Her use of her left arm has been impaired as a result of the shooting.

30. It is estimated by the complainants that approximately 500 people fled Kintinian and slept in the bush during this time.

31. While the complainants are aware that the official reason for the troops’ presence was to oust foreign semi-industrial gold miners, they believe that the violence perpetrated by the military was meant to force the residents of the area to accept SAG’s inventory of their lands and other assets, which they had previously rejected.

32. **Indeed, on December 5, 2015, while there was a heavy presence of military and security forces in the area, SAG began the inventory process.** The Fact-Finding Mission Report describes the situation as follows (pp. 17-18):

²⁶ See Human Rights Watch: “Guinea: September 28 Massacre was Premeditated,” October 27, 2009: <https://www.hrw.org/news/2009/10/27/guinea-september-28-massacre-was-premeditated>

According to witnesses, the military “surrounded the village and were looking for residents one by one to force them to participate in the inventory process.” Every witness who was interviewed (those who were present during the inventory) testified that members of the military were with SAG during the inventory [...] The soldiers were carrying various weapons: guns, war weapons, pistols, rifles, tear gas, handcuffs, etc. Soldiers entered concessions and houses with SAG agents. They surrounded the individuals subject to the inventory and placed them in quincunx (one soldier on all four sides with the individual in the middle with the fifth soldier) to threaten them. One witness recalled: “the soldiers told me that they were there to avoid protests and prevent any resistance.” Others recall vividly the proximity of soldiers during the inventory “at 0 meters with threatening faces” or “side by side.” One witness declared: “the military told me that if I refused to sign [the inventory summary] I would die.” Others stated: “the military participated in the inventory process to scare affected people.” [...] Several witnesses said: “they forced us to sign [the inventory summary] under military supervision and with intimidation.”

33. The complainants describe the military presence in Kintinian only ending once the inventory process was completed.

Failure to provide adequate compensation:

34. **Consistent with human rights standards, PS5 requires IFC clients and sub-clients to offer people who will be displaced compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living and livelihoods.** For households with legally recognizable land rights, PS5 requires IFC clients and sub-clients to offer replacement property, including land, of equal or greater value and with equivalent or better characteristics (which affected people can choose to accept instead of full replacement value compensation for that property). All lost productive assets or access to productive resources that are not replaced must be fully compensated (paragraphs 17 and 20). Standards for compensation are to be transparent. Where livelihoods are land-based, the client is to offer land-based compensation, where feasible. (Paragraph 8.) Transitional compensation is also required.

35. **Complainants were not offered replacement value compensation for lost assets at their real value. Complainants believe that the compensation provided was woefully inadequate and well below the amount needed to restore their standards of living and livelihoods.** They also do not believe that all lost assets were compensated or replaced. This includes the gold in the sub-surface of the land from which they were displaced, which they mined and sold to generate income before the eviction.

36. The inventory of assets was mired by violence, intimidation and failures to explain and verify the information with residents, most of whom cannot read. Many complainants were not even present during the inventory process because they had fled the area.

37. The compensation matrix was not shared with the communities, and nothing was done to raise awareness about it.

38. The compensation matrix was prepared in 2013 and not updated to reflect the rise in the cost of living.

38. When some people tried to negotiate the compensation amount, SAG refused.

39. SAG offered a monthly stipend to certain heads of affected households to cover rental costs for four months. However, construction of housing at the resettlement site was not completed for at least six months, and some replacement houses have still not been completed, more than nine months after the evictees had their former homes demolished.

Poor conditions at resettlement site:

40. **PS5 requires that new resettlement sites built for displaced persons provide improved living conditions compared to their former situation.** IFC clients and sub-clients must provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable. Alternative housing and/or cash compensation must be made available *prior* to relocation (paragraph 16).

41. **The resettlement site is on barren land, housing construction is incomplete, and it lacks basic services and infrastructure.** It is notable in this regard that SAG pressured the government to make Area One quickly available to it, threatening to close its operations altogether if it could not expand. The company was clearly not concerned that the affected people would be displaced before the resettlement site was ready, in clear contravention of the Performance Standards. The site does not have electricity or running water, while the flush toilets installed in the replacement houses require running water to function. Only two of the nine water wells the company built are functioning, which is believed to be a result of impacts to the water table caused by mining operations. More than 180 households rely on these wells, making access to water a serious problem. Complainants had access to water and electricity in their old houses.

42. The company only maintains the roads it purpose-built for its mining operations, while the primary and secondary roads used by the local population are in poor condition and have been damaged by company vehicles. None of the roads that SAG's vehicles use have been paved, resulting in extremely poor ambient air quality for the Kintinian population.

43. As noted above, complainants were forced to live in temporary housing until the construction of housing at the resettlement site was completed, and some are yet to be ready. The complainants also note that the surface area of the houses was reduced, and rooms are too small.

39. Unlike the community's former homes, the resettlement site has no trees to provide shade in the sweltering heat or gardens to provide food. It is a harsh place to live.

Few livelihood opportunities or provision of livelihood support:

40. **An objective of PS5 is to improve, or at least restore, the livelihoods of displaced persons.** Moreover, IFC clients and sub-clients must identify development opportunities, provide targeted livelihood assistance, and transitional support based on

the time required to restore income-earning capacity, production levels and standards of living (paragraphs 12 and 20).

41. The complainants were not offered financial or any other type of support to restore or improve their livelihood. No livelihood restoration plan was developed for the residents of Area One. No consideration was given to the creation or accessibility of professional activities at the resettlement site. Many residents are artisanal gold miners or merchants. The location of the new site hampers artisanal gold miners' transit and their access to artisanal mining sites. Whereas they previously mined on their own land, the resettlement site contains no gold, depriving many families of their primary source of income. Furthermore, AngloGold Ashanti worked with the authorities to institute a ban on artisanal gold mining throughout the 1,500-square-kilometer concession, which includes the resettlement site. Some residents owned and cultivated mango and cashew orchards that produced abundantly each year. These were not replaced or compensated at replacement cost, including the productive life of the trees.

42. Complainants used to fish, hunt and grow gardens for food. The project and resettlement have made all of this a lot more difficult or impossible, and people now need to buy food to survive. Because of the lack of water from wells, people need to buy water to drink. Markets selling food, water, and other goods were a short walk from complainants' homes before the forced evictions but now are a 40-minute walk or a 20,000 Guinean Francs taxi ride round trip from the relocation site. At the same time complainants' income-earning potential has been drastically reduced due to their economic displacement and the failure of the company to provide jobs and other means of livelihood restoration.

43. In fact, many complainants today find themselves without any earning capacity, and spiraling into abject poverty and hunger, due to the situation into which they were forced by IFC sub-client, AngloGold Ashanti.

Disproportionate impacts on women:

44. Women have been particularly vulnerable during the forced eviction and resettlement.

45. At the resettlement site, women are tasked with fetching and filtering the dirty water from the wells, and coping with its shortage for households needs. They no longer have gardens as they used to, and now every morning they have to pay 20,000 Guinean francs to travel to the town to buy food. The women now gather gravel every day to sell, and to sell it they have to pay 20,000 francs to get to the market. They worry about their children who are virtually all unemployed. They worry about having enough food to eat including rice.

Community exposed to pollution and hazardous materials:

46. In addition to general requirements to avoid adverse impacts in PS1, PS4 requires IFC clients and sub-clients to avoid or minimize the potential for community exposure to hazardous materials that may be released by the project, and adverse impacts due to project activities on soil, water, and other natural resources in use by the affected communities (paragraphs 7 and 9). PS3 requires clients to apply pollution prevention principles and techniques that are best suited to

avoid, or where avoidance is not possible, minimize adverse impacts on human health and the environment, consistent with good international industry practice, including the World Bank Group Environmental, Health and Safety Guidelines (paragraph 4).

47. **The company has exposed the community to hazardous materials through its use of cyanide and explosions in its activities.** The cyanide polluted water sources that the community previously used for washing clothes, fishing and for livestock. During heavy periods of rain, cyanide has reportedly leached into the local water sources, killing birds and cows. The complainants are also concerned that the use of cyanide, along with the large amount of dust emitted into the air from the nearby mine and processing facility, is exposing residents to adverse health impacts, including headaches, respiratory problems and potentially more serious, long-term consequences.

Restricted access to remedy:

48. **PS1 requires IFC's clients and sub-clients to establish a grievance mechanism to receive and facilitate resolution of the affected communities' concerns and grievances.** It should address concerns promptly, using an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, and at no cost and without retribution. The mechanism should not impede access to judicial or administrative remedies. PS1 requires the client to inform the affected communities about the mechanism in the course of its community engagement process. (Paragraph 23). **Access to remedy is a pillar of the UN Guiding Principles on Business and Human Rights and a fundamental human right in itself.**

49. **SAG has established a grievance mechanism but most of the complainants do not know about it or how to use it.** The mechanism has clearly not been accessible and has not resolved the affected communities' grievances.²⁷

50. **Moreover, the dispute resolution clause in the resettlement agreements restricts the community's access to remedy to the use of SAG's grievance mechanism.** The dispute resolution clause does not affirm people's rights under Guinean law, it does not affirm their access to the courts, or indeed, their right to access the IFC's CAO.

SECTION 4: OUTCOMES SOUGHT

51. **The complainants are seeking full and fair redress for all the harms and losses they have suffered in line with the protections and entitlements of the IFC Performance Standards and Guinean Law. They are also seeking to receive development benefits from the project as envisioned by the Performance Standards.**

52. The complainants request that the CAO facilitate a process of mediation between the complainants and AngloGold Ashanti, as well as other relevant parties, including Nedbank and the IFC.

²⁷ Fact-Finding Mission Report (p. 30).

53. The complainants request that a safe and secure environment, in which they can freely express their views and put forward their positions without fear of reprisals, is created for mediations. The complainants request that CECIDE, MDT and IDI are able to freely advise and represent them throughout the mediation process as they and their advisors see fit.

About the representing organizations:

Centre de Commerce International pour le Developpement (CECIDE) is a Guinean non-governmental organization whose mission is to promote and defend the social, economic and cultural rights of communities, and their involvement in the design and implementation of public policies for development.

Le Memes Droits Pour Tous (MDT) is a Guinean non-governmental organization, which focuses on the defense and promotion of human rights. It was founded by Guinean lawyers and young professionals in the legal industry to fight human rights violations in Guinea.

Inclusive Development International (IDI) is an international human rights organization that works to make the international economic system more just and inclusive. IDI supports and builds the capacity of local organizations and affected communities to defend their rights and the environment in the face of harmful investment, trade and development.

CECIDE and MDT have been accompanying Kintinian communities since 2010 on issues such as the promotion and defense of rights and obligations, prevention and conflict management, and capacity building for legal experts and local government. In 2017, CECIDE and MRT requested IDI's support on this case. The complainants asked CECIDE, MDT and IDI to file this complaint on their behalf following their visit to Kintinian in March 2017.

ANNEXES:

1. Agreement for Revolving Credit Facility for AngloGold Ashanti Limited with Nedbank Limited and ABSA Limited with Nedbank Limited, dated 7 July 2015.
2. Fact-Finding Mission Report by CECIDE, MDT, Advocates for Community Alternatives, and Communities First, "Involuntary Resettlement for the Extension of a Gold Mine in Kintinian" published January 2017, available at <https://communitiesfirst.net/2017/01/31/kintinian-report/>.