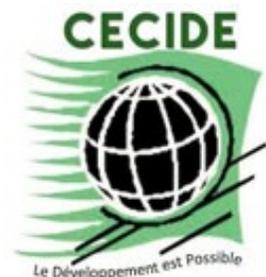


# The Relocation of Hamdallaye Village in the Midst of Covid-19

## How CBG is Failing to Meet the IFC Performance Standards



June 2020

In the middle of a global public health emergency, Compagnie des Bauxites de Guinée (CBG), a client of the World Bank's International Finance Corporation (IFC), relocated the village of Hamdallaye in the Boké region of Guinea. The Hamdallaye community was moved to an incomplete resettlement site without adequate housing, water and sanitation and without sufficient arable land and sustainable livelihood opportunities, in breach of IFC's Performance Standard (PS) 5 on Land Acquisition and Involuntary Resettlement.

The physical resettlement of families commenced on March 21, 2020, the same month that the mediation process was set to begin under the auspices of the Compliance Advisor Ombudsman (CAO). Concerns regarding the resettlement of Hamdallaye are a major component of the complaint that was filed by Hamdallaye and twelve other communities to the CAO in February 2019. CBG's decision to carry out the resettlement just prior to the planned commencement of the mediation indicated to the community an unwillingness on the part of the company to engage in the mediation process in good faith. The mediation, which encountered numerous delays, has now been postponed indefinitely due to COVID-19. Yet, despite the pandemic, CBG's mining operations and attendant adverse impacts on communities, including the resettlement of Hamdallaye, have moved full steam ahead.

According to CBG documents, a total of 105 households lived in Hamdallaye, including 74 living permanently in the village.<sup>1</sup> All households but one have now been resettled to the new site. One widow-headed household, with seven children, has not been provided with a house at the resettlement site and has had to temporarily shelter with relatives.

**The current situation of the resettled community, which is detailed below, is grave and in need of immediate remedial action.** Of greatest concern, CBG has taken and destroyed extensive swathes of agricultural land and water resources from Hamdallaye and other villages without providing compensation or replacement

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<sup>1</sup> CBG, Hamdallaye and Fassaly Foutabeh Resettlement Action Plan Supplementary Information Report (25 January 2018).

land. Moreover, CBG has failed to put in place adequate measures to restore the livelihoods of the communities that it has economically displaced. Despite CBG's assertions otherwise, all of this has occurred without effective informed consultation and participation of all segments of the affected population, including women.

Our organizations, Centre de Commerce International pour le Développement (CECIDE), Association pour le développement rural et l'entraide mutuelle en Guinée (ADREMGUI), and Inclusive Development International (IDI) filed a complaint to the CAO in February 2019 on behalf of 540 complainants in 13 villages, including Hamdallaye. We have produced this report as part of our ongoing efforts to support these communities in seeking remediation. While the pandemic has impeded our access to the ground in the last three months, we have conducted extensive interviews with Hamdallaye representatives by telephone to understand the situation in order to prepare this report. Our community liaisons have conducted surveys in the wider community. We have also drawn from previous research we conducted in Hamdallaye during the past year, as well as the monitoring reports of CBG's independent environmental and social consultant (IESC), Ramboll, which are required by CBG's mine expansion financiers. We shared this report with CBG and received a detailed response, which we have considered in this final publication.

Based on this information, we have observed the following key areas in which CBG's land acquisition and resettlement activities are failing to comply with IFC Performance Standards and causing ongoing harm to affected families.

## **1. Untenable Living Conditions at the Old Hamdallaye Village Due to Mining Activities**

Affected people have reported that conditions at the old Hamdallaye village, which was originally settled some 200 years ago, became "unbearable" due to the proximity of CBG's mining operations to their homes. Communities report that the dust generated from mining activities created air pollution, in breach of PS 3. Vibrations from

the dynamite blasting in the mining process also caused damage to houses. In addition, the surrounding mining activities dramatically reduced the community's access to farming land, making it very difficult for families to continue their livelihood activities in reasonable proximity to their old village, in breach of PS 5. According to affected people, CBG's operations created conditions that were so insufferable that even households who previously did not wish to move to the resettlement site felt compelled to do so.

According to the 2015 RAP, the company committed to taking measures to reduce the impacts of mining, such as noise, dust, and water pollution on the population (Section 5.2.7). CBG asserts in a letter to the CAO dated 10 April 2020 that since December 2019 it has implemented additional measures to mitigate dust emissions during blasting such as minimizing load volumes, collecting weather information on wind direction, and scheduling blasts during certain periods of the day when the wind is supposedly more "stable." However, according to Hamdallaye residents, any such steps taken by CBG have clearly been inadequate to reduce the adverse impacts.

## 2. Inadequate and Incomplete Resettlement Site

In 2007, CBG officially informed the Hamdallaye community that the entire village would be resettled. Until 2015, the community opposed resettlement. In 2015, after lengthy negotiations, an agreement to relocate was reached subject to conditions. The community agreed to resettle provided that: infrastructure and the size of houses at the resettlement site would be adequate; alternative income-generating activities would be developed; and replacement land would be provided in order to enable the community to continue its economic and livelihood activities (agricultural, pastoral, etc.), as it has been doing for generations.

Five years later, CBG resettled the community even though the terms of this negotiated agreement were not met. The community reports that the new resettlement site is incomplete. While some structures are adequate and may be an im-

provement on the old infrastructure, in general, the site does not provide overall improved living conditions as required by PS 5.

CBG claims that the construction of the residential infrastructure at the new site has been completed, and that technical inspections were carried out in November-December 2019 by its internal engineering services and an external control office to ensure the quality of the site's infrastructure. However, according to residents, despite the fact that CBG organized visits in January and February 2020 to the new houses at the resettlement site so households could inspect the houses and raise concerns, by the time they were relocated in March 2020, the repairs requested during the visits had not been done to the residents' satisfaction.

Hamdallaye residents have reported that the quality of the housing is poor and the infrastructure at the site is inadequate, particularly in relation to water and sanitation. Toilets are poorly constructed due to the shallow depth of the latrine pits, which has led to foul odors, clogging and unsanitary conditions. CBG has constructed



Toilets lack privacy and are poorly constructed

six boreholes with handpumps at the resettlement site but residents report issues with supply, which may be due to insufficient groundwater. The low water supply has meant that women, who are generally responsible for household water collection, have had to wait in long queues at the boreholes near the mosque and market, which in turn has led to conflict among the women in the community. CBG also refused the residents' request to install electric pumps in the boreholes, which would make water collection much easier for the women. CBG also did not provide an adequate drainage system, which has led to flooding at the site at the onset of the rainy season.

Most critically, CBG constructed the houses on land that it did not rehabilitate to ensure that it is cultivable, which will make the restoration of community livelihoods much more challenging going forward. The site itself is situated on a barren hilltop, which was previously exploited by the mining operation. Even though the site was selected for the new Hamdallaye village in 2015 the company failed to cover the area with topsoil and plant trees that would provide shade to residents by the time of relocation. To date, CBG has only

placed small amounts of topsoil on nine plots of land, leaving much of the area unusable for agriculture, gardening, and grazing. Residents report that the close proximity of the new barren site to the main national road, as well as the lack of fencing around its perimeter, has led to roadkill accidents as cattle roam in search of grazing land and water.

Topsoil is essential for vegetation; without it, the resettlement site will remain uncultivable. CBG claims to have planted more than 3000 trees and plants at the site, with a 55% success rate. However, Hamdallaye residents report that the trees CBG planted a year ago - if they survived - have shown little growth and provide no shade to shelter them from the intense heat, unlike their lush former village.



Trees planted by CBG one year ago on the barren land at the resettlement site show little sign of producing shade in the near future.



New Hamdallaye resettlement site lacking topsoil





Old village of Hamdallaye situated among lush vegetation.

### 3. Outdated Inventory of Assets Leading to Inadequate Compensation

Forty households report that at least one or more of their assets (e.g. house, sheepfold, henhouse, kitchens, etc.) were not inventoried or compensated for by the company. More than half (25 households) report not being compensated for at least one hut (most households are polygamous and possess several huts). Two of these households have ended up with no home and are particularly vulnerable: one household is led by a widow with seven children, and the other is a young couple and their four children. The latter has moved to the site but are lodging with relatives in a house not equipped for the additional household members leading to overcrowding. The widow and her three sons are currently being hosted by a relative near the new Hamdallaye site, while her four daughters have had to find shelter with other families nearby due to crowding at her relative's home.

In 2015, CBG carried out inventories of each affected household's assets. Company represen-

tatives informed households at that time that the relocation to the new site would take place soon. Based on this information, families believed that the move was imminent and therefore did not maintain or renovate their homes. As the months and then years went by, some of the huts collapsed. Moreover, some households did not construct new homes to accommodate for growth in household size, as CBG informed the community that any new construction after 2015 will not be compensated.

According to the Guidance Note to PS 5, when resettlement takes longer than expected, losses generated by restrictions of land use, including home improvements, should be compensated for by the client (GN 33). Consistent with PS 5, the 2015 RAP for Hamdallaye stipulates that "the cut-off date will not be valid one year after the completion of asset inventories so as not to unnecessarily limit the natural growth of affected communities before the start of compensation activities for resettlement and livelihoods" (Section 8.6.1).

The cut-off date for the inventories of household assets that CBG conducted was formalized by a decree issued by the Prefect on November



Widow with seven children has not been given replacement housing

18, 2015. When resettlement did not occur after one year, CBG should have updated their asset inventories and communicated the new schedule for resettlement to the communities. CBG began updating the inventories in 2017, but in the period since the original inventories had been conducted, some houses had collapsed. Community members report that during the 2017 inventory update, CBG did not account for these collapsed homes in their records even though they were initially counted during the first inventory. Now, CBG is refusing to compensate households for homes that collapsed.

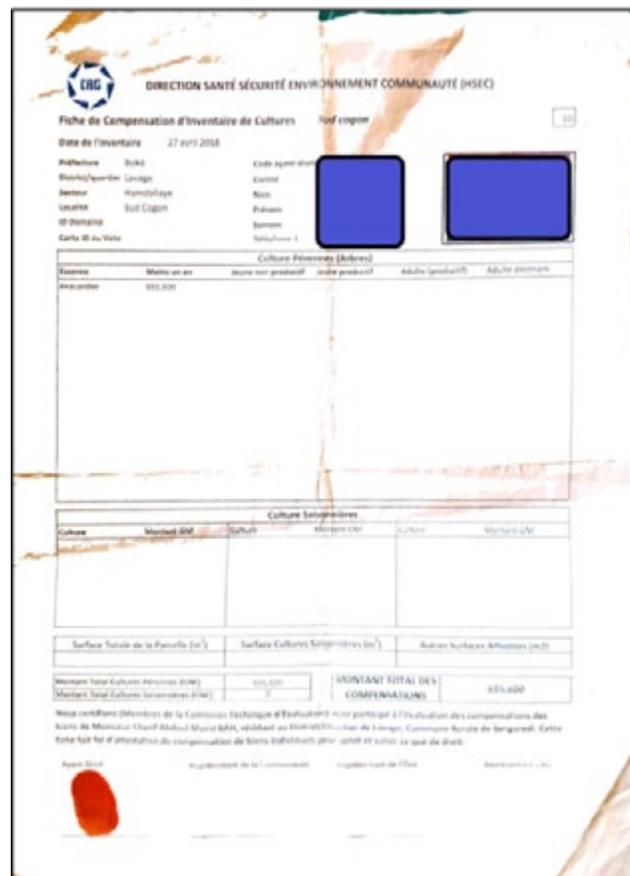
CBG claims that the asset inventories were again updated in 2019 and that all communities accepted and validated their compensation forms. However, Hamdallaye community members state that the 2019 inventory concerned only compensation for trees.

#### 4. Flawed Property Acquisition and Compensation Process

When acquiring the land and property of the Hamdallaye community, CBG does not appear to have followed the legal requirements for expropriation under the Guinean Land Code, which requires the issuance of a public interest decree, among other actions, prior to any expropriation.<sup>2</sup> To the best of our knowledge, no public interest decree

was ever issued for CBG’s operations. In the absence of a public interest decree, the only lawful channel open to CBG 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 CBG had no right to initiate expropriation proceedings if the owners refused its offer.<sup>3</sup> This does not appear to have occurred in Hamdallaye, where the residents report being presented with ‘take it or leave it’ offers.

CBG insists that all relevant key stakeholders (affected communities, state representatives, and CBG) validated and signed a “transactional memorandum of understanding” (MoU) that complies with Guinean Law.<sup>4</sup> However, the community claims that they have not been given a copy of the MoU and its contents have not been explained to them.



Form without signatures

2 Guinean Land Code (Code Foncier), articles 56-60

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

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

In a survey conducted in January 2020 by CECIDE with a sample of 75 impacted people, 84% of those surveyed about the compensation process said that the process was not transparent and 80% said the inventory process and the method of calculating prices had not been sufficiently explained to them. 65% of villagers state that they have felt constrained by the compensation process and unable to freely accept or refuse it.

The compensation process itself contained errors and lacked adherence to standard resettlement protocols. Crop inventory sheets were provided at the same time as compensation agreements, when the two activities should have been conducted separately. A significant part of the nearly 400 resettlement documents collected from complainant villages (including Hamdallaye) that we reviewed for this report were unsigned by CBG, official representatives, and community members.

## 5. No Replacement Value Compensation for Land Despite Recognizable Rights Under PS 5 According to CBG’s External Expert

In cases in which displaced persons do not have formal legal rights to land but have a claim to land that is recognizable under national law, PS 5 requires IFC clients to offer the choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and the advantages of location or cash compensation at full replacement cost (para. 21 and 27).

Ramboll states in its 2018 monitoring report that CBG is required under PS 5 to provide replacement land or compensation for acquired land. Ramboll notes that an external expert prepared a Resettlement Policy Framework (RPF) for CBG in 2016, which presents the result of a gap analysis between Guinean law and PS 5.

Ramboll explains that the RPF:

“...interprets Guinean law as treating individuals and groups with customary land-tenure as titled landowners (reference is made to Article 39 of the Land Tenure Code). Following this interpretation, the RPF contains an ‘Entitlements Matrix for Land’ which clearly provides for two types of land compensation for eligible households (and other entities); ‘in kind’ compensation; that is land-for-land and, also financial compensation for land.”<sup>5</sup>

Ramboll continues:

“Although the RPF has not been disclosed publicly, it is the CBG approved document that governs all land acquisition and involuntary resettlement actions taken by CBG, and provides the basis for the RAP for Hamdallaye and Fassaly Foutahbé, that has been publicly disclosed inclusive of a similar entitlements matrix which references to monetary compensation for land (sic). This is the only ‘resettlement-related’ plan that CBG has prepared to date. **Currently, CBG practice with respect to the Hamdallaye and Fassaly Foutahbé RAP is not fully aligned with its RPF commitments, because monetary compensation has not been made. Action is needed to ensure that land acquisition (and compensation) activities are aligned de jure and de facto in the future.**”<sup>6</sup>

Ramboll then adds a post-visit note, explaining that:

“Following the IESC’s monitoring site visit, a discussion occurred in mid-April, between Lenders and CBG on the land compensation issue and CBG informed the Lenders that it has changed its policy regarding compensation for land. It now intends to offer land-for-land (expected to be reclaimed mine land) when available which, in principle, is aligned to PS5, but only on the basis that the land is ‘equivalent’ to the land lost

5 Ramboll, CBG Bauxite Mine Expansion Environmental and Social Monitoring Report – February 2018, section 9.8.

6 Ibid. Emphasis added

in terms of productive potential and access. When this option is not possible, then an appropriate form of financial compensation, compliant with PS 5, will be provided. This change needs to be disclosed publicly, with a presentation of the new policy, by CBG.”<sup>7</sup>

We note that neither the RPF nor the change in land policy have ever been publicly disclosed or disseminated amongst the affected community. As stated by Ramboll, Hamdallaye households, like many other CBG-affected villages, have clear and recognizable customary land tenure rights to land, including their residential village and surrounding land that has been acquired and exploited by CBG. In fact, the resettlement site is located within the boundaries of Hamdallaye’s customary land, with individual households holding a specific recognizable claim to that land. The site has already been mined by CBG (and is no longer valuable to the company). Meanwhile, the traditional owners of the land have not received compensation. Community representatives predict that unless CBG compensates these customary owners this situation is likely to create disputes in the community.

According to Ramboll’s 2019 monitoring report, a 56-hectare parcel near the Hamdallaye resettlement site was earmarked for land-for-land allocation and the implementation of income-generating activities for the resettled community. However, according to satellite imagery analyzed by Human Rights Watch, since 2005, CBG has taken some 10 square kilometers (1000 hectares) of Hamdallaye’s ancestral farmlands, or approximately 40 percent of their land.<sup>8</sup>

Moreover, the 56-hectare parcel, like the resettlement site itself, is of poor quality and certainly does not possess equivalent or better characteristics than the land taken as required by PS 5. Ramboll stated in its 2019 report:

“[...] this land appears not properly prepared at this point and its agricultural potential in its current condition is probably insufficient

in terms of making a material contribution to livelihood restoration. Recontouring is not fully adequate (or fully complete) and topsoil has either not been put in place or is of inadequate quality.”<sup>9</sup>

It should be noted that CBG’s failure to satisfactorily rehabilitate land that it has mined extends beyond Hamdallaye and across its operations, affecting all the customary land holders within its concession. Communities report that formerly exploited lands outside of the Hamdallaye area that CBG claims to have “rehabilitated” are not covered with topsoil or restored to their level of fertility prior to exploitation. For instance, residents from Cogon Lengue and Ndanta Fogne villages report that nothing grows on these lands even during the rainy season and that these lands have no use either for people or livestock. CBG’s failure to preserve the topsoil from the lands that it mines and immediately use that soil to rehabilitate previously exploited areas represents a fundamental impediment to the company’s ability to sustainably restore and improve livelihoods. CBG’s land rehabilitation practices are far out of step with the standards to which its principle shareholders Alcoa and Rio Tinto claim to adhere.<sup>10</sup>

## 6. Inadequate Livelihood Options and Support

Ramboll stated in its 2019 monitoring report that “the plots envisaged for household gardens, the 56 ha land plot earmarked for land-for-land compensation and the 22 ha parcel meant for [income-generating activities (IGAs)] are not in a condition conducive to agriculture.”<sup>11</sup> Ramboll concludes that the condition of the land is a “threat to achieving livelihood restoration success” and calls on CBG to implement remedial

<sup>7</sup> Ibid.

<sup>8</sup> Human Rights Watch, “What Do We Get Out Of It?”, 2018, p. 49 <https://www.hrw.org/report/2018/10/04/what-do-we-get-out-it/human-rights-impact-bauxite-mining-guinea>

<sup>9</sup> Ramboll, CBG Bauxite Mine Expansion Environmental and Social Monitoring Report – July 2019 section 9.1.3.

<sup>10</sup> See: Alcoa, Bauxite, “Leaders in land rehabilitation,” <https://www.alcoa.com/global/en/what-we-do/bauxite/default.asp>; and Rio Tinto, “Land,” <https://www.riotinto.com/en/sustainability/environment/land>.

<sup>11</sup> Ramboll, Op cit., p. 47.

measures, which have not been taken to date.<sup>12</sup>

While IGAs were recommended in the 2015 RAP, CBG has not consistently provided support that is appropriately adapted to each affected household's needs. Communities report that the NGO that CBG hired to carry out the implementation of the livelihood restoration activities merely presented a list of IGAs without substantively consulting the community on a holistic livelihood restoration program. 76% of those interviewed by CECIDE in the villages concerned (including Hamdallaye) confirm that the IGA initiatives were not adapted to their needs.

Moreover, the focus on IGAs is a short-term solution and insufficient on their own to support affected communities to restore, much less improve their livelihoods, as required by PS 5. Effective and sustainable livelihood support requires a holistic approach that considers every aspect of the socio-economic environment of the affected communities. This should include ensuring good pasture land and high yield crops; providing professional trainings, such as in mechanics, electricity, and other types of specialized

skilled labor; and facilitating village savings and loans programs to ensure financial management and investments within the community. CBG is not presently adopting this holistic approach and therefore is highly unlikely to achieve the objectives of PS 5 to improve, or restore, the livelihoods and standards of living of displaced persons.

Indeed, Ramboll's 2019 evaluation of livelihood support measures states: "Beyond [...] preliminary awareness and training, no tangible support has been provided".<sup>13</sup> The community continues to be frustrated by the lack of effective livelihood support. For instance, the women of Hamdallaye withdrew from the process of setting up a market garden after the NGO hired by CBG asked them to collect cow dung around the village to make compost, but never trained the women on composting, leaving the collected dung heap to fester. In Hamdallaye's sister village, Fassaly Foutabhé, community representatives report that the program implemented by the same NGO included activities that the community was unaware of or had not identified as needed, such as vegetable gardening or small ruminants. The pro-



Exploited land near the villages of Cogon Lengue and Ndanta Fogne which CBG claims has been 'rehabilitated'. Residents report that CBG has periodically visited communities and informed them that land is being restored. Residents report that they have had no success growing crops, and that the land appears sterile due to the absence of topsoil. Similar plots of 'rehabilitated' land are widespread in other affected communities within CBG's concession.

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<sup>12</sup> Ibid.

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<sup>13</sup> Ibid, p.41.

gram was so inadequate that the village of Fasaly asked the NGO to stop coming to their village because they were unhappy with how the NGO behaved and conducted the projects.

## 7. Inadequate Consultation and Participation Process

Hamdallaye community members state that the absence of formal and accessible information dissemination processes is creating social tensions within the community. Information is shared informally, on an ad-hoc basis, and with little documentation or public transparency. For example, there have been no clear public announcements

about the resettlement process posted on bulletin boards.

CBG claims in its letter that community representatives were engaged in a regular consultation process; however, community members state that their views and positions were not sufficiently considered. Women, in particular, were not effectively consulted throughout the process.

Complaints regarding resettlement lodged by community members to CBG and local authorities also remain unresolved to this day.

Contrary to the requirements of PS 1 and 5 no official Stakeholder Engagement Plan or Informed Consultation and Participation (ICP) process has ever been agreed to by Hamdallaye or any other community affected by CBG. ✧

“Resettlement has raised a significant number of problems. First, the villagers of Hamdallaye have lost their livelihoods. Income generating activities are a failure to date and we have nothing more because we have no land to cultivate. Without cultivable land, economic activities are almost non-existent since our displacement. The consequences of loss of land and livelihoods have been catastrophic for villagers’ living conditions. Most people have run out of money. Some have been reduced to leaving for the surrounding villages like Tinguilinta, Balandougou, Boundou Lengué or towards the border with Guinea Bissau to make coal. The village is increasingly deserted by its inhabitants who work more and more as agricultural workers with the neighbors. Also, although there are boreholes, the quality and availability of water is problematic. For example, once we get water from the pump at the mosque, the next day we see mud deposit. CBG says it did a water study at the site, but the results of that study were not shared with the community. The cattle have also dispersed for lack of water and pasture [at the new site], not to mention that there is no fence around the village, which is worrying given the proximity of the village to the national road.”

*-Mamadou Lamarana Bah, Hamdallaye community representative*