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WATCH

# “Our Trust is Broken”

Loss of Land and Livelihoods for Oil Development in Uganda



## **“Our Trust is Broken”**

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## Loss of Land and Livelihoods for Oil Development in Uganda

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# Map



## Summary

“Our first meeting with Total they said, ‘Your standard of living will be elevated, you will no longer be poor.’ Now with the oil project starting, we are landless and are the poorest in the country.”

— a 48-year-old woman supporting seven children, whose land was acquired for the Tilenga oil project, March 2023

The East Africa Crude Oil Pipeline (EACOP) is one of the most significant fossil fuel infrastructure projects currently under development globally, connecting the Tilenga and Kingfisher oilfields in western Uganda with the port of Tanga in eastern Tanzania. As planned, the Lake Albert Development Project will include hundreds of oil wells, hundreds of kilometers of roads, camps and other infrastructure, and a 1,443-kilometer pipeline, the longest heated crude oil pipeline in the world. An estimated 246,000 barrels of oil will flow each day for the projected 25 years of operation.

The first wells have been drilled in the two oilfields, infrastructure development is underway, and compensation under the land acquisition project along the pipeline corridor has been paid for 93 percent of impacted households according to TotalEnergies. In total, over 100,000 people in Uganda and Tanzania will permanently lose land to make way for the pipeline and Tilenga oilfield development, according to calculations based on project documentation.

French fossil fuel giant TotalEnergies is the principal company involved through its two East African subsidiaries, TotalEnergies EP Uganda, the operator for both EACOP and the Tilenga oilfields, and TotalEnergies East Africa Midstream. Other partners in the Tilenga oilfields (the “Tilenga consortium”) are the state-owned China National Offshore Oil Company (CNOOC) and the state-owned Uganda National Oil Company (UNOC).

EACOP is owned by a UK registered company EACOP Ltd, whose shareholders (the “EACOP consortium”) are the majority shareholder TotalEnergies EP Uganda, UNOC, the state-owned Tanzania Petroleum Development Corporation (TPDC), and CNOOC.

Despite numerous public statements, policies, and plans from TotalEnergies and its subsidiaries to identify and mitigate negative impacts in the project, the situation on the ground for many families who are losing land is grim. Based on over 90 interviews that Human Rights Watch conducted in early 2023, including with 75 displaced families in five districts of Uganda, this report documents the devastating impacts on livelihoods of Ugandan families from the land acquisition process.

The land acquisition process has been marred by delays, poor communication, and inadequate compensation.

Critically, Human Rights Watch found that affected households are much worse off than before. Many interviewees expressed anger that they are still awaiting the adequate compensation promised by TotalEnergies and its subsidiaries in early meetings in which company representatives extolled the virtues of the oil development.

Families described pressure and intimidation by officials from TotalEnergies EP Uganda and its subcontractors to agree to low levels of compensation that was inadequate to buy replacement land. Most of the farmers interviewed from the EACOP pipeline corridor, many of them illiterate, said that they were not aware of the terms of the agreements they signed. Those who have refused signing described facing constant pressure from company officials, threats of court action, and harassment from local government and security officials.

Many families, particularly along the pipeline corridor, said that they were not being offered the option of replacement land and instead were pressured to accept cash settlements that were below the cost to replace land. For those living in the Tilenga oilfields who have withstood the pressure and insisted on replacement land in line with international standards, have had their land expropriated through the Ugandan courts that have deposited compensation funds in lieu of replacement land. Residents who did sign say the compensation amounts received are far below what they need to purchase replacement lands. Those families, who have purchased replacement land with their compensation, have typically bought less land, with poorer soil quality, located farther away, and with land costs steadily increasing in many of the areas of proposed oil development, partly due to land speculation.



TotalEnergies EP Uganda also took three to five years after initial property evaluations were carried out to pay compensation. According to TotalEnergies, this was due to delays in “finalization of the various legal and legal documents necessary for land acquisitions” and Covid-19 constraints.

In a June 15, 2023 letter to Human Rights Watch, TotalEnergies stated that the “Tilenga and EACOP projects continue to pay close attention to the respect of the rights of the communities concerned,” and reiterated their view that compensation paid met the standard of “full replacement value.” TotalEnergies also outlined additional measures taken in response to delays, including a 15 percent per year “uplift” allowance that was “aimed at mitigating the effects of these delays on the PAPs in their daily lives” and details of the livelihood program that is planned to operate for “at least 3 years after land acquisition or until livelihoods are fully restored.”

However, these delays in payment, lack of replacement land, and inadequate compensation have left many families poorer and unsure about the future. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. During the delays, many farmers understood they were not permitted to access their land to tend perennial crops, depriving them of crucial income. Residents described how the delays impacted their food security, buying food they would have grown previously to feed their families by resorting to selling household assets, including livestock, or borrowing from predatory lenders at excessive rates to pay their expenses. Families described their inability to pay school fees and anguish over their children or grandchildren dropping out of school.

Unkept promises about relocation of burial sites, improvement in quality of life, and lack of clarity about future livelihood support around Tilenga have further eroded trust between affected communities and the oil companies.

TotalEnergies’ practices so far on EACOP’s land acquisition process have been inconsistent with its expressed commitment to uphold relevant international standards. TotalEnergies has repeatedly stated its commitment to International Finance Corporation (IFC) Performance Standard #5 on Land Acquisition and Involuntary Resettlement; the Equator Principles, a financial industry benchmark for determining, assessing and

managing environmental and social risk in projects; and other international human rights standards in its land acquisition programs, including in its June 2023 letter to Human Rights Watch.

IFC Performance Standard #5 requires that adequate compensation be paid, that it is paid in a timely manner, and that livelihoods must be restored or enhanced from pre-disturbance levels.

In response to numerous civil society criticism of the EACOP land acquisition program, TotalEnergies and its subsidiaries have developed various land acquisition policies and plans to guide it to meet these commitments. However, Human Rights Watch found that there is a significant gap between TotalEnergies' commitments to pay adequate compensation and restore or enhance livelihoods and the reality on the ground. Interviewees repeatedly told Human Rights Watch that compensation amounts received were not adequate to purchase replacement land and said they were worse off than they were previously. The delays in payment of compensation also caused significant hardship and impacts on livelihoods.

Beyond the human rights harms to the communities directly affected by the land acquisition process of TotalEnergies EP Uganda, the project raises broader environmental concerns in the area. The EACOP pipeline and oilfields will disturb some of Africa's most sensitive ecosystems, including Murchison Falls National Park and the Murchison Falls-Albert Delta Ramsar site. Pipeline ruptures, inadequate waste handling, and other pollution impacts would cause significant damage to sensitive ecosystems – to the land, water, air, and the species that rely on them.

These potential harms are not unique to EACOP but are illustrative of fossil fuel projects around the world, including the Niger Delta in Nigeria, the United States, and numerous other places. What distinguishes EACOP in this regard is the scale of the project and the sensitivity of impacted ecosystems.

Lastly, and equally importantly, the EACOP project will contribute to the greenhouse gas emissions driving the climate crisis from the burning of fossil fuels. The full lifecycle greenhouse gas emissions of the project are estimated by the Climate Accountability Institute at 379 million tonnes of CO<sub>2</sub>E – more than the annual emissions of Australia.

The International Energy Agency (IEA), the Intergovernmental Panel on Climate Change (IPCC), and other experts warn that no new fossil fuel projects can be built if we are to reach Paris Agreement goals and limit the worst impacts of climate change. EACOP will be an ongoing disaster for the planet, contributing to the climate crisis that impacts a range of human rights, and therefore should not be built.

Opposition to the EACOP project is widespread. Civil society groups in Uganda and Tanzania have called on the pipeline not to be built, as has a 2022 European Parliament resolution, and various UN Special Rapporteur statements. Legal challenges in Uganda, France, and at the East African Court of Justice, some of them ongoing at time of publication, have added to uncertainty about the project's viability.

Finance for the EACOP project is still not in place, with TotalEnergies reporting in March 2023 that it still needs to secure 60 percent, or US\$3 billion, for the pipeline to proceed. At the time of publication, at least 24 financial institutions and 23 insurance companies have publicly stated an unwillingness to support the project due to its climate, environmental, or human rights risks. Financial institutions, insurance companies, and others face reputational damage by supporting EACOP because of these risks, including through its land acquisition program that does not meet international standards and causes human rights harms to the affected communities.

Whether or not EACOP is completed, TotalEnergies EP Uganda and other companies involved in financing, construction and operation of the project should ensure that the livelihoods of affected households are restored or enhanced to pre-project levels in line with international standards.

While Uganda has significant energy needs, it has other energy options. It does not need fossil fuels to tackle energy poverty. The country has abundant renewable clean energy resources it can develop to reach economic development goals without further impoverishing those in the way of the pipeline and contributing to further climate change. Uganda has signed onto numerous agreements that commit it to build a future for clean energy. Financial institutions and countries committed to taking action to tackle the climate crisis by limiting fossil fuel development should help Uganda embrace its sustainable renewable energy potential through direct finance and other forms of support.

The increased availability of finance and other forms of support to help Uganda tackle energy poverty through renewable clean energy development will simultaneously disincentivize the development of Uganda's fossil fuel sector.

## Recommendations

### To the Owners and Operators of the Tilenga and EACOP Consortia, TotalEnergies and its Subsidiaries, CNOOC, UNOC and TPDC

- Take all necessary measures to ensure that the enjoyment of rights of everyone who has lost land is not harmed as a result of the project, and that compensation levels be aligned with international human rights standards.
- Upgrade compensation amounts to ensure they are in line with international human rights standards and best practices for land acquisition. Review past compensation practices to ensure that amounts paid reflect the cost to replace land at the time compensation was paid and promptly provide supplemental compensation to reflect changes in replacement cost. Promptly publish the results of this review.
- Pay additional allowances as necessary to make up for lost revenue from multi-year delays and miscommunications about restrictions on land access and maturation of trees.
- Issue clear instructions to subcontractors to ensure the option of land-for-land compensation is offered, and to ensure adequate time and resources are built into land acquisition processes to explain in local languages what is being proposed, the contents of the forms, and to permit affected people to ask questions.
- Take all necessary measures to prevent subcontractors from using any form of intimidation to coerce Project Affected Persons (PAPs) into signing documents, including, but not limited to, implied threats of legal action.
- Significantly increase the amount budgeted and activities to be undertaken to restore and enhance livelihoods from pre-disturbance levels including provision of school fees for a period of time given delays in compensation payments and the increased costs of replacement land since livelihood restoration plans were developed.
- Offer to acquire so-called orphaned land or compensate for decline in value and restrictions on access.



## **To the Government of Uganda**

- Provide adequate oversight to ensure TotalEnergies, partners, and their subsidiaries are compliant with the approved Resettlement Action Plans (RAPs) and implement planned livelihood restoration and enhancement activities in a rights-respecting way in compliance with international standards.
- Ensure increased livelihood restoration support given lost income from delays and significantly increased replacement cost since rates provided.
- Increase land and crop compensation rates on an annual basis to reflect rapidly changing costs of replacement land, inflation rates, and revenue generating potential of crops.
- Adopt and implement a robust and rights-respecting climate mitigation policy consistent with the best available science – which would include the cancellation of the EACOP project – and focus energy sector development on a rapid, just and equitable implementation of renewable clean energy.

## **To Financial Institutions and Insurance Companies Considering Providing Support to TotalEnergies, its Subsidiaries or Partners**

- To combat the expansion of the fossil fuel industry and its effect on climate change, do not provide support, financial or otherwise, for development of EACOP or associated projects. Publicly state a commitment to not fund EACOP.

## Methodology

This report is based primarily on 94 interviews conducted in March and April 2023. Of these, 83 were with individuals living in Sembabule, Lwengo, Rakai, Bulisa, and Kyotera districts in Uganda who have been impacted by the land acquisition program in the Tilenga oilfields and along the EACOP pipeline corridor.

All 94 interviews were in person. To gain as broad a perspective as possible, we interviewed men and women with a wide range of backgrounds, ages, livelihoods, and with different experiences of the compensation process. Out of the 83 interviews with affected people, 52 were men and 31 were women. Seventeen were over the age of 60. Ten of the interviews were with women who headed households.

In addition to the 83 affected individuals, we also interviewed 11 people who were not displaced but had other firsthand experiences with the land acquisition process, including local village chiefs, school principals, nongovernmental organization representatives, and activists.

Some interviews were conducted in English, but most were translated from local languages into English. No one interviewed for this report was offered any form of compensation. All interviewees were informed of the purpose of the interview and its voluntary nature, including their right to stop the interview at any point, and gave informed consent to be interviewed.

Some interviewees who have been interviewed previously by the media or civil society groups have reported experiencing harassment or intimidation from oil company subcontractors or government officials. Consequently, all interviewees have been assigned pseudonyms.

Throughout the research, Human Rights Watch took various precautions to verify the credibility of interviewees' statements. Unless otherwise specified, all the patterns of abuse described in this report are based on a variety of independent sources including interviews and secondary material.

We reviewed dozens of nongovernmental organization (NGO) reports, media articles, government documents, social media posts, compensation documents, and project documents from EACOP.

This report focuses on two consortia: the “Tilenga consortium” made up of TotalEnergies EP Uganda, the China National Offshore Oil Company (CNOOC), the Uganda National Oil Company (UNOC); and the “EACOP consortium” comprised of TotalEnergies East Africa Midstream, CNOOC, UNOC, and the Tanzania Petroleum Development Corporation (TPDC). In both cases, a subsidiary of TotalEnergies – TotalEnergies EP Uganda – is the majority owner and operator.

Human Rights Watch wrote letters with our findings and queries to TotalEnergies on May 26, 2023, and Atacama Consulting, Newplan Group, CNOOC, UNOC, and TPDC on June 2, 2023. TotalEnergies responded on June 15, 2023. Atacama Consulting responded on June 22, 2023. Human Rights Watch met with UNOC on June 21, 2023. Written responses from Newplan Group, CNOOC, UNOC, and TPDC had not been received at the time of publishing. Human Rights Watch’s communications are included in Annex A. TotalEnergies’ and Atacama Consulting’s responses are included in Annex B.

Human Rights Watch chose to research and report on EACOP because the oil project poses significant risks of human rights harms to the local population, has major climate change implications, and incurred actual harms on people whose lands were needed for the development during early implementation of the project. EACOP is important as part of the broader discussion about fossil fuel infrastructure amidst a rapidly changing global energy context and devastating harms from the worsening climate crisis. The livelihood risks and the consortia’s approach to managing risk are illustrative of issues around land acquisition for many fossil fuel infrastructure projects globally.

While this report is about EACOP’s impact on livelihoods in Uganda, over 70 percent of displaced households for the EACOP pipeline are in Tanzania, where 1,147 kilometers of the pipeline are located. Other reports have documented similar impacts in Tanzania as those described in this report.<sup>1</sup>

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<sup>1</sup> See, for example, Les Amis de la Terre France, “EACOP: A Disaster in the Making,” October 2022, <https://www.amisdelaterre.org/wp-content/uploads/2022/10/eacop-a-disaster-in-the-making-foe-france-and-survie-oct-2022.pdf> (accessed May 11, 2023).

# Background

## The East Africa Crude Oil Pipeline (EACOP)

The East Africa Crude Oil Pipeline (EACOP) is a 1,443 kilometer pipeline intended to transport crude oil from the Tilenga and Kingfisher oilfields in western Uganda to the port of Tanga on Tanzania's Indian Ocean coastline for export.<sup>2</sup> The pipeline is designed, constructed, financed, and will be operated by the East African Crude Oil Pipeline Limited (EACOP Ltd.), incorporated in the United Kingdom.<sup>3</sup> The pipeline's shareholders, the "EACOP consortium," are TotalEnergies EP Uganda (62 percent), Uganda National Oil Company (UNOC) (15 percent), Tanzania Petroleum Development Corporation (TPDC) (15 percent), and China National Offshore Oil Company (CNOOC) (8 percent). TotalEnergies EP Uganda, a wholly owned subsidiary of TotalEnergies is the operator for the land acquisition program for the pipeline.<sup>4</sup>

Two oilfields will produce the oil transported by EACOP. The Tilenga oilfield in western Uganda will produce 204,000 barrels per day from about 400 oil wells on 31 well pads, including the drilling of 130 wells on 10 well pads in Murchison Falls National Park.<sup>5</sup> The Tilenga oilfield is owned by the "Tilenga consortium": TotalEnergies EP Uganda (56.67 percent), CNOOC (28.33 percent), and UNOC (15 percent).<sup>6</sup> TotalEnergies EP Uganda is the operator. The second oilfield, Kingfisher, along the shores of Lake Albert, is operated by CNOOC and will produce 42,000 barrels per day from 31 oil wells on 4 well pads. A series of access roads, feeder pipelines and other associated infrastructure connects well sites to a Central Processing Facility in each oilfield.<sup>7</sup> A long-planned refinery in Hoima close to the Kingfisher oilfield is expected to refine up to 60,000 barrels per day for distribution to Ugandan and regional markets, reducing the need for the import of fuel products through

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<sup>2</sup> 296 kilometers in Uganda and 1,147 kilometers in Tanzania.

<sup>3</sup> Government of the United Kingdom, "East African Crude Oil Pipeline (EACOP) LTD," accessed May 11, 2023, <https://find-and-update.company-information.service.gov.uk/company/11298396>.

<sup>4</sup> TotalEnergies East Africa Midstream is a wholly owned subsidiary of TotalEnergies and owns 62% of the EACOP pipeline. See Open Corporates, "TotalEnergies East Africa Midstream B.V.," accessed May 11, 2023, <https://opencorporates.com/companies/nl/66372739>.

<sup>5</sup> East African Crude Oil Pipeline (EACOP), "Overview", <https://eacop.com/overview/> (accessed May 10, 2023). See also, TotalEnergies, "Tilenga and EACOP: Acting Responsibly," accessed May 10, 2023, <https://totalenergies.com/projects/liquids-low-carbon-fuels/tilenga-and-eacop-acting-transparently>.

<sup>6</sup> TotalEnergies, "TotalEnergies in Uganda," accessed May 11, 2023, <https://corporate.totalenergies.ug/totalenergies-uganda>.

<sup>7</sup> EACOP, "Overview."

the port of Mombasa, Kenya, 1,150 kilometers away by road. Most of Tilenga and Kingfisher oil is destined for export outside of Africa regardless of whether the refinery ever gets built. When completed the pipeline would be the longest heated crude oil pipeline in the world.

The financial advisors for the pipeline, essentially those institutions that are to arrange and structure loans or other methods of financing, are Sumitomo Mitsui Banking Corporation (SMBC), Industrial Commercial Bank of China (ICBC), and Standard Bank of South Africa. Financing for the pipeline is yet to be finalized, although in March 2023, a TotalEnergies official stated that the company anticipates that funding should be in place by the end of 2023.<sup>8</sup> At time of publication, 24 financial institutions and 23 insurance companies have indicated they will not provide finance or insurance.<sup>9</sup> Taken together, the “Lake Albert Development project” will cost an estimated \$10 billion.<sup>10</sup>

The first well was drilled at Kingfisher in January 2023. In Tilenga, construction on roads, camps, the Central Processing Facility and other infrastructure is ongoing.<sup>11</sup>

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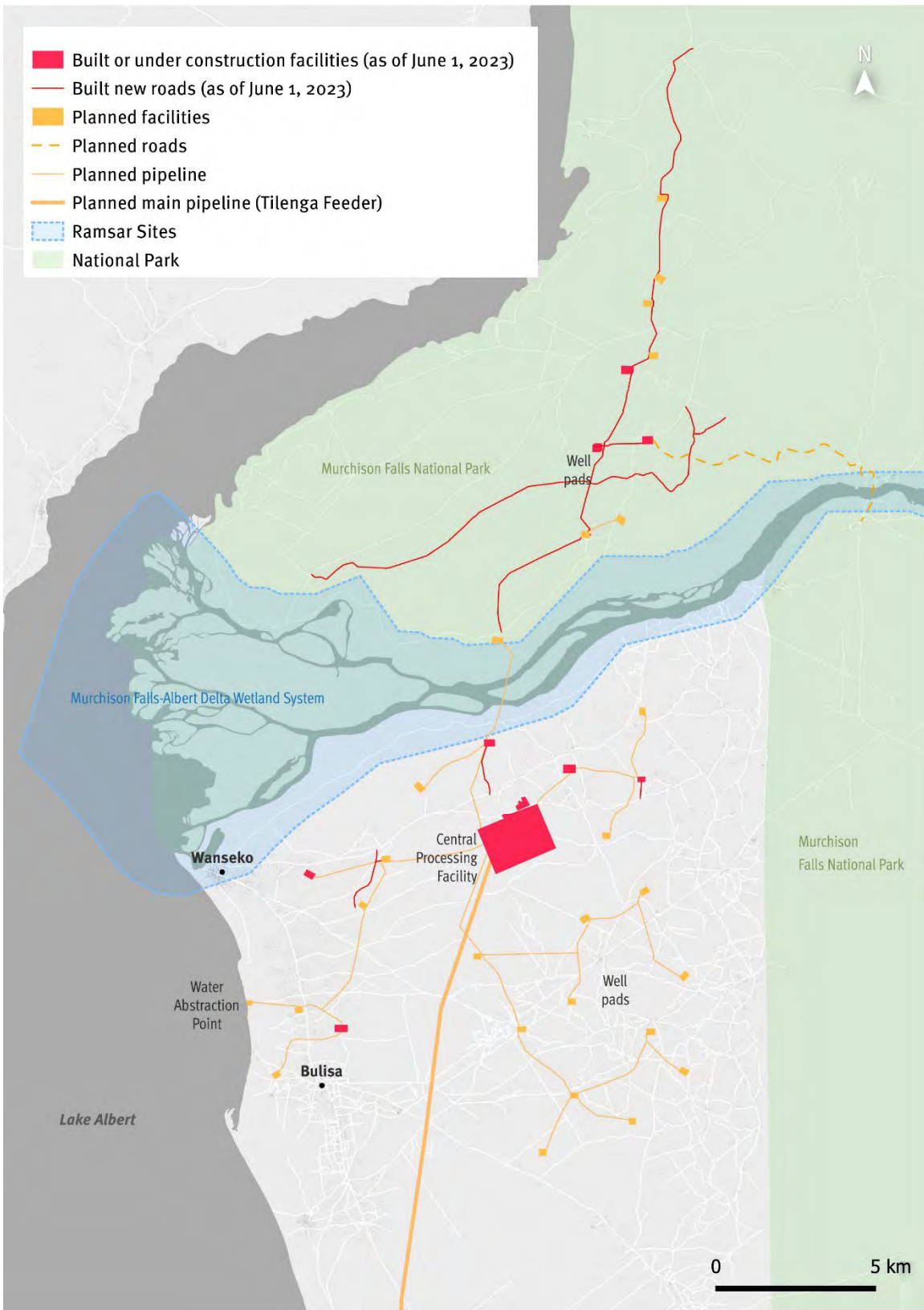
<sup>8</sup> Pipeline Technology Journal, “EACOP to Close Oil Pipeline Project Financing by Year-end,” March 31, 2023, <https://www.pipeline-journal.net/news/eacop-close-oil-pipeline-project-financing-year-end> (accessed May 11, 2023).

<sup>9</sup> These include eight of TotalEnergies' largest 15 financiers, according to data collected for the 2021 Banking on Climate Chaos report. Beyond the French banks, these include Barclays, HSBC, Credit Suisse, and Mizuho. In addition, all of the large South African banks besides Standard Bank (ABSA, First Rand, Nedbank, and Investec) have recently made clear they are not involved, leaving Standard Bank alone. Outside the banking sector, the UK export credit agency UKEF, the African Development Bank and the major insurers Zurich, AXA, and Swiss RE have also joined other financial institutions that are not prepared to support the project. For more information, see BankTrack, “Finance Risk Update No. 4: The East Africa Crude Oil Pipeline: New Risk Developments,” April 2023, <https://global.insure-our-future.com/wp-content/uploads/sites/2/2023/04/BankTrack-EACOP-Briefing-2023.pdf> (accessed May 11, 2023), and Stop EACOP, “Don't Bank on EACOP,” updated November 2022, <https://www.stopeacop.net/banks-checklist> (accessed May 11, 2023), and Stop EACOP, “Insure Our Future, Not the EACOP,” updated August 2022, <https://www.stopeacop.net/insurers-checklist> (accessed May 11, 2023).

<sup>10</sup> Elias Biryabarema, “TotalEnergies, CNOOC Make Final Decision on \$10 bln Uganda, Tanzania Oil Project,” *Reuters*, February 1, 2022, (accessed May 11, 2023), <https://www.reuters.com/business/energy/uganda-agree-deal-with-total-cnooc-major-oil-project-2022-02-01/>. The Lake Albert Development Project includes EACOP and the Tilenga and Kingfisher oilfields.

<sup>11</sup> The Independent, “KINGFISHER FIELDS: Uganda Starts Drilling Oil Wells,” January 24, 2023, (accessed May 11, 2023), <https://www.independent.co.uk/kingfisher-fields-uganda-starts-drilling-oil-wells/>.





The oilfields lie in one of the most sensitive and ecologically diverse areas of the world, at the crossroads of Lake Albert, Africa’s seventh largest lake and the headwaters of Africa’s main basins for the Nile and Congo Rivers; the Murchison Falls National Park, Uganda’s largest protected nature reserve; and the Murchison Falls-Albert Delta Ramsar wetland system. It is estimated that over one million people in the Murchison watershed depend upon it for fishing and water, while Lake Albert alone is the largest contributor to Uganda’s fishing industry, sustaining an estimated 43 percent of the country’s fisheries.<sup>14</sup> Over one-third of the pipeline, over 400 kilometers, runs alongside Africa’s largest lake, Lake Victoria — a primary water source for more than 40 million people. The pipeline will pass through seven forest reserves and two game reserves covering 295 kilometers of conserved and protected lands.

## The Land Acquisition Program

Thousands of households are impacted by the land acquisition program. In the Tilenga oilfields, 5,511 households will lose significant portions of their land to feeder pipelines, well pads, roads, the Central Processing Facility, and other infrastructure.<sup>12</sup> In Kingfisher oilfields, 680 households will lose land.<sup>13</sup> In total, 13,305 households (3,792 of them in Uganda and 9,513 in Tanzania), will lose land within the 30-meter EACOP pipeline corridor and from associated infrastructure (camps, pump stations, access roads, etc.).<sup>14</sup> EACOP will also require the relocation of 599 houses, 1,550 graves, and a number of schools and other buildings according to project documentation.<sup>15</sup> Most of these households are small-scale farmers growing banana, coffee, maize, beans, cassava, and other crops on small plots of land.

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<sup>12</sup> TotalEnergies, “Tilenga and EACOP, Two TotalEnergies Projects,” December 2022, [https://totalenergies.com/system/files/documents/2022-12/Tilenga\\_EACOP\\_TotalEnergies\\_projects.pdf](https://totalenergies.com/system/files/documents/2022-12/Tilenga_EACOP_TotalEnergies_projects.pdf) (accessed May 11, 2023).

<sup>13</sup> Inclusive Development International, “Assessment of East African Crude Oil Pipeline (EACOP) and Associated Facilities’ Compliance with Equator Principles and IFC Performance Standards”, July 2022, <https://www.inclusivedevelopment.net/wp-content/uploads/2022/07/EACOP-EPs-assessment.pdf> (accessed May 11, 2023).

<sup>14</sup> EACOP, “Land Acquisition Summary”, September 2022, <https://eacop.com/wp-content/uploads/2022/09/20220315-LAND-ACQUISITION-SUMMARY.pdf> (accessed May 11, 2023).

<sup>15</sup> For more details on what land is required, see EACOP, “Land Acquisition,” accessed May 11, 2023, <https://eacop.com/land-acquisition/>, and EACOP, “Land Acquisition Summary,” 2022, <https://eacop.com/wp-content/uploads/2022/09/20220315-LAND-ACQUISITION-SUMMARY.pdf> (accessed May 11, 2023), p. 31, with total number of households displaced by district. TotalEnergies, in its June 15, 2023 response to Human Rights Watch, states: “This program [EACOP and Tilenga] includes the relocation of 775 main residences and concerns a total of 19,098 project affected persons (PAP – IFC terminology designating households or groups of related individuals).”

Land for EACOP and the Tilenga oilfields is being acquired under the provision of the Ugandan Constitution on “compulsory land acquisition” for land that is “necessary for public use,” according to EACOP’s government-approved Resettlement Action Plan (RAP).<sup>16</sup> Article 26 requires “[p]rompt payment of fair and adequate compensation.”<sup>17</sup>

In Tilenga, operator TotalEnergies EP Uganda hired Atacama Consulting, a Ugandan environmental consulting firm, to facilitate land acquisition.<sup>18</sup> TotalEnergies EP Uganda hired the Newplan Group, a company headquartered in Uganda, to facilitate land acquisition along EACOP.<sup>19</sup> These firms facilitate all aspects of the land acquisition process, managing compensation and the transfer of lands to the Ugandan Land Commission. The land is then leased back from the Ugandan Land Commission to the operators for 66 years as per the Host Government Agreement.<sup>20</sup> In addition to Atacama and Newplan, residents who spoke to Human Rights Watch described TotalEnergies EP Uganda representatives as being present at most public meetings and many of the in-person visits, particularly in Tilenga.

There are various plans, policies and assessments that outline TotalEnergies and its subsidiaries’ approach to the land acquisition process.<sup>21</sup> For the pipeline corridor, there are 5 different Resettlement Action Plans in Uganda and 12 in Tanzania that outline the process and approach to compensation and livelihood restoration in Uganda and Tanzania.

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<sup>16</sup> The Constitution of Uganda at article 26 states: “no person shall be compulsorily deprived of property or any interest in or right over property of any description except where the taking of possession or acquisition is necessary for public use, in the interest of defense, public safety, public order, public morality or public health; and prior to the compulsory taking of possession or acquisition of property, prompt payment of fair and adequate compensation shall be made. The article confers a right of access to a court of law by any person who has an interest or right over the property.” Other relevant land-related legislation includes the 1998 Land Act (amended in 2010), Land Acquisition Act, and the Petroleum (Exploration, Development and Production) Act, 2013. The Constitution of Uganda can be found at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/44038/90491/F206329993/UGA44038.pdf> (accessed May 24, 2023). For further information please see EACOP Resettlement Action Plan, Chapter 3: <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-3-legal-policy.pdf> (accessed May 24, 2023).

<sup>17</sup> Constitution of Uganda, art. 26.

<sup>18</sup> For more information on Atacama, see Atacama Consulting, accessed May 11, 2023, <https://www.atacama.co.ug/>.

<sup>19</sup> For more information on Newplan, see Newplan, accessed May 11, 2023, <https://www.newplangroup.com/>.

<sup>20</sup> EACOP, “Land Acquisition”, <https://eacop.com/land-acquisition/> (accessed May 11, 2023). Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

<sup>21</sup> “TotalEnergies and its subsidiaries” refers throughout the document to TotalEnergies, TotalEnergies EP Uganda, and TotalEnergies East Africa Midstream.

## Land Tenure in Uganda

There are four types of land tenure in Uganda: customary, freehold, leasehold, and mailo, and each is present along the EACOP pipeline corridor. Customary tenure allows for individual, household, and communal ownership of land managed in accordance with the traditions, customs, and norms of the community. Freehold is essentially titled land, and usually involves the holding of land in perpetuity. Leasehold land is where the holder grants rights to another party to occupy and use land for a defined period, usually in exchange for payment. Mailo is a land tenure system unique to Uganda. It is similar to freehold except it derives from the Ugandan aristocratic class and is limited to Central Uganda. According to TotalEnergies EP Uganda, the “the valued Project affected land for compensation” along the pipeline corridor is 41 percent mailo, 19 percent freehold, 19 percent leasehold, 17 percent customary, and 4 percent unknown. Mailo is the dominant land tenure system in Kyotera, Rakai, and Lwengo districts. In Sembabule district, freehold is dominant, and in Bulisa district, customary land is dominant. Leasehold is more common in Sembabule and Bulisa than in the other three districts examined.

In total, over 118,000 people live in the households losing land to the project.<sup>22</sup> Project documents repeatedly refer to “Project Affected Persons” (PAPs), a term that is used by journalists, government officials, and activists alike. “Project Affected Persons” dramatically understates the number of people, especially children, affected by the project, as it refers to households, not individuals.<sup>23</sup> TotalEnergies in their June 15 2023 letter to Human Rights Watch also use the term “Project Affected Persons” in quantifying the number of households whose land needs to be acquired.<sup>24</sup> TotalEnergies states that the land acquisition program involves 19,098 households. This is a higher number of

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<sup>22</sup> This figure is derived from September 2022 Les Amis de la Terre France and Survie calculations based on numbers reported in TotalEnergies’ RAPs. Les Amis de la Terre France, « Nombre de personnes affectées par les projets TILenga et EACOP de TotalEnergies en Ouganda et en Tanzanie », <https://www.amisdelaterre.org/wp-content/uploads/2022/09/tableau-nombre-dindividus-affectes-par-les-projets-tilenga-et-eacop.pdf> (accessed May 26, 2023).

<sup>23</sup> TotalEnergies, in its June 15 2023 letter to Human Rights Watch, “A PAP (Project Affected Person) corresponds to a group of individuals forming a household or an entity (institution or company) which has been identified, in the framework of the studies carried out for the program of land acquisition necessary for the execution of the project.”

<sup>24</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

households than what was used to calculate the number of impacted individuals by Les Amis de la Terre France and Survie. Average household sizes in the areas of the pipeline, and in particular in Tilenga, are high with many individuals reporting more than 10 children and economic activities from land acquired often supporting far more than that.

According to TotalEnergies' June 15 2023 letter to Human Rights Watch, 97 percent of compensation agreements in Tilenga have been signed and 97 percent had been paid out as of the end of May 2023.<sup>25</sup> For EACOP, 96 percent of compensation agreements have been signed and 93 percent paid out in Uganda.<sup>26</sup> According to TotalEnergies' 2023 Climate and Sustainability report in Tanzania, 98 percent had been signed and 97 percent paid out as of the end of 2022.<sup>27</sup>

TotalEnergies has set aside \$45 million for the land acquisition program for the pipeline, including \$15 million for compensation and \$15 million for livelihood restoration according to its Resettlement Action Plan. This represents less than 1 percent of the estimated cost of the pipeline.<sup>28</sup>

TotalEnergies and its subsidiaries have repeatedly stated a commitment to comply with international standards and best practices including International Finance Corporation Performance Standard #5 on Land Acquisition and Involuntary Resettlement ("IFC Performance Standard 5") and the Equator Principles.<sup>29</sup> Companies have a responsibility to respect human rights under the United Nations Guiding Principles on Business and Human

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<sup>25</sup> TotalEnergies, "More Energy, Less Emissions, Sustainability & Climate 2023 Progress Report," March 2023, [https://totalenergies.com/system/files/documents/2023-03/Sustainability\\_Climate\\_2023\\_Progress\\_Report\\_EN.pdf](https://totalenergies.com/system/files/documents/2023-03/Sustainability_Climate_2023_Progress_Report_EN.pdf) (accessed May 11, 2023).

<sup>26</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

<sup>27</sup> EACOP, "Land Acquisition & Resettlement Status," <https://eacop.com/land-acquisition-resettlement-status/> (accessed May 11 2023). More than half of the 83 people interviewed by Human Right Watch had received compensation.

<sup>28</sup> According to Chapter 16 of Resettlement Action Plan. See EACOP, "Budget and Schedule" in Uganda Resettlement Action Plan (June 2022), accessed May 11, 2023, <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-16-budget-and-schedule.pdf>, pp. 343-345.

<sup>29</sup> The Equator Principles are "a financial industry benchmark for determining, assessing and managing environmental and social risks in projects." See Equator Principles, <https://equator-principles.com/>, accessed May 11, 2023. See also, International Finance Corporation, "Performance Standards on Environmental and Social Sustainability," January 1, 2021, [https://www.ifc.org/wps/wcm/connect/24e6bfc3-5de3-444d-be9b-226188c95454/PS\\_English\\_2012\\_Full-Documents.pdf?MOD=AJPERES&CVID=jkV-X6h](https://www.ifc.org/wps/wcm/connect/24e6bfc3-5de3-444d-be9b-226188c95454/PS_English_2012_Full-Documents.pdf?MOD=AJPERES&CVID=jkV-X6h) (accessed May 11, 2023).



Rights (UN Guiding Principles).<sup>30</sup> TotalEnergies in public statements has committed to respecting the UN Guiding Principles, alongside the OECD Guidelines for Multinational Enterprises and the Voluntary Principles on Security and Human Rights.<sup>31</sup>

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<sup>30</sup> Office of the United Nations High Commissioner for Human Rights, “Guiding Principles on Business and Human Rights,” June 2011, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf) (accessed May 11, 2023).

<sup>31</sup> TotalEnergies, “Our Sustainability Approach,” <https://totalenergies.com/sustainability/our-approach> (accessed May 25 2023). Voluntary Principles on Security and Human Rights, <https://www.voluntaryprinciples.org/> (accessed May 11, 2023). Organisation for Economic Co-operation and Development, “Guidelines for Multinational Enterprises,” <https://www.oecd.org/corporate/mne/> (accessed May 11, 2023).

## Current Harms

“Before our land was taken for the CPF [Central Processing Facility], we used to grow cassava, groundnuts, and maize. This is what I grew my 11 children and my 30 grandchildren on. Now that land is all gone. Now I fetch firewood and sell in Waseko on the side of the road [8 kilometers away] and we have to do some fish trading to have a few things to eat. Now our children are not going to school, we have heavy debts... [T]his is development they say? We are now poor.”

— Woman, 79, living adjacent to the Central Processing Facility in the Tilenga oilfields, who lost all 5.5 acres to the Central Processing Facility, March 2023

The IFC Performance Standard applicable to TotalEnergies and its subsidiaries are clear. Those displaced from their land must have their livelihoods restored or enhanced and compensation is required for loss of assets at replacement cost.<sup>32</sup> TotalEnergies has repeatedly stated it will comply with these standards and has affirmed repeatedly that “compensation is proposed to meet full replacement value.”<sup>33</sup>

Multi-year delays in compensation payments, compensation amounts below the cost of replacement land, a series of procedural problems, all poorly communicated have left many households substantially worse off than before the land acquisition process started.

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<sup>32</sup> Performance Standard 5 objective is “To improve, or restore, the livelihoods and standards of living of displaced persons.” In IFC Performance Standard 5 objective and Performance Standard 5 (para. 26/27ln), replacement cost is defined as “the market value of the assets plus transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. Market value is defined as the value required to allow Affected Communities and persons to replace lost assets with assets of similar value.” Para 27 states: “In cases affecting persons with legal rights or claims to land which are recognized or recognizable under national law (see paragraph 17 (i) and (ii)), replacement property (e.g., agricultural or commercial sites) of equal or greater value will be provided, or, where appropriate, cash compensation at full replacement cost.” This requirement is also referenced in EACOP’s own Human Rights Impact Assessment (HRIA). See EACOP, “Provisional HRIA Report,” September 2018, <https://eacop.com/wp-content/uploads/2022/09/HRIA.pdf> (accessed May 11, 2023).

<sup>33</sup> See, for example, “Total’s Reaction to Oxfam’s Report: Way Forward for a Constructive Dialogue,” September 10, 2020, [https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/totals\\_reaction\\_on\\_oxfam\\_report\\_vfinal\\_.pdf](https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/totals_reaction_on_oxfam_report_vfinal_.pdf) (accessed May 11, 2023). Is also flagged in EACOP’s own HRIA: “Adequate compensation requires that displaced persons are provided with compensation for loss of assets at full replacement cost and other assistance to help them improve or at least restore their standards of living or livelihoods.” See EACOP, “Provisional HRIA Report,” September 2018.

EACOP has had, and continues to have, a significant impact on various human rights of the affected people, including to food, health, livelihood, and education.<sup>34</sup>

While livelihood restoration programs have yet to be implemented by TotalEnergies EP Uganda following land acquisition, many livelihoods, particularly around Tilenga oilfields, have been devastated by the land acquisition program. Significant effort will be needed by TotalEnergies EP Uganda to restore or enhance livelihoods. These efforts will need to be far greater than what has been envisioned and is contained in Livelihood Restoration strategies in the Resettlement Action Plans and in other documents.<sup>35</sup>

## Compensation Delays

“Let’s say someone wants your cow. You agree on a price of 3M [million ush] but they don’t pay for five years. And for that five years you have to take care of the cow but aren’t allowed to use its milk. It makes no sense.”

— Cattle rancher, 50, from Sembabule district, describing delays in compensation, March 2023

Most lands were initially evaluated in 2017-2019. Compensation was not received until three to five years later, in 2022 or 2023. Considerable hardship accrued from these delays that were also poorly communicated amidst confusion over ability to access crops during this time.

In correspondence with Human Rights Watch, TotalEnergies state that delays were “related to the finalization of the various legal and legal documents necessary for land acquisitions, [and] the implementation schedule for these acquisitions was impacted by the constraints induced by the Covid-19 pandemic (confinement, limitation of travel, in particular between different regions).”<sup>36</sup>

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<sup>34</sup> TotalEnergies, “TotalEnergies’ response to Just Finance International’s report”, December 10, 2022,

<https://www.business-humanrights.org/en/latest-news/totalenergies-response-to-just-finance-internationals-report/> (accessed May 11, 2023).

<sup>35</sup> Including the Tilenga RAP. See TotalEnergies, “Tilenga Project Resettlement Action Plan 1 for the Proposed Industrial Area and N1 Access Road,” Rev. 4, May 27, 2020, [https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2021-03/Tilenga\\_RAP1\\_Review\\_current\\_livelihood\\_restoration\\_plan.pdf](https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2021-03/Tilenga_RAP1_Review_current_livelihood_restoration_plan.pdf) (accessed May 11, 2023).

<sup>36</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023. TotalEnergies and its subsidiaries have made similar statements in previous communications. TotalEnergies, Universal Registration Document 2021, [https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/TotalEnergies\\_URD\\_2021\\_EN\\_accessible.pdf](https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/TotalEnergies_URD_2021_EN_accessible.pdf) (accessed May 11, 2023).

### *Inconsistent Approach to Uplift Allowance*

In response to the delays, TotalEnergies announced that it would apply an uplift of additional financial compensation of 15 percent per year for the period between valuation of the inventory and payment in Uganda.<sup>37</sup> TotalEnergies in its June 15, 2023 response to Human Rights Watch stated “These measures were aimed at mitigating the effects of these delays on the PAPs in their daily lives.”<sup>38</sup> In practice, most people interviewed by Human Rights Watch only received 30 percent (two years of 15 percent) even though compensation delays, in many cases, were between three and five years.<sup>39</sup> One man said: “This was grossly inadequate to make up for several years of diminished or no revenue from lost land.”<sup>40</sup> Another man said: “For three years, I did not access my coffee plants. Two kids dropped out of school. My revenue went from 4 million [ush] to 1 million [ush] a year. They gave me 30 percent.”<sup>41</sup>

### *Lost Access to Perennial Crops*

Properties were initially valued between 2017-2019 and oil company representatives told people the land would be acquired “very soon,” “quickly,” or within “six months” at public meetings. They were told they could only access their land from that time to grow “annual” crops (maize, beans, etc., typically ready in three months) and that they should not access land to tend perennial crops (coffee, bananas, cassava, vanilla, and other cash crops).<sup>42</sup> There was a range of understandings among farmers whether this meant they could not access perennial crops for harvest or merely could not tend to the perennial crops – to weed, prune, and fertilize them.<sup>43</sup> There was also confusion around the “cut-off date.”

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<sup>37</sup> By contrast “in Tanzania interest has been applied in line with Tanzanian legal requirements and an uplift has been applied based on market research to establish full replacement value for land and structures, and an inflation uplift for crops and trees for the period of delay.” See, Section 3,6 of TotalEnergies, Universal Registration Document 2021, [https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/TotalEnergies\\_URD\\_2021\\_EN\\_accessible.pdf](https://totalenergies.com/sites/g/files/nytnzq121/files/documents/2022-05/TotalEnergies_URD_2021_EN_accessible.pdf) (accessed May 11, 2023).

<sup>38</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

<sup>39</sup> According to TotalEnergies, RAP1 received no disturbance allowance, RAP 2, 3a, 3b, 4 and 5 received 30 percent (for two years). See TotalEnergies, “TotalEnergies' response to Just Finance International's report”, December 10, 2022, <https://www.business-humanrights.org/en/latest-news/totalenergies-response-to-just-finance-internationals-report/> (accessed May 11, 2023).

<sup>40</sup> Human Rights Watch interview #17 with “Richard,” Rakai district, March 25, 2023.

<sup>41</sup> Human Rights Watch interview #83 with “George,” Bulisa district, March 31, 2023.

<sup>42</sup> Largely coffee and bananas in Kyotera, Lwengo, Rakai and Sembabule, cassava in Bulisa.

<sup>43</sup> Coffee and banana both require regular pruning, fertilizing, and weeding to maximize harvests.

IFC Performance Standard 5 defines “cut-off date” as “the date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cut-off date are not eligible for compensation and/or resettlement assistance.”<sup>44</sup> However, many farmers understood it to be the date after which they could not access their land either for annual or perennial crops.

Human Rights Watch found no cases in which government officials or company officials enforced these prohibitions. However, a large majority of interviewees, particularly along the pipeline corridor, told Human Rights Watch they stopped putting time and money into crop maintenance because they understood the land would be taken imminently and many did not harvest perennial crops in line with their understanding of the prohibitions.

For residents of most displaced households with whom Human Rights Watch spoke, compensation was only paid out in 2022 or early 2023 – a delay of between three to five years. This delay meant many households had diminished revenues from selling bananas, coffee or other cash crops for several years, but had not received compensation that would have allowed them to pay for household expenses that previously came from selling these cash crops.

TotalEnergies and its subsidiaries have acknowledged the lack of clarity around farm access, confusion around what the “cut-off date” meant, and issued a series of clarifications through public meetings, radio broadcasts, posters in key locations in villages in local languages, and other means to clarify that annual crops could still be grown but perennial crops could not be accessed.<sup>45</sup> TotalEnergies, in its June 15 2023 letter to Human Rights Watch said: “It was intended from the outset that the PAPs would retain full use, ownership and possession of their land until compensation is paid and a notice of departure is issued.”<sup>46</sup> Atacama Consulting in its June 22, 2023 letter to Human Rights

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<sup>44</sup> See International Finance Corporation, “Handbook for Preparing a Resettlement Action Plan,” April 2002, <https://www.ifc.org/wps/wcm/connect/ee19f150-f505-41db-891f-6ef5557195b6/ResettlementHandbook.PDF?MOD=AJPERES&CACHEID=ROOTWORKSPACE-ee19f150-f505-41db-891f-6ef5557195b6-jkDoCRL#:~:text=Cut%2Doff%20date%E2%80%94Date%20of,compensation%20and%20For%20resettlement%20assistance> (accessed May 11, 2023). In TotalEnergies’ 2020 response to Oxfam’s 2020 report, TotalEnergies stated: “a person should not add or improve anything to the land, and planting of new perennial crops is considered an improvement.”

<sup>45</sup> Cutoff dates varied between May 2017 to February 2019. For more information see TotalEnergies, “TotalEnergies’ response to Just Finance International’s report”, December 10, 2022, <https://www.business-humanrights.org/en/latest-news/totalenergies-response-to-just-finance-internationals-report/> (accessed May 11, 2023).

<sup>46</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.



Watch stated, “PAPs were informed and encouraged to continue using (farming mainly) their land until they receive due compensation and are issued with the Notice to Vacate (NtV) by the Tilenga Project.”<sup>47</sup>

Many others did harvest their cash crops but did not tend to these crops, resulting in drops in yields – often as much as 50 percent less than before. One 32-year-old man in Kyotera district said his income, which supports 10 children, dropped from 6 million ush/year (\$1600) to 1 to 1.5 million ush/year (\$260 to \$400) because he was prevented from accessing his coffee trees and banana plants,<sup>48</sup> while a 55-year-old man from Rakai district whose land provided for a large family including 20 children, said his household’s annual income dropped from 3 million ush to 1 million ush (\$800 to \$260) in three years due to his inability to tend his coffee plants.<sup>49</sup>

The IFC Performance Standard 5’s Guidance Note states that “the time between the establishment of the cut-off date and compensation of displaced individuals and communities should be limited. Losses generated by this restriction of land use should be compensated for by the client.”<sup>50</sup>

### *Maturing of Cash Crops During Compensation Delays*

In most districts visited, evaluators characterized trees (particularly coffee or banana) as either immature (i.e., nonproductive) or mature (i.e., productive). Mature trees are compensated as much as 10 times higher than immature trees, presumably reflecting their income-generating potential.<sup>51</sup> In Bulisa district, a banana plant is considered mature if it is more than two years old. Many interviewees complained that between the time of initial evaluation (2017-2019) and when compensation was received (2022-2023), the trees that evaluators had classified as immature had since matured and were income-generating, but

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<sup>47</sup> Atacama Consulting letter to Human Rights Watch June 22, 2023. Atacama further states: “PAPs were explicitly advised to continue planting and harvesting up until they receive their NtV. These key messages were communicated before, during, and after compensation. In fact, this message continues to be reiterated to PAPs and other key stakeholders while the Project is in the process of completing the resettlement and livelihood restoration implementation programmes.”

<sup>48</sup> As a result of their inability to pay school fees, four children dropped out of school and now do casual labor. Human Rights Watch interview #4, Kyotera district, March 23, 2023.

<sup>49</sup> Human Rights Watch interview #21 with “David,” Rakai district, March 25, 2023.

<sup>50</sup> IFC, “Guidance Note 5: Land Acquisition and Involuntary Resettlement,” January 1, 2012, <https://documents1.worldbank.org/curated/pt/686471491396541838/text/113834-WP-ENGLISH-GN5-Land-acquisition-2012-PUBLIC.txt> (accessed May 11, 2023).

<sup>51</sup> For example, in Bulisa district, a banana plant is compensated at 6,200 ush for a seedling while a mature plant is compensated at 75,400 ush.

their compensation was not reevaluated to reflect this. For some households, this resulted in considerably less compensation than they otherwise would have received and resulted in compensation far below what they would receive from selling the crop.<sup>52</sup> One man, whose income supported 13 children, said:

I had over 350 coffee trees they said were seedlings, and I would only get 8,600 ush [\$2.30] each. And then I heard nothing for three years, now they are ready to pay compensation. Now those trees produce beans, and we use them to pay school fees. They are supposed to pay [for] mature trees [at] 80,600 [ush], but they refuse to update the compensation monies. I will lose the revenue from the trees and will get 3.1 million ush [\$830] for these instead of 28 million ush [\$7,500].<sup>53</sup>

### *Human Rights Impacts of Delayed Compensation*

#### **Right to Education**

Nearly half of the households that Human Rights Watch interviewed said that the loss of income from delays made it difficult to pay household expenses. Some expenses could be deferred until compensation payments were received, but school fees and related expenses are a regular and significant expense, particularly given many rural households have large families.<sup>54</sup>

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<sup>52</sup> Farmers typically buy both coffee trees and banana plants as seedlings. Coffee trees can produce beans for selling after three years while bananas plants can produce fruit after one to two years.

<sup>53</sup> Human Rights Watch interview #6 with “Ali,” Kyotera district, March 23, 2023. This is just 11 percent of what he would get if they were considered mature trees.

<sup>54</sup> Under international human rights law, primary education should be free. See, for example, International Covenant on Economic, Social and Cultural Rights, art. 13. While Uganda technically has free primary education in government schools, in practice there are numerous fees that are required to be paid. According to the World Bank, the cost of sending a child to school in Uganda ranges from \$168 in government schools to \$420-680 for private schools. According to a Global Findex survey, more than 60 percent of adults in Uganda are worried about paying school fees, and for 40 percent of adults it is the biggest financial worry. For more information, see <https://blogs.worldbank.org/developmenttalk/high-price-education-sub-saharan-africa> and <https://www.reuters.com/article/uganda-education-fees-idAFL5N2W22QV>. In June 2022, various international children’s rights experts and human rights experts called for the expansion of the right to education under international law to recognize every child’s right to free pre-primary education and free secondary education. For more information please see: <https://www.hrw.org/news/2022/06/06/call-expand-international-right-education> and <https://www.hrw.org/news/2022/12/07/toward-free-education-all-children>.

Atacama Consulting in its June 22, 2023 letter to Human Rights Watch stated: “The RAPs 2-5 annual progress monitoring report released in June 2023 showed that majority of the PAPs used their compensation to pay school fees/buy school uniform for their children.”<sup>55</sup>

To deal with the loss of household income, some households chose to send their children to less resourced, cheaper schools (often government schools). Others borrowed money from local money lenders to pay school fees often at interest rates of more than 30 percent per month. Some sold household assets including livestock to pay for fees, and some had children drop out of school. Human Rights Watch documented 37 cases spread across 17 families where children dropped out of school because of delays in compensation payments between 2019-2023. One 42-year-old woman said: “We had five children go to school and they got top marks. But with no coffee money anymore, two had to drop out in 2021 because we couldn’t find a way to pay the fees.”<sup>56</sup>

One 16-year-old girl who had dropped out of Senior 1 in secondary school because her family could no longer pay school fees said: “I miss school. I learned so much and learned English. My best subject is mathematics. I still want to go back to school and want to be a midwife when I finish school.”<sup>57</sup>

Others feared that even with livelihoods eventually restored, children may never go back to school. One 73-year-old woman said: “Two grandchildren [who were in our primary care] dropped out [in 2021]. I now have the compensation money and can pay fees but now that they have a taste of working they will never go back.”<sup>58</sup>

Some of those interviewed who found ways to keep paying school fees, either by selling household assets or by using their EACOP compensation in 2022 and 2023, worry about their future ability to pay because of large debts.

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<sup>55</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023.

<sup>56</sup> Human Rights Watch interview #30 with “Christine,” Rakai district, March 25, 2023. They received compensation in late 2022.

<sup>57</sup> Human Rights Watch interview #77 with “Mary,” Bulisa district, March 31, 2023. Senior 1 is the first year of secondary school.

<sup>58</sup> Human Rights Watch interview #55 with “Jane,” Sembabule district, March 28, 2023.

## Debt

Many households borrowed money at very high interest rates, often from informal money lenders in their communities after being denied access to their regular and relatively predictable revenue streams from cash crops and believing that they would soon receive significant cash payments. In about one-third of the cases Human Rights Watch documented in which individuals borrowed money, the borrowers were required to pay principal plus 100 percent with no fixed repayment dates.<sup>59</sup> In other cases, borrowers were charged monthly interest rates of between 10 percent and 50 percent.<sup>60</sup> One man who lost nearly all his land to the Central Processing Facility said: “I had to pay school fees and buy food for my children. Finally, I had to borrow 22 million [ush, \$590] at 30 percent per month. I still owe 100 million [ush, \$2,680] but I don’t even have 100,000.”<sup>61</sup>

Interviewees often described routinely borrowing money before EACOP, but their relatively predictable revenue streams made this manageable, they said. They told Human Rights Watch that their diminished cash crop revenue and the delays in compensation have made the amounts they have had to borrow increase dramatically while their ability to pay the money back has decreased. The delays in compensation, high interest rates, and inability to otherwise repay debts meant that a significant quantity of compensation monies end up going to money lenders and not toward livelihood or asset restoration.<sup>62</sup> One man said: “I had no debts when I had land. When I knew the compensation was coming but lost access [to my land] I borrowed 5 million at 30 percent per month. Now I owe 28 million.”<sup>63</sup>

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<sup>59</sup> For example, if you borrowed one million ush, you would repay two million ush.

<sup>60</sup> One million ush borrowed at 10 percent MPR is approximately 3.1 million ush after one year, one million at 50 percent MPR is approximately 130 million ush after one year.

<sup>61</sup> Human Rights Watch interview #75 with “John,” Bulisa district, March 31, 2023.

<sup>62</sup> For more on this issue see, “Who Will Save Us From Predatory Money Lenders’ Interest Rate?” *NewVision*, undated, (accessed May 11, 2023), <https://www.newvision.co.ug/category/blogs/who-will-save-us-from-predatory-money-lenders-96178>. The World Bank states that Uganda’s 2018 lending interest rate is 19.8 percent, one of the 15 highest in the world. See the World Bank, “Lending Interest Rate (%) – Uganda,” accessed May 11, 2023, <https://data.worldbank.org/indicator/FR.INR.LEND?locations=UG>.

<sup>63</sup> Human Rights Watch interview #75 with “John,” Bulisa district, March 31, 2023. A rate of 30 percent per month is approximately 2300 percent per year.

## Inadequate Compensation

“If you want to buy something you come to me and I tell you how much it is and we negotiate. But they just dictate the rates, really low rates, and give you no choice. They are thieves!”

— 62-year-old man in Rakai district, March 2023

According to the vast majority of those interviewed by Human Rights Watch, the compensation paid for both land and crops were substantially below replacement cost. Crop compensation rates are set at the district level and land rates in different locations are set by the national government. A 74-year-old man from Rakai district said: “If selling to a neighbor, I sell at 5 million [ush, about \$1340], but they gave me just 2.5 million [ush, \$670] for the [two acres of] land.”<sup>64</sup>

Another man said: “If I wanted to sell to my neighbor, then I would, and I would get 30 million [ush, about \$8100] so 16 million [ush, about \$4320] is not fair.”<sup>65</sup>

In its correspondence with Human Rights Watch, TotalEnergies said:

“Rates for land properties and permanent buildings are decided on the basis of market analyses carried out by a registered valuer and approved by the Chief Government Valuer (CGV). Rates for crops and temporary structures are set by the District Land Boards (DLBs). [...]

In addition to this compensation rate, PAPs receive a disruption allowance of 30% in Uganda and 7% in Tanzania (in accordance with Tanzanian law).

In addition to the time frame related to the finalization of various legal documents necessary for land acquisitions, the implementation schedule for these acquisitions was impacted by the constraints caused by the Covid-19 pandemic (confinement, limits on travel, particularly between different regions). In order to take this time frame into account, TEPU and EACOP decided, in conjunction with the Ugandan and Tanzanian

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<sup>64</sup> Human Rights Watch interview #7 with “Ahmed,” Rakai district, March 24, 2023.

<sup>65</sup> Human Rights Watch interview #30 with “Christine,” Rakai district, March 25, 2023.

authorities, in June 2020 to apply additional financial compensation (15% per year in Uganda and 12% in Tanzania) for the period between the inventory of the assets affected and the payment.”<sup>66</sup>

In Kyotera and Sembabule districts, local NGOs and groups of EACOP-affected people pushed the district government to increase rates, and they were increased in 2021. But they were still below the costs for replacement land, even taking into account the disturbance allowance and “uplift” allowance. In some cases rates varied widely between districts. For example, in 2022 a mature coffee tree in Kyotera was 33,000 ush (\$8.80), while in neighboring Lwengo district it was 88,400 ush (\$23.70).<sup>67</sup>

Interviewees told Human Rights Watch that when asked about compensation offered, TotalEnergies EP Uganda’s subcontractors said they should complain to the district government because that is where rates were set. A local community monitor in Rakai district said: “I speak to the oil people [TotalEnergies EP Uganda and NewPlan] about low rates. They blame the district constantly. ‘What can we do?’ they say. ‘We cannot make our own. We follow theirs.’”<sup>68</sup>

Low compensation amounts have been raised repeatedly by numerous NGOs and flagged as a risk in EACOP’s own Human Rights Impact Assessment.<sup>69</sup>

Atacama Consulting in their June 22, 2023 letter described undertaking market research on land rates in September 2022 in nine villages in Bulisa district and found “both increasing and decreasing land values in comparison to the approved land rates adopted for the compensation purposes.”

They found that:

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<sup>66</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023. The disturbance allowance is a requirement under section 77(c) of Uganda’s *Land Act*.

<sup>67</sup> AFIEGO, Letter to EACOP re Request for a Meeting over EACOP Project grievances, April 13, 2022, <https://aifeuganda.org/wp-content/uploads/2022/05/letter-to-TotalEnergies-requesting-for-a-meeting-13-April-20221.pdf> (accessed May 11, 2023).

<sup>68</sup> Human Rights Watch interview #12, Rakai district, March 24, 2023.

<sup>69</sup> From HRIA: “People do not understand how compensation rates are calculated and rates are not sufficient to replace value of land and crops or to pay for replacement land.” See, EACOP, “Provisional HRIA Report,” September 2018, <https://eacop.com/wp-content/uploads/2022/09/HRIA.pdf> (accessed May 11, 2023).

[I]n general, there is the potential for inflation in land prices in villages that are close to the industrial area and alongside newly paved roads. This inflation is a normal feature of construction projects and usually only lasts during the Project construction phase. Land markets stabilize as landowners are able to understand the long-term circumstances for the land market. In other areas, land appears to be available at rates equal to or lower than the Tilenga project's compensation rate.<sup>70</sup>

### *Inability to Acquire Replacement Land*

Under IFC Performance Standard 5, a company must provide “compensation for loss of assets at full replacement cost.”<sup>71</sup> TotalEnergies states in its June 15, 2023 letter to Human Rights Watch that the principle of “full replacement value” “was applied by the projects in both countries.” TotalEnergies does not elaborate further on how the various compensation payments, including the uplift allowance, meet the requirement of “full replacement cost.”<sup>72</sup> Atacama Consulting in its June 22, 2023 letter to Human Rights Watch stated that “The Tilenga project established that, upon addition of the statutory disturbance allowance (30%), the proposed Land Rates for the different affected villages and approved DCR were indeed at full replacement cost.”<sup>73</sup>

Numerous interviewees described not being able to buy adequate replacement land with the compensation they received, due to the high costs of alternative land. What land individuals were able to purchase was usually smaller, had less cash crops on it, poorer soil, or was far away from where they lived, incurring additional transportation costs.<sup>74</sup> One man who had been supporting 13 children from his land said: “We are forced to sell at pre-oil prices and forced to buy at oil prices. I was given [assessed] 5 million/acre [\$1,300] in 2018. But by the time they paid my compensation in 2022, land had gone up so much

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<sup>70</sup> Atacama Consulting's letter to Human Rights Watch, June 22, 2023.

<sup>71</sup> International Finance Corporation (IFC) Performance Standard #5 on Land Acquisition and Involuntary Resettlement, article 9, [https://www.ifc.org/wps/wcm/connect/75de96d4-ed36-4bdb-8050-400be02bf2d9/PS5\\_English\\_2012.pdf?MOD=AJPERES&CVID=jqex59b](https://www.ifc.org/wps/wcm/connect/75de96d4-ed36-4bdb-8050-400be02bf2d9/PS5_English_2012.pdf?MOD=AJPERES&CVID=jqex59b) (accessed May 26 2023).

<sup>72</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

<sup>73</sup> Atacama Consulting's letter to Human Rights Watch June 22, 2023.

<sup>74</sup> Atacama Consulting's letter to Human Rights Watch, June 22, 2023 stated: “The RAP1 Annual progress monitoring report released in June 2019 had one of the indicators on the use of compensation money. From a random sample of Two Hundred Twenty-Three (223) PAPs, One Hundred fourteen (114) PAPs (51%) had used their money to purchase land.” RAP1, one of six RAPs for Tilenga, involves the area around the Central Processing Facility.

and was 15 to 20 million/acre [\$4,000 to \$5,300]. We can't buy replacement land with these low rates. They didn't change them.”<sup>75</sup>

Village chiefs and numerous residents attributed the rising cost of land to land speculation, inflation, available land being acquired by industrial companies, and to a combination of a tight supply and increased demand due to oil development. In addition, some interviewees described prices going up when a seller found any potential buyer had “oil money.” One 57-year-old mother of six said: “When they know you have oil, 3 million ush [\$800] land becomes 10 million ush [\$2650].”<sup>76</sup>

## Threats and Intimidation to Obtain Consent

Several interviewees described feeling threatened by TotalEnergies EP Uganda's subcontractors, often at public meetings, that if they were not willing to sign the different agreements, then the courts would take their land. Interviewees had different understandings about whether this meant they would receive compensation or not should the court award land to the project. Going to court for a rural Ugandan is an expensive and intimidating prospect. One man said: “The moment they threaten you with court, you quickly agree. I have no money for a lawyer or know how to go to court. I don't know any NGOs that can help. So you agree to avoid these problems.”<sup>77</sup>

Atacama Consulting in their June 22, 2023 letter acknowledged that while land can be expropriated for “public use” by the Ugandan government, “[t]his however, is not a threat of court action. [...] It is however understandable that, some PAPs may have interpreted the GoU's right of compulsory acquisition under the Law and the possibility of court action, as pressure threat. This is not the intention or design of the disclosure process.”<sup>78</sup> They also stated that “[t]he RAP team procedures and implementation do not include pressure as this is not necessary. [...] PAPs are free to choose their path.”<sup>79</sup>

Many interviewees said that they did not want to sign the agreements. They eventually signed after what they described as feeling various forms of pressure by TotalEnergies EP

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<sup>75</sup> Human Rights Watch interview #81 with “John,” Bulisa district, March 31, 2023.

<sup>76</sup> Human Rights Watch interview #29 with “Sylvie,” Rakai district, March 25, 2023.

<sup>77</sup> Human Rights Watch interview #66 with “Joseph,” Sembabule district, March 29, 2023.

<sup>78</sup> Atacama Consulting's letter to Human Rights Watch, June 22, 2023.

<sup>79</sup> Ibid.



Uganda’s subcontractors, including having very limited time to ask questions or their inability to understand the contents of forms. In addition to the threat of court, when they raised concerns, many described being told by TotalEnergies EP Uganda’s subcontractors that “your neighbor signed, why can’t you?” They also described a heavy emphasis on only the positive side of compensation, that is, the large lump-sum payment, with little attention on the negatives of loss of land and livelihoods. One 79-year-old man said: “In my heart I said no, but because I thought government would be hard on me, I gave in and signed.”<sup>80</sup>

Interviewees also described feeling intimidated by a series of four-wheel-drive vehicles that would pull up at their isolated farms, without prior notice, and begin counting or measuring their crops with little communication about why they were there. A number of people also said that the presence of government and security officials at public meetings contributed to an aura of intimidation.

However, the situation was quite different for people living at the Tilenga oilfields who refused to sign compensation forms and accept what was being offered. They described a steady barrage of visits from Atacama, TotalEnergies EP Uganda’s community liaison officers (CLOs), and private and government security officials.<sup>81</sup> One man said: “They regularly harass me. One time the [government] soldiers stopped me on that road right there [pointing to a road close to a house and the central processing facility] and kept me there for two hours asking why I was against the oil project.”<sup>82</sup>

Atacama Consulting stated in their June 23, 2023 letter that, “It is always emphasized to staff that it is not just about having documents signed but ensuring that the PAP understands the reason as to why a specific document is signed.”<sup>83</sup>

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<sup>80</sup> Human Rights Watch interview #46 with “Ralph,” Rakai district, March 27, 2023.

<sup>81</sup> This included oil and gas police, district police, private security actors, or Ugandan military. In Tilenga, there are three private security forces: Saracen International, KK Security, and Regis Security. In TotalEnergies Vigilance plan in their Universal Registration Document 2022 they state, “In 2022 TotalEnergies EP Uganda conducted VPHSR [Voluntary Principles on Security and Human Rights] trainings for 706 Government and Private Security personnel.” TotalEnergies, “Universal Registration Document 2022,” March 2022, [https://publications.totalenergies.com/DEU\\_2022/TotalEnergies\\_URD\\_2022\\_EN.html#p\\_331305](https://publications.totalenergies.com/DEU_2022/TotalEnergies_URD_2022_EN.html#p_331305) (accessed May 11, 2023), and Voluntary Principles on Security and Human Rights, accessed May 11, 2023, <https://www.voluntaryprinciples.org/>.

<sup>82</sup> Human Rights Watch interview #84 with “John,” Bulisa district, April 1, 2023.

<sup>83</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023.

Some interviewees, particularly along the EACOP corridor, said that they were not aware of what they were signing at different stages of the compensation process. Most had no legal representation at these different stages, although TotalEnergies in its June 15, 2023 letter stated that third-party legal counsel was available for PAPs for provision of legal advice.<sup>84</sup> No interviewees told Human Rights Watch they were aware of the option of third party legal counsel. Atacama Consulting in their June 22, 2023 letter stated: “On the team, that engages the PAPs, there is a legal counsel (i.e., lawyer) that notifies the PAP of his rights including the right to refuse to sign if they are not comfortable with the contents of the documents.”<sup>85</sup>

Literacy rates in many of the areas along the pipeline corridor, particularly among farmers, are very low. Forms are in English, a language few speak or read in rural areas along the pipeline corridor, and not local languages.<sup>86</sup> A few interviewees received basic translations of the forms, after asking TotalEnergies EP Uganda or subcontractor officials for clarification, but most were not even offered this service. TotalEnergies in their June 15 2023 letter stated that “Illiterate PAPs or PAPs more comfortable in other languages benefit from additional support and assistance from translators from the local community.”<sup>87</sup> Atacama Consulting in their June 22, 2023 letter stated that they tried “to ensure that there is an interpreter/translator to help interpret contents of all documents presented to PAPs in their local language.”<sup>88</sup> They also described the steps they took to

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<sup>84</sup> TotalEnergies’ June 15, 2023 letter to Human Rights Watch states: “In the case of EACOP Uganda, third party legal advisors are made available to PAPs and provide legal advice on any questions that PAPs may during the information sessions on rights and the signing of remediation agreements in a location that allows PAPs to have confidential and private discussions about their rights. [...] Although they are in a contract with EACOP, these legal advisors do not communicate to EACOP the details of their discussions with the PAPs in order to maintain their role as a neutral third party and guarantee respect for the PAPs’ confidentiality. If specific questions need to be put to EACOP to obtain more detailed answers, the PAP must give their prior approval. For Tilenga, a similar legal assistance process is in place to answer questions about processes and compensation agreements. Legal support is also available for specific administrative procedures (in case of death, etc.). [...] It should be clarified that while there have been delays in the implementation of the land acquisition process, these occurred between the time of the land valuation and the start of the acquisition process.”

<sup>85</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023.

<sup>86</sup> Numerous forms on file with Human Rights Watch.

<sup>87</sup> Letter from TotalEnergies to Human Rights Watch, June 15, 2023.

<sup>88</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023.

ensure there was effective translation.<sup>89</sup>

In many cases, interviewees said they were unable to respond to basic questions from Human Rights Watch about the land they had lost or the number of trees counted because they could not read the forms they had signed. They asked Human Rights Watch researchers to assist in explaining information on forms. Some said that it was only after they had signed that they realized they had given away their land at below replacement cost rates or that there were problems with the crop inventory on the forms. This was usually after friends or local NGOs had offered to explain the forms. One man summarized what many described: “If you are wise you can benefit from the oil, but if you are illiterate like us it will be a problem. They take advantage and your land is gone.”<sup>90</sup>

## Other challenges

Interviewees identified some procedural concerns with the land acquisition process that have contributed to a range of harms.

### *Lack of Option for Land-for-Land (“In Kind”) Assistance*

International standards set out that “in-kind” compensation, including alternative land, is the preferred option for development related displacement.<sup>91</sup> TotalEnergies in its June 15,

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<sup>89</sup> Ibid. They further described: “Throughout the entire process, all Tilenga Project documents are interpreted to PAPs and their spouses or witnesses in their native language of choice by an interpreter (often referred to in the area as a ‘translator’), who is also a local community member. This option (for translation) is discussed with the PAPs and their spouses as the beginning of the engagement – and, in some cases, PAPs where they prefer, can use their own personal interpreter/translator. A Certificate of translation is also signed for each document by the translator - a sample can be shared upon approval by TEPU. If the PAP expresses that she/he does not need translation because he/she can understand and speak English, then, the interpreter/translator is not utilized and the certificate of translation is not signed.” No interviewees mentioned receiving a Certificate of Translation.

<sup>90</sup> Human Rights Watch interview #56 with “David,” Sembabule district, March 28, 2023.

<sup>91</sup> From IFC performance standard #5: “land for land compensation where possible,” or “financial compensation for land where land for land compensation is not possible. Section 6o: “Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.” International standards set out that cash compensation is not an adequate replacement for lost land. The UN Basic Principles and Guidelines on Development-Based Evictions and Displacement state that: “Cash compensation should under no circumstances replace real compensation in the form of land and common property resources.” The IFC’s guidance notes on Performance Standard #5 states that: “Short-term consumption of cash compensation can result in hardship for subsistence-based economies or poor households.” For persons whose livelihoods are land-based, replacement land that has a combination of productive potential, locational advantages, and other factors at least equivalent to that being lost should be offered as a matter of priority.”

2023 letter to Human Rights Watch states that “PAPs with a house or land can choose between monetary compensation and in-kind compensation such as housing and replacement land.”<sup>92</sup>

While Human Rights Watch research found that “in-kind” support was routinely offered for loss of a primary house, very few people said that they were offered replacement land, particularly along the pipeline corridor.<sup>93</sup> A number of interviewees said they would have accepted replacement land if it was offered to them, while others were satisfied with cash regardless of what was offered. The EACOP Resettlement Action Plan states that “project support for securing replacement agricultural land would be offered only to potentially vulnerable PAPs and those with limited remaining land (≤0.5 acres or lose ≥80% of land parcel) with customary land tenure only.”<sup>94</sup>

At the Tilenga oilfield, where families lost the largest amount of land, most individuals were offered the choice of cash or “in-kind” compensation. A number of those who chose “land-for-land” compensation have been subject to additional delays, poorly communicated, and in some cases, court action to acquire land. These individuals have had their land acquired, have not received replacement land, and had compensation monies deposited in bank accounts for them.

Atacama Consulting in their June 22, 2023 letter to Human Rights Watch stated that “all PAPs who lost land as a result of the Tilenga Project were offered in-kind compensation as an option.”<sup>95</sup> They also stated that PAPs who chose “land-for-land” were:

“[...] requested to identify land of their preference, the identified land is subjected to site suitability checks such as ensuring access to social amenities, future development checks, productivity of the land in terms of arable capability and legal due diligence checks so as to ensure the replacement land does not have any incumbrance.”<sup>96</sup>

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<sup>92</sup> Letter from TotalEnergies’ to Human Rights Watch, June 15, 2023.

<sup>93</sup> More on this in the Housing section.

<sup>94</sup> EACOP, “Eligibility, Compensation, and Entitlement Framework” in Uganda Resettlement Action Plan (June 2022), accessed May 11, 2023, <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-7-eligibility-compensation-and-compensation-framework.pdf>, pp. 175-215.

<sup>95</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023.

<sup>96</sup> Ibid.

## *Housing*

One of the biggest frustrations expressed by those who live around the Tilenga oilfields was the designation of their homes as “secondary houses” instead of “primary houses.” Many people around Tilenga oilfields live in large extended families and have large, varied land holdings used for cattle rearing and cultivation. Many people have multiple structures for various reasons, including because they have large extended families or they may live at depending on the time of year. Only “primary houses” are eligible for “in-kind” assistance, namely rebuilding of the house in a different location, while secondary housing is compensated at lower compensation rates than primary structures.<sup>97</sup> This was problematic for a number of displaced people as they had structures classified as secondary houses by TotalEnergies EP Uganda’s subcontractor yet told Human Rights Watch that was the only home they lived in year-round, resulting in less compensation and no offer of that house being rebuilt elsewhere. One man said: “I haven’t lived anywhere else for five years, yet they consider it secondary. So they won’t rebuild it, and the money they gave is half of what it would cost to rebuild.”<sup>98</sup>

Human Rights Watch visited a variety of houses that EACOP had rebuilt and viewed many others. Generally, people’s experiences have been positive and the new houses are at least as large, better built, and contain amenities that did not exist in previous houses, such as solar power and rainwater collection.<sup>99</sup>

In some locations, the pipeline corridor is unreasonably close to homes, sometimes just three to four meters away. Interviewees said that TotalEnergies EP Uganda’s subcontractors told them they were unwilling to acquire those houses and compensate and rebuild or compensate for disturbance due to construction. A number of interviewees were told if there were cracks or other damage to housing from pipeline construction (like

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<sup>97</sup> According to the RAP, to be eligible for house replacement: “Dwellings must have been continuously occupied and in regular use by the PAP (or their family) as their primary residence at the time of the cut-off date. They must not be abandoned by the PAP.” See East African Crude Oil Pipeline, “In-Kind Compensation: Replacement Housing and Land” in Uganda Resettlement Action Plan (June 2022), accessed May 11, 2023, <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-8-in-kind-compensation-replacement-housing-and-land.pdf>, pp. 216-236.

<sup>98</sup> Human Rights Watch interview #79 with “William,” Bulisa district, March 31, 2023. He is now living in his brother’s house as his house has been demolished.

<sup>99</sup> According to EACOP, almost 90 percent of eligible PAPs have elected for replacement houses. See East African Crude Oil Pipeline, “Land Acquisition,” accessed May 11, 2023, <https://eacop.com/land-acquisition/>.

there has been in Tilenga) they would be compensated for damage and at least one was told they would be relocated to temporary housing during construction.

### *Inadequate Compensation for Grave Relocations*

Practices around compensation and relocation in relation to graves varied widely across and within the five different districts and among different evaluators. Graves in the area vary from concrete tombs with ornate headstones to various unmarked graves.

TotalEnergies EP Uganda and its subcontractors often arranged for relocation of graves themselves in consultation with affected family members, particularly when new houses were also being built. Some compensation was offered for rituals required for reinternment of loved ones according to different belief systems, but usually far below the actual costs, adding to the frustration with low compensation, delays in payment, and subsequent challenges paying for household expenses.

In Tilenga, according to Atacama Consulting, there is no “cash compensation for affected cultural heritage assets including graves but rather, provides in-kind facilitation/support in the relocation of the affected cultural assets from the project area to a relocation area selected by the PAP themselves.”<sup>100</sup>

Interviewees said the relocation and reinternment of remains of loved ones was stressful and lack of adequate compensation for rituals around reinternment exacerbated the stress. Several commitments made by TotalEnergies EP Uganda and their subcontractors about compensation have not been met, according to community members interviewed.

A 48-year-old father of 10 in Rakai district described the relocation of his mother’s grave: “The relocation was fine but they only provided 600,000 ush in compensation, while the cost of the [reinternment and rituals] was 1.2 million ush. My mother [her remains] had to be moved for their project. Why should I be out of pocket for that?”<sup>101</sup>

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<sup>100</sup> Atacama Consulting’s letter to Human Rights Watch, June 22, 2023. The letter also states: “Additionally, the Project offers PAPs the option to relocate cultural heritage remains specifically graves to the land acquired by the Project for this purpose during RAP1 implementation.”

<sup>101</sup> Human Rights Watch interview #44 with “Ali,” Rakai district, March 27, 2023. He paid for the funeral out of the other compensation monies he had received.

## *Orphaned Land*

In most locations, land acquired for the pipeline corridor is a 30-meter right-of-way. This effectively bisects many land parcels, often leaving small parcels of land “orphaned” from other portions of land that contained people’s homes. A number of interviewees said that TotalEnergies EP Uganda was not willing to acquire these lands or offer compensation for this “orphaned land.” TotalEnergies EP Uganda reportedly told people that it would consider acquiring that land “at some point in the future.”<sup>102</sup>

However, the Resettlement Action Plan states that TotalEnergies EP Uganda’s approach: “will be to compensate for unviable residual land pieces but not to acquire these small pieces of unviable residual land.”<sup>103</sup> There are standards under Ugandan law to allow for the compensation of “orphaned land.”<sup>104</sup> TotalEnergies, in its June 15, 2023 letter to Human Rights Watch, stated: “After the determination of the land to be acquired by the project, small plots of land, called ‘orphan land,’ may sometimes remain. In this case, a compensation offer is made. For example, in the framework of EACOP, an offer is made when the remaining land is 20% or less of a PAP’s plot or less than 0.5 acres (outside a town or municipality).”<sup>105</sup>

Residents also said that these pieces of land had effectively lost much of its resale value, and they could not sustainably use it for certain livelihood strategies (particularly cattle rearing). TotalEnergies in its letter to Human Rights Watch stated that the “the loss of value of orphan land will be established during and after construction. In fact, the valuation and compensation of these lands will therefore be carried out during and after construction.”<sup>106</sup>

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<sup>102</sup> Best practice guidelines suggest considering acquiring all land of a parcel that is indirectly affected. See European Bank for Reconstruction and Development (EBRD), “Resettlement Guidance and Good Practice,” section 5.2, p. 41., <https://www.ebrd.com/publications/resettlement-guidance-good-practice.pdf> (accessed May 11, 2023). For instance, when land plots are small, farmers may be pooling resources to mechanically plough or harvest the land and this becomes impossible after neighboring plots have been acquired and are no longer used in the same way. In such cases, a project should consider acquiring all indirectly affected land and assets and resettle all affected people living in the community.

<sup>103</sup> EACOP, “Eligibility, Compensation, and Entitlement Framework” in Uganda Resettlement Action Plan (June 2022), accessed May 11, 2023, <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-7-eligibility-compensation-and-compensation-framework.pdf>, pp. 175-215.

<sup>104</sup> Ministry of Lands, Housing and Urban Development, “Guidelines for Compensation Assessment Under Land Acquisition (GCALA),” June 2017, <https://www.scribd.com/document/492882482/Guidelines-for-Compensation-Assessment-Under-Land-Acquisition#> (accessed May 12, 2023).

<sup>105</sup> Letter from TotalEnergies’ to Human Rights Watch, June 15, 2023.

<sup>106</sup> *Ibid.*

### *Inaccessible Grievance Mechanism*

TotalEnergies has a grievance redress mechanism that, according to TotalEnergies' June 15, 2023 letter to Human Rights Watch, meets the effectiveness requirements of principle 31 of the UN Guiding Principles.<sup>107</sup> However, Human Rights Watch found that interviewees were generally unaware that this formal process existed despite TotalEnergies stating in their June 15 2023 letter to Human Rights Watch: "To date, 785 complaints have been registered on Tilenga and 759 have been processed; on EACOP, 1,207 complaints have been registered and 1,159 have been processed."<sup>108</sup> In contrast, Atacama Consulting in their June 22, 2023 letter stated: "While grievances have been lodged using the Tilenga project's formal grievance mechanism which allows for, within its escalation levels, independent third parties, that can assist in mediating grievances, no PAPs have raised grievances with the Project's process or approach."<sup>109</sup>

Four of the seven individuals interviewed by Human Rights Watch who had submitted grievances through this mechanism – often through local NGOs – have not had their complaints resolved. They said that they received an acknowledgment of the complaint but no communication since that they were aware of. Some of these complaints go back to 2018.

### **Impacts on Livelihoods and Next Steps**

While all of EACOP's Resettlement Action Plans describe livelihood restoration as coming *after* land acquisition is complete, the delays in compensation, low compensation amount, and other procedural challenges have devastated livelihoods in a short period of time. Most interviewees, including those who have received compensation, said that they were now worse off than before their land was acquired.

Many interviewees said that they were previously largely food self-sufficient prior to losing their land. Shortfalls were made up by purchasing food with cash crop revenues (coffee,

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<sup>107</sup> Ibid.

<sup>108</sup> Ibid. In TotalEnergies' 2023 Climate and Sustainability report they state that as of the end of 2022, 1,420 grievances about the Tilenga project had been logged, 93 percent of which were "resolved, and for EACOP, 1,130 grievances were logged and nearly 93 percent were 'resolved.'" TotalEnergies, "More Energy, Less Emissions: Sustainability and Climate 2023 Progress Report," March 2023, [https://totalenergies.com/system/files/documents/2023-03/Sustainability\\_Climate\\_2023\\_Progress\\_Report\\_EN.pdf](https://totalenergies.com/system/files/documents/2023-03/Sustainability_Climate_2023_Progress_Report_EN.pdf) (accessed May 11, 2023).

<sup>109</sup> Atacama Consulting's letter to Human Rights Watch, June 22, 2023.



bananas, vanilla, etc.). After losing their land to EACOP they were forced to routinely buy food, either by selling household assets or incurring more debt, without the revenue generating land needed to pay back that debt. “My land was my bank,” said one man. “It was my source of income. Now I buy food, I didn’t before.”<sup>110</sup>

The compensation process has left people with less land, and with replacement land that is usually smaller, less productive and farther away. This has endangered household food security, while delays have led to increasing debt burdens, children dropping out of school, and considerable frustration over the compensation program. Many residents described receiving food rations recently as an interim measure to help with some of the decline in income but also described it as inadequate to support families either because it was not provided consistently or was not of sufficient quantities.<sup>111</sup> Atacama Consulting in its July 22, 2023 letter stated the “food package” was developed using a tool that plans, calculates, and monitors “the nutritional value of food assistance... with the quantities based on calculations linked to the socio-economic data available of the PAHs [Project-Affected Households].”<sup>112</sup>

The Livelihood Restoration Plan (LRP) is included in the government-approved Resettlement Action Plan and includes various options for restoration or enhancement of livelihoods including training for improving agricultural production, financial literacy

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<sup>110</sup> Human Rights Watch interview #74 with “Richard,” Bulisa district, March 31, 2023.

<sup>111</sup> Atacama Consulting in their June 22, 2023 letter to Human Rights Watch stated that “the distribution of food rations [...] are distributed to households after they have received their NtV [Notice to Vacate] over a period of six months and the transitional support is largely meant to cater for the PAH’s loss of a planting season after being issued with the NTV. In order not to create dependency on transitional support to the point where PAHs are no longer working the land and planting crops, the project decided not to provide 100% of the total household food need and limited the distribution to six months. During this period, the PAH is supported to identify alternative lands and is entitled to enrolment into a livelihood restoration program. The assistance is meant to relieve the land impact – not to replace full household food needs during the transition period. Six months of TSS is industry best practice to not create dependencies. [...] Available data comparing the crop impact in terms of food with what is being distributed to the PAHs as transitional support indicates that, the Tilenga project is providing 990 MT more food in the form of transitional support than what was impacted by the project.”

<sup>112</sup> This tool was developed for the World Food Program (WFP) and United Nations High Commissioner for Refugees (UNHCR) by the University College London (UCL) Institute for Global Health.

training, and vocational training.<sup>113</sup> TotalEnergies reiterates these options in their June 15, 2023 letter to Human Rights Watch.<sup>114</sup>

Any livelihood restoration program, unless its ambition and funding are dramatically scaled-up beyond what is envisioned in the EACOP Resettlement Action Plans originally drafted in 2018, is going to have significant challenges restoring livelihoods to pre-disturbance levels and avoiding impacts on various rights, including the rights to food, education, and health. TotalEnergies in their June 15, 2023 letter to Human Rights Watch underscore that livelihood restoration programs are to be “implemented for at least 3 years after land acquisition or until livelihoods are fully restored.”<sup>115</sup> Despite this, there has been a lack of clearly communicated timelines from TotalEnergies EP Uganda to PAPs on when these forms of desperately needed livelihood support will be provided.

Interviewees described being hopeful the project will improve their lives during initial phases of consultation. One man said:

According to the sensitization [early community meetings], I love the project. ...They promised a future from level one [in living standards] to four. We put our hope in them...the oil should make us better off, not make us worse off. [I am] holding out because Total promised in that first meeting an improvement in living standards and I want them to keep their promise, but they're off to a bad start.<sup>116</sup>

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<sup>113</sup> See EACOP's RAP Chapter 9, <https://eacop.com/wp-content/uploads/2022/06/eacop-uganda-rap-chapter-9-livelihood-restoration-plan-lrp.pdf> (accessed May 26, 2023).

<sup>114</sup> Letter from TotalEnergies' to Human Rights Watch, June 15, 2023.

<sup>115</sup> Ibid.

<sup>116</sup> Human Rights Watch interview #75 with “John,” Bulisa district, March 31, 2023.

## Future Risks Posed by EACOP

“We don’t want another Niger Delta.”

— 51-year-old man in Waseko at the Tilenga oilfields, March 2023

An industrial project of EACOP’s scale that involves oil wells and pipelines that cross numerous sensitive ecosystems and land critical for the livelihoods of 100,000 people risks significant human rights harms. Among the serious concerns are spills from pipelines and drilling, inadequate handling of drilling muds and other wastes, impacts on biodiversity from the removal or disturbance of wildlife habitat in a variety of protected areas, air pollution from dust and harmful emissions in the oilfields, and impacts on water from hundreds of stream crossings, particularly within the watershed of Lake Victoria, Africa’s largest lake, whose basin supplies water to 40 million people.<sup>117</sup> Many interviewees also expressed concerns about the influx of thousands of workers from outside of local communities during the construction phase housed in camps and the potential social problems that could result.

Some foreseeable impacts can be minimized if properly assessed, appropriate mitigations developed, and mitigations properly implemented. The severity of these foreseeable impacts on the rights of those affected depends in large part on how effective the Ugandan and Tanzanian governments are in establishing protective laws and ensuring companies are respecting them. Many of the above risks were analyzed in the Environmental and Social Impact Assessment (ESIA) prepared by EACOP Ltd, which was legally mandated as part of the regulatory process. But as independent assessments of the ESIA have noted,

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<sup>117</sup> The pipeline traverses 400 kilometers within Lake Victoria’s watershed. There are a variety of assessments of risks including the legally mandated Environmental and Social Impact Assessment, prepared by EACOP Ltd., see EACOP, “ESIA Report – Uganda”, <https://eacop.com/esia-report-uganda/>, (accessed May 10, 2023); TotalEnergies, “Tilenga Project: Human Rights Impact Assessment Report,” January 2022, [https://corporate.totalenergies.ug/system/files/atoms/files/tilenga\\_hria\\_-\\_full\\_report\\_o.pdf](https://corporate.totalenergies.ug/system/files/atoms/files/tilenga_hria_-_full_report_o.pdf) (accessed May 10, 2023); Oxfam, “Empty Promises Down the Line: A Human Rights Impact Assessment of the East African Crude Oil Pipeline,” September 2020, <https://oxfamilibrary.openrepository.com/bitstream/10546/621045/1/rr-empty-promises-down-line-101020-en.pdf> (accessed May 10, 2023).

some mitigations are not prescribed in the ESIA, including spill response plans.<sup>118</sup> Despite missing such vital information, Ugandan and Tanzanian regulators approved the ESIA. Granting regulatory approval before mitigations are developed for potentially serious impacts raises concerns about the abilities of Ugandan and Tanzanian regulators to adequately oversee the mitigation of potential impacts.

In 2019, E-Tech International, a US-based environmental consulting firm, carried out an evaluation of the ESIA and identified serious problems in TotalEnergies' approach to assessment, concluding, among other things, that "Total EP Uganda has chosen a least-cost, high impact development model for the Tilenga Project in the face of the profitability risks associated with the venture," casting further doubt on their ability to mitigate future impacts using best practices.<sup>119</sup>

Residents routinely expressed these concerns to Human Rights Watch. One man said: "They tell us this will be life-changing, that we will be rich and that in the future the pipeline will not rupture. How can we trust them on that when they can't even compensate us properly? Our trust with them is broken."<sup>120</sup>

Some interviewees familiar with the impacts of fossil fuel production in other countries, notably the Niger Delta in Nigeria, expressed anxiety about the potential impact of oil spills, ruptured pipelines, and other harms.<sup>121</sup> One woman said that a local man went to oil-producing parts of the Niger Delta and later described what he had seen: "He saw the impacts firsthand – the spills, the crime, the security, the social problems, the poverty.

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<sup>118</sup> See, for example, Bill Powers, "Tilenga Project - Review of Adequacy of Mitigation in Environmental and Social Impact Assessment by Total Exploration and Production B.V. Uganda," E-Tech International, December 8, 2019, <https://www.amisdelaterre.org/wp-content/uploads/2020/06/08-december-19-e-tech-evaluation-of-total-tilenga-esia.pdf> (accessed May 10, 2023); Netherlands Commission for Environmental Assessment, "Advisory Review of the Environmental and Social Impact Assessment for the East Africa Crude Oil Pipeline (EACOP)," the Ugandan National Environment Management Authority, June 27, 2019, [https://www.eia.nl/docs/05/i72/i7228/7228\\_advisory\\_report\\_eacop\\_uganda\\_27\\_june\\_2019.pdf](https://www.eia.nl/docs/05/i72/i7228/7228_advisory_report_eacop_uganda_27_june_2019.pdf) (accessed May 10, 2023).

<sup>119</sup> E-Tech is a New Mexico-based environmental consulting firm, see <https://www.etechninternational.org/> (accessed May 11, 2023). Bill Powers, "Tilenga Project," E-Tech International, December 8, 2019, [https://cng-cdn.oxfam.org/uganda.oxfam.org/s3fs-public/file\\_attachments/Oxfam%20EACOP%20ESIA%20Review-Adequacy%20of%20Mitigation\\_o.pdf](https://cng-cdn.oxfam.org/uganda.oxfam.org/s3fs-public/file_attachments/Oxfam%20EACOP%20ESIA%20Review-Adequacy%20of%20Mitigation_o.pdf) (accessed May 11, 2023).

<sup>120</sup> Human Rights Watch interview #82 with "Ben," Bulisa district, March 31, 2023.

<sup>121</sup> Several Ugandan NGOs organized trips to the Niger Delta in Nigeria for local community activists to see the impacts of oil development for themselves. These community activists often reported back to their community members. A number of interviewees described fears that the Niger Delta experience could be replicated in Uganda. For more information on the human rights toll from pollution in the Niger Delta see Amnesty International, "Niger Delta Negligence," March 2018, <https://www.amnesty.org/en/latest/news/2018/03/niger-delta-oil-spills-decoders/> (accessed May 26 2023).

This is what we don't want. But we are worried when they try to reassure us, when they have taken our land for so little."<sup>122</sup>

Others, particularly around the Tilenga oilfields, described their fears of the influx of thousands of mostly male workers from outside their districts and potential social problems that could bring. "We know from elsewhere there are...more HIV and other diseases, more alcohol, more drugs, more gender-based violence. We already see more of it in the early times of this development, but we know it will get much worse."<sup>123</sup> Numerous individuals living close to planned work camps along the pipeline corridor expressed similar sentiments about potential social problems.

Residents also expressed concerns over the early impacts of the Tilenga oil development, including from increased dust and noise. One woman said:

The dust and noise are everywhere. I have two kids who have longstanding health issues. When the dust is bad they hide. I found them one time in nearby cassava fields coughing and wheezing and scared to come out. We live within 10 meters of one of the roads. This will only get worse. They promise our lives will be better? All we have so far is dust in our lungs and crops and noise in our ears.<sup>124</sup>

One person whose fields were flooded following an uncontrolled release of water that had accumulated in the central processing facility following heavy, but not entirely unforeseeable, rains in March 2023, said: "They come here [to Tilenga] promising us everything. We believed them. Now we are landless, the compensation money is gone, what fields we have left are flooded and dust fills the air. Is this development? Our trust is broken. Oil is a curse for us."<sup>125</sup>

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<sup>122</sup> Human Rights Watch interview #86 with "Jane," Bulisa district, April 1, 2023.

<sup>123</sup> Human Rights Watch interview #78 with "Eva," Bulisa district, March 31, 2023.

<sup>124</sup> Human Rights Watch interview #88 with "Teodora," Bulisa district, April 1, 2023.

<sup>125</sup> Human Rights Watch interview #90 with "Joseph," Bulisa district, April 1, 2023.



A project of EACOP’s scale in such sensitive ecosystems where hundreds of thousands of livelihoods are largely dependent on land and water resources has the potential for very significant human rights impacts. The ability of TotalEnergies EP Uganda to mitigate these impacts is in question when the ESIA – the main tool for assessing and mitigating impacts – lacks basic information on mitigations yet is approved by governments that are simultaneously regulators and equity partners, where concerns have been raised about TotalEnergies choosing a “least-cost” model, and where early attempts at mitigating potential impacts are flawed as described in this report. Both Uganda and Tanzania restrict freedom of expression for both the media and civil society groups, making it more difficult to raise concerns about sensitive issues like oil development impacts.<sup>126</sup> Oil development in Uganda is a potential disaster in the making with all the ingredients in place for serious future harms.

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<sup>126</sup> See, for example, Human Rights Watch, Tanzania: World Report 2023 (New York: Human Rights Watch, 2023), <https://www.hrw.org/world-report/2023/country-chapters/tanzania>; Human Rights Watch, Uganda: World Report 2023 (New York: Human Rights Watch, 2023), <https://www.hrw.org/world-report/2023/country-chapters/uganda#c667ea>.

# The Climate Crisis and the Future of Energy in Uganda

The burning of fossil fuels is driving the climate crisis, devastating people and communities around the world, including in Uganda. In 2021, the usually conservative International Energy Agency (IEA) said that no new oil, gas or coal developments could be built if the world was to reach the goals of the 2015 Paris Climate Agreement.<sup>127</sup> The Intergovernmental Panel on Climate Change has also stated that for governments to meet global climate targets there cannot be new oil, gas, or coal development.<sup>128</sup>

If built, fossil fuels produced from the EACOP project will be a major emitter of greenhouse gases. A November 2022 report by the Climate Accountability Institute that evaluated the full lifecycle emissions from EACOP concluded EACOP would produce 379 million tonnes of carbon dioxide equivalent (CO<sub>2</sub>E) over its lifetime, more than the annual emissions of Australia.<sup>129</sup>

Uganda has committed through various agreements and mechanisms to pursue clean, renewable energy, often in partnership with other nations.<sup>130</sup> Uganda is a party to the Paris Agreement, and in its 2022 Nationally Determined Contribution update makes only one

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<sup>127</sup> Fiona Harvey, “No New Oil, Gas or Coal Development if World is to Reach Net Zero by 2050, Says World Energy Body,” *The Guardian*, May 18, 2021, (accessed May 9, 2023), <https://www.theguardian.com/environment/2021/may/18/no-new-investment-in-fossil-fuels-demands-top-energy-economist>.

<sup>128</sup> Intergovernmental Panel on Climate Change, “Climate Change 2022: Mitigation of Climate Change,” 2023, <https://www.ipcc.ch/report/ar6/wg3/> (accessed May 10, 2023).

<sup>129</sup> Damian Carrington, “‘Monstrous’ East African Oil Project Will Emit Vast Amounts Of Carbon, Data Shows,” *The Guardian*, October 27, 2022, (accessed May 9, 2023), <https://www.theguardian.com/environment/2022/oct/27/east-african-crude-oil-pipeline-carbon>; Richard Heede, “East Africa Crude Oil Pipeline: EACOP Lifetime Emissions From Pipeline Construction and Operations, and Crude Oil Shipping, Refining, and End Use,” Climate Accountability Institute (2022), <https://climateaccountability.org/wp-content/uploads/2022/10/CAI-EACOP-Rptlores-Oct22.pdf> (accessed May 9, 2023). Their assessment relies on data published in by EACOP (2019) Environmental and Social Impacts Assessment: Tanzania and EACOP (2020) Environmental and Social Impacts Assessment: Uganda reports. It correctly notes that reports from EACOP on greenhouse gas emissions do not include key sources of emissions from the project, including maritime transport of exported crude, its refining into other petroleum products, and its consumption (i.e., burning of refined products). By CAI’s calculation, 87 percent of emissions associated with the pipeline are from the consumption of final products.

<sup>130</sup> Including the Kigale Communique, “Ensuring A Just And Equitable Energy Transition In Africa: Seven Transformative Actions For Sdg7,” <https://www.mininfra.gov.rw/index.php?eID=dumpFile&t=f&f=44024&token=c9d8a3e4e9ad4d22aa3c3b883055c9426760c584> (accessed May 9, 2023).

mention of EACOP: as a greenhouse gas mitigation measure from refining its own fuels instead of transporting imported fuels by road from Mombasa, Kenya.<sup>131</sup>

Like all fossil fuel projects, EACOP risks locking in decades of greenhouse gas emissions contributing to the climate crisis that is one of the greatest threats to human rights globally, including in Uganda. It should not be built. If it does get built, along with the climate harms, there are significant risks of future localized human rights harms in both Uganda and Tanzania in addition to the local harms already realized and documented in this report.

There are other ways for Uganda to meet its energy needs and economic development goals. Uganda has enormous clean renewable energy potential, particularly solar and hydropower.<sup>132</sup> The solution for Uganda's energy deficit needs not be spending billions of dollars on infrastructure for an energy source of which the demand is dropping and which is associated with devastating local and global human rights harms.<sup>133</sup> With appropriate investment and support from its international partners, Uganda is well positioned to be a renewable energy powerhouse living up to the various commitments it has made on embracing its renewable energy potential – and the jobs and economic development that go along with it.<sup>134</sup>

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<sup>131</sup> Uganda became a signatory to the Paris Agreement in 2015 and ratified it in 2016. Ministry of Water and Environment, Updated Nationally Determined Contribution (NDC), [https://unfccc.int/sites/default/files/NDC/2022-09/Updated%20NDC%20\\_Uganda\\_2022%20Final.pdf](https://unfccc.int/sites/default/files/NDC/2022-09/Updated%20NDC%20_Uganda_2022%20Final.pdf) (accessed May 9, 2023). The estimated cost of the adaptation up to 2030 across all sectors is US\$17.7 billion of which \$2.5 billion equivalent to 14 percent of the total adaptation cost is unconditional and \$15.2 billion equivalent to 86 percent is conditional on international support. Uganda NDC, September 2022. Tanzania NDC: no mention of pipeline. Total climate financing needed \$19.2 billion.

<sup>132</sup> At present, the majority of Uganda's vehicle fleet is powered by petroleum products, although Uganda began producing electric vehicles in 2022: Maxim Taran, "Got What They Wanted: Uganda is Ready to Supply Kiira EV Electric Cars to Russia," *Mezha*, October 19, 2022, (accessed May 10, 2023), <https://mezha.media/en/2022/10/19/got-what-they-wanted-uganda-is-ready-to-supply-kiira-ev-electric-cars-to-russia/>. Ugandan president Yoweri Museveni stated in 2022 the need for Uganda to shift to electric vehicles. See, David Vosh Ajuna, "Shift to Electric Cars, Museveni Tells Ugandans," *Monitor*, July 20, 2022, (accessed May 10, 2023), <https://www.monitor.co.ug/uganda/news/national/shift-to-electric-cars-museveni-tells-ugandans-3887094>.

<sup>133</sup> Uganda imports almost all of its 18,180 barrels per day through the Kenyan port of Mombasa. The proposed refinery has the right to call on the first 60,000 barrels per day, and so effectively could replace these imports while facilitating exports of fuel. As mentioned in Uganda's NDC, this reduces GHG emissions of the transport of 18,000 barrels 1100 kilometers from Mombasa, for as long as vehicles continue to be fueled by fossil fuels and not by electricity.

<sup>134</sup> Uganda's hydro potential remains untapped utilizing just over 317MW from a capacity of over 2000MW. See Robert Tumwesigye et al., "Key Issues In Uganda's Energy Sector," International Institute for Environment



## Acknowledgments

This report was researched and written by Felix Horne, senior researcher in the Environment and Human Rights division at Human Rights Watch. Satellite imagery analysis was developed by Léo Martine, senior geospatial analyst, Technology and Human Rights. The report was reviewed by Richard Pearshouse, director of the Environment and Human Rights division; Jim Wormington, senior researcher in the Economic Justice and Rights division; Oryem Nyeko, Uganda and Tanzania researcher in the Africa division; Antonia Juhasz, senior researcher in the Environment and Human Rights division; Sylvain Aubry, deputy director, Poverty and Inequality, Economic Justice and Rights Division; Elvire Fondacci, advocacy coordinator in France; Juliane Kippenberg, associate director in the Children's Rights division; Juliana Nnoko-Mewanu, senior researcher in the Women's Rights Divisions; Bridget Sleaf, senior researcher on rights of older people; Aniete Ewang, Nigeria researcher in the Africa Division. James Ross, Legal and Policy director, Sara Salama, Associate General Counsel in the General Counsel's Office, and Tom Porteous, deputy Program director, provided legal and program review for Human Rights Watch.

Additional review was provided by Diana Nabiruma, senior communications officer, Africa Institute for Energy Governance (AFIEGO).

The report was prepared for publication by Travis Carr, senior publications coordinator. Hellen Huang, associate in the Environment and Human Rights division, provided production assistance and support.

Human Rights Watch is deeply grateful to all the courageous community members who so generously shared their stories with us and our invaluable local partners.

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and Development (2011), <https://www.iied.org/sites/default/files/pdfs/migrate/16030IIED.pdf> (accessed May 9, 2023); International Hydropower Association, "Uganda Country Profile," June 2018, <https://www.hydropower.org/country-profiles/uganda> (accessed May 10, 2023).

# Annex A

## Human Rights Watch Letter to TotalEnergies

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May 26, 2023

Patrick Pouyanné  
Chief Executive Officer  
TotalEnergies  
Tour Coupole - 2 place Jean Millier  
Courbevoie, France 92078



HRW.org

**Re: Preliminary findings regarding livelihoods affected by FACOP project and Tilenga oilfields**

Dear Mr. Pouyanné:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you as the operator of the EACOP pipeline and the Tilenga oilfields.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project. The vast majority of affected families are subsistence farmers that rely on their land for food and income. Total Energies has committed to uphold international human rights standards in the land acquisition process including compliance with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5, which requires that displaced communities and persons receive “compensation for loss of

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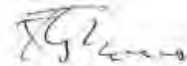
assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods.”

Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities' access to food and income, as well as their ability to afford the cost of their children's education.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full.

In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by June 16, 2023. Please send your responses to Hellen Huang at [huangh@hrw.org](mailto:huangh@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

- Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.
  
- **Pressure to accept compensation:** Several dozen interviewees described pressure from TotalEnergies EP Uganda and its subcontractors to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.
  
- **Delays in compensation:** Interviewees expressed frustration about the three to five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor, said they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delay in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.
  
- **Inadequate compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by TotalEnergies EP Uganda's Community Liaison Officers and subcontractors that the rates are set by the district government rather than by TotalEnergies or their subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees, etc.).

- **Lack of land-for-land compensation:** Many interviewees described not being offered “in-kind” compensation for land, particularly along the pipeline corridor. In the Tilenga oilfields, those who have withstood the pressure and insisted on replacement land in line with TotalEnergies’ commitment to comply with international standards have had their land taken by Ugandan courts.
  
- **Orphaned land:** Some interviewees complained about lack of compensation/acquisition for “orphaned land,” namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained these parcels of land are no longer as accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what TotalEnergies EP Uganda considered “orphaned land” in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were less usable or valuable.
  
- **Inadequate livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost land to the project. Some described receiving food aid in limited quantities. Others described being told they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete, but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.
  
- **Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks.** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. What consideration, if any, was given to leases with landowners instead of acquiring their land?
2. What steps has TotalEnergies or its subsidiaries taken to determine compensation rates that reflect market rates at time of payment that will allow it to meet the requirements of the IFC Performance Standard 5? Why does TotalEnergies or its subsidiaries pay the district government rates that are below, and, in some cases, substantially below market rates?
3. What steps has TotalEnergies or its subsidiaries taken to ensure affected persons are able to understand and freely consent to compensation agreements? Have

affected persons received legal and/or other forms of support prior to signing compensation agreements?

4. Why were compensation payments delayed? What steps did TotalEnergies or its subsidiaries take to mitigate impact on households during delays in compensation?
5. What consideration, if any, has TotalEnergies or its subsidiaries given to “orphaned” parcels of land and the possibility of offering the option of acquisition or compensation to reflect lost value?
6. A number of interviewees mentioned that they were being pressured to sign a “buffer zone” agreement, particularly around Tilenga. What is the buffer zone agreement? What limitations on land use does this confer? What monetary or in-kind compensation is being offered for any limitations on use in these areas? What steps will TotalEnergies take to ensure that impacted households understand and give informed consent to this buffer zone? What happens if interviewees do not agree? Will individuals be given copies of the buffer zone agreements?
7. What steps does TotalEnergies EP Uganda plan to take to restore livelihoods, including but not limited to livestock, food aid, training on new techniques, and assistance with school fees. When does TotalEnergies EP Uganda plan to take these steps?
8. Please describe what remedy or complaints process TotalEnergies EP Uganda has established to adjudicate complaints related to land acquisition? How many complaints has this complaints mechanism received and what percentage have been resolved? Can TotalEnergies EP Uganda disclose information on the nature of the complaints received, including the topic that was the focus of the complaint and the time taken to resolve it?
9. What is TotalEnergies doing to monitor the impacts of land acquisition on affected households, including the effectiveness of its compensation and livelihood support programs? What does that monitoring show about the impacts of land acquisition? Please disclose data where possible.
10. What lessons can be learned from the Tilenga and EACOP land acquisition programs that can inform approaches to assessing and mitigating potential future harms involving oilfield and pipeline development and operations?



# Human Rights Watch Letter to Atacama Consulting

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June 2, 2023

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**Re: Preliminary findings regarding livelihoods affected by EACOP project and Tilenga oilfields**

Dear Mr. Mugisha:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you in your role as a subcontractor to TotalEnergies EP Uganda in facilitating the land acquisition process in the Tilenga oilfields. We have separately written to TotalEnergies EP Uganda as the operator of these projects.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

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The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project. The vast majority of affected families are subsistence farmers that rely on their land for food and income.

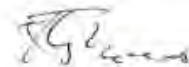
Under the United Nations Guiding Principles on Business and Human Rights, companies, including Atacama Consulting, have a responsibility to avoid causing or contributing to human rights abuses through their own activities and to prevent or mitigate human rights impacts directly linked to their operations by their business relationships.

According to project documents reviewed by Human Rights Watch, Atacama Consulting is implementing the land acquisition process for the Tilenga oilfields, and as such needs to comply with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5, which requires that displaced communities and persons receive "compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods."

Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities' access to food and income, as well as their ability to afford the cost of their children's education.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full. In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by **June 23, 2023**. Please send your responses to Hellen Huang at [huangh@hrw.org](mailto:huangh@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.

**Pressure to accept compensation:** Several dozen interviewees described pressure from TotalEnergies EP Uganda and its subcontractors, including Atacama, to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.

**Delays in compensation:** Interviewees expressed frustration about the three to five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor, said they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delay in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.

**Inadequate compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by TotalEnergies EP Uganda's Community Liaison Officers and subcontractors, including Atacama, that the rates are set by the district government rather than by TotalEnergies or their subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees, etc.).

**Lack of land-for-land compensation:** Many interviewees described not being offered "in-kind" compensation for land, particularly along the pipeline corridor. In the Tilenga oilfields, those who have withstood the pressure and insisted on replacement land in line

with TotalEnergies' commitment to comply with international standards have had their land taken by Ugandan courts.

**Orphaned land:** Some interviewees complained about lack of compensation/acquisition for "orphaned land," namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained these parcels of land are no longer as accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what TotalEnergies EP Uganda considered "orphaned land" in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were less usable or valuable.

**Inadequate livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost land to the project. Some described receiving food aid in limited quantities. Others described being told they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete, but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.

**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies

and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. Does Atacama have a human rights policy or a human rights due diligence policy? If so, please provide a copy.
2. Given low levels of literacy in many parts of rural Uganda along the pipeline corridor and that forms are in English, please describe what measures, if any, Atacama officials take to ensure Project Affected Persons (PAPs) understand the land acquisition process, understand the content of forms being signed, and understand possible redress mechanisms.
3. Please describe what measures, if any, Atacama takes to ensure its staff are not pressuring PAPs to sign agreements and documentation.
4. What redress mechanisms does Atacama have available for PAPs should they experience pressure and intimidation to sign?
5. Please describe what steps, if any, Atacama officials take to make PAPs aware of the option of “in-kind” assistance for both land and primary housing. To what extent is Atacama involved in finding replacement land for PAPs when they request “in-kind” compensation for land?
6. A number of individuals mentioned they are now being pressured to sign a “buffer zone” agreement, particularly around Tilenga. What is the buffer zone agreement?

What limitations on land use does this confer? What monetary or in-kind compensation is being offered for any limitations on use in these areas? What steps will Atacama take to ensure that impacted households understand and give informed consent to this buffer zone? What happens if interviewees do not agree? Will individuals be given copies of the buffer zone agreements?

7. How will Atacama be involved in the livelihood restoration and enhancement process in Tilenga after land acquisition?

# Human Rights Watch Letter to China National Offshore Oil Company Limited (CNOOC)

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June 2, 2023

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### Re: Preliminary findings regarding livelihoods affected by EACOP project and Tilenga oilfields

Dear Mr. Wang:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you as one of the shareholders in EACOP Ltd and as one of the partners in the Tilenga oilfield development. We have separately written to TotalEnergies EP Uganda as the operator of these projects.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project. The vast

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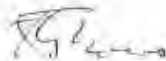
majority of affected families are subsistence farmers that rely on their land for food and income. As operator, Total Energies has committed to uphold international human rights standards in the land acquisition process including compliance with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5, which requires that displaced communities and persons receive “compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods.”

Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities’ access to food and income, as well as their ability to afford the cost of their children’s education.

Under the United Nations Guiding Principles on Business and Human Rights, companies have a responsibility to avoid causing or contributing to human rights abuses through their own activities and to prevent or mitigate human rights impacts directly linked to their operations by their business relationships. This responsibility requires companies to use their leverage to ensure jointly owned operations, even those that they don’t operate themselves such as EACOP, identify and address human rights abuses. Companies that don’t exercise adequate oversight over their jointly owned operations are not fulfilling their responsibility to avoid causing or contributing to human rights impacts under the Guiding Principles.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full. In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by **June 23, 2023**. Please send your responses to [homeaf@hrw.org](mailto:homeaf@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.

**Pressure to accept compensation:** Several dozen interviewees described pressure from TotalEnergies EP Uganda and its subcontractors to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.

**Delays in compensation:** Interviewees expressed frustration about the three to five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor, said they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delay in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.

**Inadequate compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by TotalEnergies EP Uganda's Community Liaison Officers and subcontractors that the rates are set by the district government rather than by TotalEnergies or their subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees, etc.).

**Lack of land-for-land compensation:** Many interviewees described not being offered "in-kind" compensation for land, particularly along the pipeline corridor. In the Tilenga oilfields, those who have withstood the pressure and insisted on replacement land in line with TotalEnergies' commitment to comply with international standards have had their land taken by Ugandan courts.



**Orphaned land:** Some interviewees complained about lack of compensation/acquisition for “orphaned land,” namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained these parcels of land are no longer as accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what TotalEnergies EP Uganda considered “orphaned land” in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were less usable or valuable.

**Inadequate livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost land to the project. Some described receiving food aid in limited quantities. Others described being told they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete, but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.

**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best

practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. Does CNOOC have a human rights policy or a human rights due diligence policy?
2. Does CNOOC have a grievance redress mechanism? If so, is this mechanism applicable to this project? Has CNOOC received any complaints via this mechanism? If so, how have these complaints been handled?
3. What steps has CNOOC taken to ensure that TotalEnergies and its subsidiaries respect the highest environmental and social standards in implementation of the EACOP project, and the land acquisition process in particular? Has CNOOC conducted any monitoring of the land acquisition so far and its impacts on communities?
4. In view of previous reporting on problems with the land acquisition process for the EACOP pipeline, what steps has CNOOC taken to ensure that TotalEnergies and its subsidiaries are paying compensation rates that reflect market rates and are not below, and in some cases, substantially below market rates?
5. Beyond the limited measures outlined in the Resettlement Action Plans, what steps does CNOOC plan to take to ensure TotalEnergies and its subsidiaries are restoring or enhancing livelihoods from pre-disturbance levels, including but not limited to livestock, food aid, training on new techniques, and assistance with school fees?
6. What steps, if any, has CNOOC taken to ensure TotalEnergies and its subsidiaries make sure affected persons are able to understand and freely consent to compensation agreements? Have affected persons received legal and/or other forms of support prior to signing compensation agreements?

# Human Rights Watch Letter to Newplan Group

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June 2, 2023

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Newplan Group  
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In copy: [isaac@newplan.ug](mailto:isaac@newplan.ug), [isaac@newplangroup.com](mailto:isaac@newplangroup.com)

**Re: Research into livelihoods affected by EACOP pipeline and Tilenga oilfields**

Dear Mr. Omulen:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you in your role as a subcontractor to TotalEnergies EP Uganda in facilitating the land acquisition process for EACOP in Uganda. We have separately written to TotalEnergies EP Uganda as the operator of these projects.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project.



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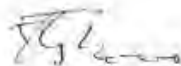
The vast majority of affected families are subsistence farmers that rely on their land for food and income.

Under the United Nations Guiding Principles on Business and Human Rights, companies, including Atacama Consulting, have a responsibility to avoid causing or contributing to human rights abuses through their own activities and to prevent or mitigate human rights impacts directly linked to their operations by their business relationships. According to project documents reviewed by HRW, Newplan is implementing the land acquisition process for EACOP in Uganda, and as such is required to comply with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5 which requires that displaced communities and persons receive "compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods."

Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities' access to food and income, as well as their ability to afford the cost of their children's education.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full. In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by **June 23, 2023**. Please send your responses to Hellen Huang at [huangh@hrw.org](mailto:huangh@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.

**Pressure to accept compensation:** Several dozen interviewees described pressure from TotalEnergies EP Uganda and its subcontractors, including Newplan, to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.

**Delays in compensation:** Interviewees expressed frustration about the three to five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor, said they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delay in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.

**Inadequate compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by TotalEnergies EP Uganda's Community Liaison Officers and subcontractors, including Newplan, that the rates are set by the district government rather than by TotalEnergies or their subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees, etc.).

**Lack of land-for-land compensation:** Many interviewees described not being offered "in-kind" compensation for land, particularly along the pipeline corridor. In the Tilenga oilfields, those who have withstood the pressure and insisted on replacement land in line

with TotalEnergies' commitment to comply with international standards have had their land taken by Ugandan courts.

**Orphaned land:** Some interviewees complained about lack of compensation/acquisition for "orphaned land," namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained these parcels of land are no longer as accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what TotalEnergies EP Uganda considered "orphaned land" in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were less usable or valuable.

**Inadequate livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost land to the project. Some described receiving food aid in limited quantities. Others described being told they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete, but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.

**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies



and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. Does Newplan have a human rights policy or a human rights due diligence policy? If so, please provide a copy.
2. Given low levels of literacy in many parts of rural Uganda along the pipeline corridor and that forms are in English, please describe what measures, if any, Newplan officials take to ensure Project Affected Persons (PAPs) understand the land acquisition process, understand the content of forms being signed, and understand possible redress mechanisms.
3. Please describe what measures, if any, Newplan takes to ensure its staff are not pressuring PAPs to sign agreements and documentation.
4. What redress mechanisms does Newplan have available for PAPs should they experience pressure and intimidation to sign?
5. Please describe what steps, if any, Newplan officials take to make PAPs aware of the option of “in-kind” assistance for both land and primary housing. To what extent is Newplan involved in finding replacement land for PAPs when they request “in-kind” compensation for land?
6. How will Newplan be involved in the livelihood restoration and enhancement process in Tilenga after land acquisition?

# Human Rights Watch Letter to Uganda National Oil Company (UNOC)

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June 2, 2023

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## Re: Preliminary findings regarding livelihoods affected by EACOP project and Tilenga oilfields

Dear Mr. Wang:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you as one of the shareholders in EACOP Ltd and as one of the partners in the Tilenga oilfield development. We have separately written to TotalEnergies EP Uganda as the operator of these projects.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project. The vast

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majority of affected families are subsistence farmers that rely on their land for food and income. As operator, Total Energies has committed to uphold international human rights standards in the land acquisition process including compliance with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5, which requires that displaced communities and persons receive “compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods.”

Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities’ access to food and income, as well as their ability to afford the cost of their children’s education.

Under the United Nations Guiding Principles on Business and Human Rights, companies have a responsibility to avoid causing or contributing to human rights abuses through their own activities and to prevent or mitigate human rights impacts directly linked to their operations by their business relationships. This responsibility requires companies to use their leverage to ensure jointly owned operations, even those that they don’t operate themselves such as EACOP, identify and address human rights abuses. Companies that don’t exercise adequate oversight over their jointly owned operations are not fulfilling their responsibility to avoid causing or contributing to human rights impacts under the Guiding Principles.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full. In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by **June 23, 2023**. Please send your responses to [homeaf@hrw.org](mailto:homeaf@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.

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**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best

practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. Does CNOOC have a human rights policy or a human rights due diligence policy?
2. Does CNOOC have a grievance redress mechanism? If so, is this mechanism applicable to this project? Has CNOOC received any complaints via this mechanism? If so, how have these complaints been handled?
3. What steps has CNOOC taken to ensure that TotalEnergies and its subsidiaries respect the highest environmental and social standards in implementation of the EACOP project, and the land acquisition process in particular? Has CNOOC conducted any monitoring of the land acquisition so far and its impacts on communities?
4. In view of previous reporting on problems with the land acquisition process for the EACOP pipeline, what steps has CNOOC taken to ensure that TotalEnergies and its subsidiaries are paying compensation rates that reflect market rates and are not below, and in some cases, substantially below market rates?
5. Beyond the limited measures outlined in the Resettlement Action Plans, what steps does CNOOC plan to take to ensure TotalEnergies and its subsidiaries are restoring or enhancing livelihoods from pre-disturbance levels, including but not limited to livestock, food aid, training on new techniques, and assistance with school fees?
6. What steps, if any, has CNOOC taken to ensure TotalEnergies and its subsidiaries make sure affected persons are able to understand and freely consent to compensation agreements? Have affected persons received legal and/or other forms of support prior to signing compensation agreements?

# Human Rights Watch Letter to Tanzania Petroleum Development Company (TPDC)

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June 2, 2023

James Mataragio  
Managing Director  
Tanzania Petroleum Development Company  
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P.O. Box 1191  
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## Re: Research into livelihoods affected by EACOP pipeline and Tilenga oilfields

Dear Mr. Mataragio:

We are writing to share with you information that Human Rights Watch has gathered about human rights concerns related to the land acquisition program for the East African Crude Oil Pipeline (EACOP) project and the Tilenga oilfields. We are writing to you as one of the shareholders in EACOP Ltd. We have separately written to TotalEnergies EP Uganda as the operator of these projects.

Human Rights Watch is an independent, international nongovernmental organization that monitors and reports on human rights in nearly 100 countries globally, including in Uganda and Tanzania.

In March and April 2023, Human Rights Watch interviewed over 75 people whose land is in the process of being acquired for the EACOP project or Tilenga oilfields in Bulisa, Kyotera, Sembabule, Rakai, and Lwengo districts in Uganda. We are contacting you to provide information on our findings to date and ask you for further information.

The scale of land acquisition necessary for EACOP has profound implications for human rights. Project documentation states that 100,000 people in Uganda and Tanzania will lose some of their land for the project. The vast majority of affected families are subsistence farmers that rely on their land for food and income. As operator, Total Energies has committed



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to uphold international human rights standards in the land acquisition process including compliance with the Equator Principles and International Finance Corporation (IFC) Performance Standard 5, which requires that displaced communities and persons receive "compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods."

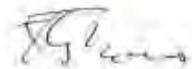
Affected residents described to Human Rights Watch various concerns related to the land acquisition process, including low compensation rates, delays in compensation, a lack of awareness of documents they were signing, and an inability to access perennial crops, which deprived them of important revenues. These problems have had a significant impact on communities' access to food and income, as well as their ability to afford the cost of their children's education.

Under the United Nations Guiding Principles on Business and Human Rights, companies have a responsibility to avoid causing or contributing to human rights abuses through their own activities and to prevent or mitigate human rights impacts directly linked to their operations by their business relationships. This responsibility requires companies to use their leverage to ensure jointly owned operations, even those that they don't operate themselves such as EACOP, identify and address human rights abuses. Companies that don't exercise adequate oversight over their jointly owned operations are not fulfilling their responsibility to avoid causing or contributing to human rights impacts under the Guiding Principles.

We set out below our more detailed findings, as well as related questions to which we would be grateful for a response. Please note that any response or comments you wish to make may be reflected in our reporting and we may publish these responses in full.

In order to ensure that there is time to incorporate your reply, please provide written responses to the above inquiries by **June 23, 2023**. Please send your responses to Hellen Huang at [huangh@hrw.org](mailto:huangh@hrw.org).

Sincerely,



Richard Pearshouse  
Director, Environment and Human Rights  
Human Rights Watch

### Summary of Findings and Questions

Human Rights Watch research identified serious problems with the land acquisition process for EACOP, including delays in the payment of compensation, lack of transparency, poor communication, and inadequate compensation. Critically, the vast majority of the 83 households interviewed described being poorer and more food insecure than before they lost land to the project.

**Pressure to accept compensation:** Several dozen interviewees described pressure from TotalEnergies EP Uganda and its subcontractors to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.

**Delays in compensation:** Interviewees expressed frustration about the three to five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor, said they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delay in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.

**Inadequate compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by TotalEnergies EP Uganda's Community Liaison Officers and subcontractors that the rates are set by the district government rather than by TotalEnergies or their subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees, etc.).

**Lack of land-for-land compensation:** Many interviewees described not being offered "in-kind" compensation for land, particularly along the pipeline corridor. In the Tilenga oilfields, those who have withstood the pressure and insisted on replacement land in line with TotalEnergies' commitment to comply with international standards have had their land taken by Ugandan courts.

**Orphaned land:** Some interviewees complained about lack of compensation/acquisition for “orphaned land,” namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained these parcels of land are no longer as accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what TotalEnergies EP Uganda considered “orphaned land” in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were less usable or valuable.

**Inadequate livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost land to the project. Some described receiving food aid in limited quantities. Others described being told they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete, but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.

**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas, and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets, including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to Human Rights Watch their anguish over their children or grandchildren, often girls, dropping out of school.

**Future risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies and subsidiaries have proposed a number of mitigation strategies through the government-approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least-cost, high impact development model for the Tilenga Project,” further raising concerns about utilizing best



practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earliest phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project-affected persons expressed concern to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust. Others noted the impact on farms from an uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000,000 tonnes of CO<sub>2</sub>e.

Given these human rights concerns, we are interested in learning your response to the above findings. In particular, we would appreciate your response to the following questions:

1. Does TPDC have a human rights policy or a human rights due diligence policy?
2. Does TPDC have a grievance redress mechanism? If so, is this mechanism applicable to this project? Has TPDC received any complaints via this mechanism? If so, how have these complaints been handled?
3. What steps has TPDC taken to ensure that TotalEnergies and its subsidiaries respect the highest environmental and social standards in implementation of the EACOP project, and the land acquisition process in particular? Has TPDC conducted any monitoring of the land acquisition so far and its impacts on communities?
4. In view of previous reporting on problems with the land acquisition process for the EACOP pipeline, what steps has TPDC taken to ensure that TotalEnergies and its subsidiaries are paying compensation rates that reflect market rates and are not below, and in some cases, substantially below market rates?
5. Beyond the limited measures outlined in the RAPs, what steps does TPDC plan to take to ensure TotalEnergies and its subsidiaries are restoring or enhancing livelihoods from pre-disturbance levels, including but not limited to livestock, food aid, training on new techniques, and assistance with school fees?
6. What steps, if any, has TPDC taken to ensure TotalEnergies and its subsidiaries make sure affected persons are able to understand and freely consent to compensation agreements? Have affected persons received legal and/or other forms of support prior to signing compensation agreements?

## Annex B

TotalEnergies' Response Letter to Human Rights Watch (English translation)

TotalEnergies

### Holding

Direction STS/S&C  
230615 – DH/CLG

**Mr Richard Pearshouse**  
Director, Environment and Human Rights  
Human Rights Watch  
350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
USA

Paris la Défense, June 15, 2023

**Re:** Preliminary conclusions on the consequences of the EACOP project and the Tilenga oil fields on the livelihoods of populations

Dear Sir,

We acknowledge receipt of your letter of May 26. Thank you for giving us the opportunity to comment and reply to your questions on the societal issues relating to the Tilenga and EACOP projects which TotalEnergies has fully taken into account, in line with our wish to behave as a responsible actor and in a transparent manner.

We understand that Human Rights Watch conducted a field visit in March and April 2023 in the areas of the Lake Albert project. We would very much have liked to have met you on that occasion to inform you about ongoing actions in terms of land acquisitions and compensation to people affected by the Tilenga and EACOP projects.

TotalEnergies EP Uganda (“TEPU”), operator of the Tilenga project, and EACOP are encouraged to have a dialogue with several non-governmental organizations (NGOs) in order to create a framework for regular collaboration, with the aim of benefiting from their expertise and fostering the constant improvement of these projects. We would be

happy to include you in these discussions. If you agree, we suggest planning a conversation with your teams soon, during which we could consider together ways in which we can put our teams in touch with your partner organizations in the field.

We are open to receiving your information and are interested in your advice to help us identify individuals who believe that their rights have not been respected so that we can establish whether these individuals have been identified in the context of these projects and the conditions in which the compensation process has been implemented in their cases. Our teams in charge of relations with civil society and human rights organizations are on standby to provide answers to your questions.

Without delay, please find attached the answers to the questions raised in your letter.

Yours sincerely,

Carole Le Gall  
Director, Climate and Sustainable Development

**Replies from TotalEnergies to the questions asked  
by Human Rights Watch in its letter of May 26, 2023**

The realization of the Tilenga and EACOP projects requires the implementation of a land acquisition program covering approximately 6,400 hectares. This program includes the relocation of 775 main residences and concerns a total of 19,098 project affected persons (PAP – IFC terminology designating households or groups of related individuals). Conducted in accordance with the performance standards of the International Finance Corporation (IFC), this program involves a complete survey of land and crops and the implementation of monetary and/or in-kind compensation. Each household whose main residence is relocated can choose between new housing and monetary compensation. An accessible, transparent and fair complaints management mechanism is in place throughout the process.

The Tilenga and EACOP projects continue to pay close attention to the respect of the rights of the communities concerned. Starting from the conception phase, particular importance was given to informing, consulting and cooperating with all the stakeholders involved. In this way, nearly 70,000 people were consulted for the environmental and societal impact studies and to date, more than 20,000 meetings have been organized with the populations concerned and with civil society organizations.

As of May 2023, 97% of compensation agreements have been signed for Tilenga and 96% for EACOP. These agreements are supplemented by measures in favor of

employment, education and respect for women's rights in order to significantly improve the living conditions of the people affected.

**1. To what extent has consideration been given to the possibility of entering into leases with landowners rather than acquiring their land?**

During the initial exploration phase of the Lake Albert projects, some land required for exploration was leased in Uganda as this land was only used on a temporary basis to complete hydrocarbon exploration and assessment activities.

For the development and production phases, the land required for the Tilenga and EACOP projects is acquired and owned by the governments according to the laws of Uganda and Tanzania.

For these phases, it was decided to opt for land acquisition, given the long duration of the projects, estimated at more than 20 years.

In Uganda, the law requires land to be purchased by the Uganda Land Commission for public interest projects. In Tanzania, all land belongs to the state and individuals have the right of usufruct.

In these two countries, TEPU and EACOP participate in the process of acquisition on behalf of the Ugandan and Tanzanian authorities. This allows the projects to ensure that the land acquisition process is conducted in accordance with international best practice (in particular the IFC Performance Standards and the Equator Principles 4). These standards offer additional guarantees to people affected by the project compared to national legislation.

Once the land rights have been transferred to the relevant government department, rights to use or lease the land are granted to the projects. For example, in the case of EACOP, a 66-year lease has been signed with the Uganda Land Commission and in Tanzania, a lease has been signed with the Tanzania Petroleum Development Corporation.

**2. What measures have TotalEnergies or its subsidiaries taken to determine compensation rates that reflect market rates at the time of payment and that will enable them to meet the requirements of IFC Performance Standard 5? Why do TotalEnergies or its subsidiaries pay district government tariffs that are lower, and in some cases significantly lower, than market rates?**

A PAP (Project Affected Person) corresponds to a group of individuals forming a household or an entity (institution or company) which has been identified, in the

framework of studies carried out for the program of land acquisition necessary for the execution of the project, as having at least one asset impacted by the implementation of the project. An asset can be a dwelling, a construction, a

plot of bare or cultivated land, plants, trees, or crops. These concepts are defined in the methodologies established by the IFC standards.

The basic principle of IFC Performance Standard 5 is that compensation is made at “full replacement cost”, i.e., market value plus transaction costs. This principle has been applied by the projects in both countries.

In accordance with Ugandan law, TotalEnergies EP Uganda (TEPU) applies compensation rates validated by the Chief Government Valuer (CGV) and the District Land Boards. Rates for land properties and permanent buildings are decided on the basis of market analyses carried out by a registered valuer and approved by the Chief Government Valuer (CGV). Rates for crops and temporary structures are set by the District Land Boards (DLBs).

The process is almost identical in Tanzania, with the difference that there is no land ownership as such.

In addition to this compensation rate, PAPs receive a disruption allowance of 30% in Uganda and 7% in Tanzania (in accordance with Tanzanian law).

In addition to the time frame related to the finalization of various legal documents necessary for land acquisitions, the implementation schedule for these acquisitions was impacted by the constraints caused by the Covid-19 pandemic (confinement, limits on travel, in particular between different regions). In order to take this time frame into account, TEPU and EACOP decided, in conjunction with the Ugandan and Tanzanian authorities, in June 2020 to apply additional financial compensation (15% per year in Uganda and 12% in Tanzania) for the period between the inventory of the assets affected and the payment.

The implementation of the process ensures compensation at “full replacement cost” in accordance with IFC 5.

- 3. What measures have TotalEnergies or its subsidiaries taken to ensure that the people affected are able to understand the compensation agreements and freely consent to them? Did the people affected receive legal and/or other forms of support before signing compensation agreements?**

The main stages of land acquisition, which are set out in the Resettlement Action Plans (RAP) of Tilenga and EACOP for both countries, are as follows:

1. Involvement of stakeholders: A presentation is made to local communities to describe the process of the survey of land and crops, remediation, resettlement and assistance to the people affected;
2. Surveys: A detailed identification of all the assets impacted by the projects is carried out, including land and structures, trees and plantations, and an estimate of their value as well as the deadline for these valuations (cut- off-date) is determined and communicated; a socio-economic survey of households is conducted to understand the impacts of land acquisition on the livelihoods of households.
3. Valuation: Reports of valuations and scales of compensation are prepared for each PAP concerned, communicated to the PAP, then approved by public authorities at various levels.
4. Definition and disclosure of the Resettlement Action Plan: support strategies are defined, as well as programs to restore the livelihoods of the people affected. Resettlement Action Plans are officially prepared and adopted, covering in detail each step of the process and including a specific plan for vulnerable people.
5. Information sessions on rights and compensation: detailed individual explanations on the compensation options are provided to the PAPs. PAPs with a house or land can choose between monetary compensation and in-kind compensation such as housing and replacement land. All PAPs are entitled to in-kind compensation, such as opening a bank account and financial literacy training; most of them are also entitled to transitional food aid.
6. Monetary compensation is then paid, then the departure notice ("notice to vacate") is issued.
7. Rehousing: PAPs receive rehousing assistance after the end of the departure notice period, from when the implementation of in-kind compensation begins.

Particular attention is paid to the protection of the most vulnerable people and the rights of women by guaranteeing their presence and participation in key stages of the land acquisition process.

During the information session on rights and the signing of the compensation agreement, PAPs and their spouses receive an individual information session on all their rights, in order to explain them in detail and enable a question-and-answer session. A copy of the

compensation agreement is provided to the PAP to review and take home during a period of reflection. A grievance office is also set up so that PAPs can understand the procedure for filing a grievance and are able to do so immediately or later if they wish. Illiterate PAPs or PAPs who are more comfortable in other languages receive additional support and assistance from translators from the local community.

In the case of EACOP Uganda, third party legal advisors are made available to PAPs and provide legal advice on any questions that PAPs may have during the information sessions on rights and the signing of remediation agreements in a location that allows PAPs to have confidential and private discussions about their rights.

For EACOP in Tanzania, third party legal advisors are available on the ground before or during the process of information on rights and the signing of the compensation agreement. After the process, the consultancy company provides access to a remote assistance service by SMS or a free phone line so that PAPs and their spouses can ask questions or raise concerns.

Although they are in a contract with EACOP, these legal advisors do not communicate to EACOP the details of their discussions with the PAPs in order to maintain their role as a neutral third party and guarantee respect for the PAPs' confidentiality. If specific questions need to be put to EACOP to obtain more detailed answers, the PAP must give their prior approval.

For Tilenga, a similar legal assistance process is in place to answer questions about processes and compensation agreements. Legal support is also available for specific administrative procedures (in case of death, etc.).

#### **4. Why have compensation payments been delayed? What measures have TotalEnergies or its subsidiaries taken to mitigate the impact on households during delays in compensation?**

It should be clarified that while there have been delays in the implementation of the land acquisition process, these occurred between the time of the land valuation and the start of the acquisition process.

It was intended from the outset that the PAPs would retain full use, ownership and possession of their land until compensation is paid and a notice of departure is issued. Explanations were provided to PAPs in this regard. At the end of May 2023, the vast majority of compensation agreements had been signed for the Tilenga and EACOP projects (97% of agreements signed for Tilenga and 96% of agreements signed for EACOP) and almost all the corresponding compensation had actually been paid (97% of

compensation paid for Tilenga and 93% for EACOP). Due to delays in government approvals and the signing of the final project agreements, which resulted in delays for PAPs between the valuation and the signing of land acquisition contracts, the Tilenga project applied an increase in the additional financial remediation of 15% per year for the period between the valuation and the payment.

Delays were also taken into account by the EACOP project:

- In Uganda, the 15% increase has been applied.
- In Tanzania, interest has been applied in accordance with Tanzanian legal requirements and an increase was applied based on market research to establish the full replacement value for land and structures, as well as an increase linked to inflation for crops and trees during the period of the delay. This represents an average increase of 12%.

These measures were aimed at mitigating the effects of these delays on the PAPs in their daily lives.

We remain available to study the cases of the PAPs whom you interviewed and who may be experiencing difficulties because of these delays.

**5. What consideration, if any, have TotalEnergies or its subsidiaries given to “orphan land” and the possibility of offering the option of acquisition or compensation to take into account the loss in value?**

After the determination of the land to be acquired by the project, small plots of land, called “orphan land”, may sometimes remain. In this case, a compensation offer is made. For example, in the framework of EACOP, an offer is made when the remaining land is 20% or less of a PAP's plot or less than 0.5 acres (outside a town or municipality).

In accordance with the recommendations of the Chief Valuer of the Government of Uganda and the Ministry of Lands, Housing and Urban Development, the loss of value of orphan land will be established during and after construction. Effectively, the valuation and compensation of this land will therefore be carried out during and after construction.

In Tanzania, the determination of orphan land follows a procedure established during the land acquisition process. Where the remainder of the land accounts for 20% or less of a PAP's plot, it is proposed to acquire the remainder of the land if requested by the landowner. Plots of less than 0.5 acres will be acquired under the Land Acquisition Act (LAA); those larger than 0.5 acres will be valued with a view to obtaining additional rights in accordance with the requirements of international financial institutions (IFIs).



- 6. A number of interviewees mentioned that they were subjected to pressure to sign a “buffer zone” agreement, particularly around Tilenga. What is a buffer zone agreement? What does it imply in terms of limitations of land use? What monetary or in-kind compensation is offered for any restriction on use in these areas? What measures will TotalEnergies take to ensure that impacted households understand and give their informed consent to this buffer zone? What happens if the interviewees disagree? Will individuals receive copies of the buffer zone agreements?**

The buffer zone does not imply any surrender of land or restriction on its use, nor does it involve signing a “buffer zone” agreement. This area includes land within a 200-meter radius around the footprint of the Tilenga project, in accordance with the law so that use of the land by a project / a government agency does not interfere with neighbor rights and land use. Landowners can therefore continue to use the land, including for agriculture, gardening and/or sale. TEPU is required to conduct its activities in a manner that will not affect the use of their property by other landowners. The purpose of the buffer zone is therefore to identify these neighbors and keep them duly informed of the project’s activities. An acknowledgment form is offered to landowners and users of the buffer zone. Signature is not compulsory.

We are not aware that landowners and users of the buffer zone of the Tilenga project have been subjected to pressure to sign an agreement on the buffer zone. TEPU condemns any form of intimidation or pressure, especially with regard to the signing of such agreements, and continues to work in respect of the rights of all stakeholders.

However, if you are aware of people who may have been subjected to such pressure, we would appreciate it if you could help us identify them so that research relating to their specific situation can be carried out.

- 7. What measures does TotalEnergies EP Uganda plan to take to restore livelihoods, including but not limited to livestock, food aid, training in new techniques and assistance with school fees? When does TotalEnergies EP Uganda plan to take these measures?**

In the context of the land acquisition process, TotalEnergies is aware of the need to restore or improve the livelihoods and living standard of households affected by the project by focusing on restoring self-sufficiency and food security, as well as the diversification of household incomes through skills development and support for job creation.

The livelihood restoration program has three main areas of intervention:

1. Training on activities related to agriculture (improvement of yields of cassava crops, vegetable crops, tree seedlings / commercial nursery, beehives...);
2. Support for budget management;
3. Support for the development of small businesses.

Before the program, visits are conducted to collect data, get an overview of each household's activities, and adapt mitigation measures to individual needs. During these visits, households are informed of the range of programs available. A household livelihood restoration plan is prepared to help PAPs reflect on the impact of their relocation and discuss the implementation of the measures that have been decided. The level of support given to households depends on the extent to which the project has impacted them.

Livelihood restoration programs are implemented for at least 3 years after land acquisition or until livelihoods are fully restored.

These programs include: financial literacy, agricultural program for the improvement of crops and livestock, nurseries, beekeeping, financial management and business skills, vocational training to support jobseekers. On the Chongoleani peninsula, a specific program will also be put in place to support sea-related livelihoods.

In addition, eligible PAPs receive full support including the distribution of food calculated according to the number of people in the household. This food is given in the form of baskets based on the composition used by the United Nations World Food Program (corn flour, cassava or rice, beans and cooking oil). This transitional support is calculated according to the needs of the household and implemented over the first six months.

- 8. Can you describe the appeal or complaint process set up by TotalEnergies EP Uganda to decide on complaints related to land acquisition? How many complaints has this mechanism received and what percentage of complaints has been dealt with? Can TotalEnergies EP Uganda disclose information about the nature of complaints received, including the subject of the complaint and the time needed to address it?**

The EACOP and Tilenga projects have set up grievance resolution mechanisms which comply with the effectiveness criteria of United Nations Guiding Principles No. 31 on

Business and Human Rights, i.e., legitimate, accessible, predictable, equitable, transparent, rights-compatible, based on engagement and dialogue. These mechanisms allow projects to receive and respond to community grievances, including those of PAPs.

TEPU and EACOP each have a complaint management mechanism. They include both an organizational framework and a process for managing and resolving claims, concerns or problems that may result from the direct and indirect consequences of the activities of TEPU and the EACOP project as well as activities of their subcontractors in the area of the Projects.

There are several possibilities for filing a complaint: either with the EACOP or TEPU teams in the field, or with local community leaders, or via a dedicated free phone number. Community Liaison Officers (CLOs) are available in the community to receive all grievances linked to the project, including those relating to compensation, and participate in their resolution.

All grievances are recorded in an electronic register. As far as possible, they are resolved within 24 hours, but for more complex cases, the procedure involves four levels of escalation:

1. Registration: The receipt and recording of complaints, their documentation and the issuing of an acknowledgment of receipt of the recording of the complaint. Once registered, the complaint is submitted for processing, and, as necessary, resolved as soon as possible. If a quick resolution is not possible, then it is submitted for investigation.
2. Dialogue: Once the investigation has been carried out, the proposed solution is discussed with the person who filed the complaint.
3. Resolution: If the proposed solution is accepted, the case is closed. A document confirming the proposed solution and its acceptance are issued (“Close Out form”).
4. Continuation of dialogue: If the proposed solution is not accepted, discussions with the person who filed the complaint will continue, if necessary with the support of a third party. In the absence of an agreement, the person is free to submit the request to the relevant authorities.

All complaints are examined and processed, regardless of the channel used to file the complaint and regardless of which person at TEPU, EACOP or their contractor was initially contacted to register the request. If necessary, external stakeholders and independent third parties help find solutions for more complex and sensitive cases.

For as long as the dedicated part of the document of acceptance of the proposed solution (“Close Out form”) has not been signed, the complaint is considered “open”. The file is

closed when the person who made a complaint has signed the document of acceptance of the proposed solution (“Close Out form”), a copy of which must be given to them.

To date, 785 complaints have been registered on Tilenga and 759 have been processed; on EACOP, 1,207 complaints have been registered and 1,159 have been processed.

The vast majority of grievances registered relate to land issues (84% of grievances registered); this is a level usually observed for a project at this stage of development.

**9. What is TotalEnergies doing to monitor the impacts of land acquisition on affected households, including the effectiveness of its compensation and livelihood support programs? What does this monitoring show in terms of the impacts of land acquisition? Please disclose data as far as possible.**

The Tilenga project has a monitoring and evaluation program that includes both internal monitoring and the use of external consultants.

For the EACOP project, each Resettlement Action Plan (RAP) has a chapter dedicated to monitoring and evaluation, which defines in detail the requirements for monitoring the implementation of the RAP. These include a monthly monitoring of the process, compliance monitoring, implementation monitoring and ex-post evaluation. This monitoring combines internal monitoring and external monitoring by specialized consultants.

In accordance with its guiding principle of transparency in its relations with civil society, TotalEnergies publishes studies and assessments carried out by third parties as well as social and environmental action plans related to the Tilenga and EACOP projects. These assessments help ensure that the projects are implemented in accordance with international industry best practice.

Alongside the ongoing dialogue with local communities, these reports also help identify potential improvements.

These reports are available here: Tilenga & EACOP: two projects rigorously researched and assessed | TotalEnergies.com. <https://eacop.com/eacop-reports/>

In addition, a 2022 annual report on the human rights aspects of the Tilenga project was published in early 2023, in which you will find not only information on programs to relocate local communities but also other subjects relating to human and societal rights: [https://corporate.totalenergies.ug/system/files/atoms/files/tilenga\\_2022\\_annual\\_human\\_rights\\_report\\_2.pdf](https://corporate.totalenergies.ug/system/files/atoms/files/tilenga_2022_annual_human_rights_report_2.pdf)

# Atacama Consulting's Response Letter to Human Rights Watch



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22<sup>nd</sup> June 2023

ATCM-TLNG-ADMIN/0623/180

ATTN: Mr. Richard Pearshouse  
Director, Environment and Human Rights  
c/o Hellen Huangh  
Human Rights Watch  
350 Fifth Avenue, 34 Floor  
New York, NY 10118-3299

Dear Sir,

**RE: PRELIMINARY FINDINGS REGARDING LIVELIHOODS AFFECTED BY EACOP PROJECT AND TILenga OIL FIELDS**

We hereby acknowledge receipt of your letter dated 2<sup>nd</sup> June 2023, a copy of which we received via email on 2<sup>nd</sup> June 2023 as well as, via courier on 13<sup>th</sup> June 2023.

We thank you for the work that Human Rights Watch (HRW) is undertaking in ensuring that Human Rights are respected, defended and, not infringed upon and, more specifically, in this particular situation, for sharing with us your preliminary findings on what HRW has gathered about human rights concerns related to the land acquisition program for, specifically, the Tilenga oil field for which, Atacama Consulting is the Resettlement Action Plan (RAP) contractor.

We assure you of our full commitment to good practice and, are open and readily available to discuss and/or provide clarification on any of the preliminary findings you raise, and in addition, we consider any recommendations you may have, based on your preliminary findings and our responses provided below, important to our continual learning and improvement.

Please find below, our summarised but not fully exhaustive, responses on the information you requested – please feel free to seek further clarification and/or additional information from us where you deem this necessary.

**Question 1**

**Pressure to accept compensation:** Several dozen interviewees described pressure from Total Energies EP Uganda (TEPU) and its sub-contractors including Atacama, to accept compensation, and said they rarely understood the specifics of the documents they were signing, including the amounts they would be receiving due to time constraints, low literacy rates, and forms that were only in English. They described being threatened with court action if they did not agree to compensation packages offered.



### Response

The RAP team procedures and implementation do not include pressure as this is not necessary. The disclosure of entitlements is factual in nature and PAPs are free to choose their path. As the Government of Uganda (GoU) has gazetted the land for the Tilenga Project, the GoU will decide if it wants to exercise its right to compulsory acquisition on any parcels of land under the Laws of Uganda<sup>1</sup>. This however, is not a threat of court action. During the course of Atacama undertaking its activities however, specifically on RAPs 2-5, both TEPU and the Petroleum Authority of Uganda (PAU)/Ministry of Energy and Mineral Development (MEMD), the latter representing the GoU, have repeatedly stressed their preference to completely avoid compulsory acquisition to the extent possible.

It is however understandable that, some PAPs may have interpreted the GoU's right of compulsory acquisition under the Law and the possibility of court action, as pressure threat. This is not the intention or design of the disclosure process.

Key to note is that, IFC PS 5 (Paragraph 13) acknowledges that, expropriation or other legal procedures, can be initiated for cases where the project's compensation offer (assumed to meet PS5 requirements) is rejected by the PAP, and proposes for the project developer/client to explore collaboration opportunities to ensure that all transactions to acquire land rights, as well as compensation measures and relocation activities are well documented.

While grievances have been lodged using the Tilenga project's formal grievance mechanism which allows for, within its escalation levels, independent third parties, that can assist in mediating grievances, no PAPs have raised grievances with the Project's process or approach.

If HRW knows of anyone that may have felt pressured to sign and has evidence of the same, please let us know and provide details of the aggrieved party for further investigation of the same.

With regard to time constraints, implementation of RAPs 2-5 commenced in March 2021, more than two years ago and, some PAPs are still considering signing or not signing their agreements to date so, while time is important to meet the objective of first oil, PAPs have time to consider their options.

Overall, the Tilenga Project disclosure of entitlements and compensation agreement signing exercise is conducted in a transparent manner and, with support from non-Tilenga project staff, specifically, the interpreters (sourced from the affected villages, or if not agreeable to a specific PAP, PAPs are free to choose/come with their own interpreter), Resettlement Planning Committee (RPC) members (elected democratically by PAPs themselves and not by the Tilenga Project from the PAP population), village/sub-county leaders (e.g., local council chairpersons or other local council members) who also stand as witnesses, in addition to, the PAPs own selected independent witness.

As part of the disclosure of entitlements process, PAPs are taken through the affected assets (description and quantity) contained in the compensation agreement as per Schedule 1 which clearly outlines all of the PAPs entitlements (i.e., all surveyed assets and the Chief Government Valuer (CGV)'s approved compensation amount) – this is disclosed and explained in detail by the Valuer who is present at the disclosure exercise in order to explain

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<sup>1</sup> The right to compulsorily acquire privately owned land or property is contained under Article 26(2) and 237(2)(a) of the Constitution. The right granted to government or a local authority to acquire privately owned property is subject to a number of limitations including:

1. The taking of possession or acquisition is necessary for Public use, in the interest of defence, public safety, and public order, public morality and public health;
2. There must be a law empowering the taking or acquisition of property;
3. There is prompt payment of fair and adequate compensation prior to the taking of possession or acquisition of the property; and
4. The owner or person with interest in the property has a right of access to a court of law

Section 42 of the Land Act provides that the Government or a local government may acquire land for public interest in accordance with articles 26 and 237(2) of the Constitution.



to the PAP, how the amounts they would be receiving are derived including the publicly available approved District Compensation Rates (DCRs) applied to each asset which are additionally openly disclosed to PAPs. For PAPs who are landowners, a land surveyor is also present to explain the land captured in the entitlements.

After the PAP's inquiries regarding his/her entitlements are answered, then he/she meets with the Legal Counsel who explains the Terms and Conditions stated in the compensation agreement. The legal counsel goes through the document with the PAP to explain its content and the PAP's legal rights, all this is done in the presence of witnesses and the translator.

PAPs were encouraged to ask questions at any point throughout the disclosure exercise before taking the decision to either sign or decline signing of the compensation agreement. PAPs were also free to make consultations prior to signing the compensation agreements and, a number of PAPs did take away a physical (or in some cases, 'photographed'/soft) copy of their compensation agreement when they requested to do so, in order to seek legal advice from their lawyers or other advisors, or, to further digest the contents of the agreements, prior to signing their agreements – engagement forms indicating such cases are readily available - a sample can be shared upon approval by TEPU.

Throughout the entire process, all Tilenga Project documents are interpreted to PAPs and their spouses or witnesses in their native language of choice by an interpreter (often referred to in the area as a "translator"), who is also a local community member. This option (for translation) is discussed with the PAPs and their spouses as the beginning of the engagement – and, in some cases, PAPs where they prefer, can use their own personal interpreter/translator. A Certificate of translation is also signed for each document by the translator - a sample can be shared upon approval by TEPU. If the PAP expresses that she/he does not need translation because he/she can understand and speak English, then, the interpreter/translator is not utilized and the certificate of translation is not signed.

At any time during the disclosure exercise, the PAP is at liberty to disagree with the contents of the compensation agreement (entitlements or terms therein) and at which point, the RAP team would offer to either provide clarification or discontinue the exercise. Whenever the PAP and/or spouse disagreed and declined continuation with the disclosure exercise, the RAP Team would;

- Open and complete an engagement form, to document that the interaction with the PAP had happened and also state the reasons for the PAP's refusal to continue with disclosure or sign the compensation agreement – these engagement forms are readily available - a sample can be shared upon approval by TEPU.
- Review the PAP's concern or claim and propose remedial action where the claim is found to be valid. If improbable, the RAP team encourages the PAP to identify a neutral third party that can help in mediating where necessary.
- If agreement is reached, schedule a follow-up disclosure meeting with the PAP (and spouse) to present Schedule 1 and the compensation agreement reflecting the remedial action that has been agreed with the PAP. In this follow-up meeting, the same disclosure process is followed.

The Tilenga Project registered several engagement forms during the RAPs 2-5 disclosure exercise in which PAPs expressed disagreement with the content of the compensation agreement, including sometimes, about the quantity or description of their affected assets for the Project's reference, and a record of these has been maintained as well as, the manner in which each of these cases was managed and handled.

Additionally, during disclosure, some PAPs outrightly registered grievances that were handled as per the Tilenga Project Concerns and Grievance Mechanism. The grievance mechanism provides for redress by Courts of Law as the last resort in the event that the PAP and project fail to agree at the other levels (one of which includes, independent third-party review) prescribed therein.

Atacama is open to holding a detailed discussion with HRW on the specifics of the disclosure of entitlement and compensation agreement signing process and the exact steps undertaken there-in, as this has not been exhaustively duly provided in our current written response here-in.

#### **Question 2**

**Delay in Compensation:** Interviewees expressed frustration about the three-to-five-year delays in receiving compensation. The vast majority of interviewees, particularly along the pipeline corridor said, they stopped putting time and money into crop maintenance because they understood the land would be taken imminently, while others were told they could not access their land for perennial crops. Interviewees said the delays in compensation payments and drop in crop yields while waiting for compensation had impacted their livelihoods including an inability to pay school fees, increasing difficulty in acquiring adequate food for their families, and incurring high levels of debt.

#### **Response**

The RAP<sub>1</sub> cadastral land and asset inventory surveys were conducted in April and May 2017 for which the valuation report was approved by the office of the Chief Government Valuer (CGV) in August 2017 and the RAP report (incorporating the CGV approved report) approved by PAU in January 2018. Subsequently, RAP<sub>1</sub> implementation commenced in January 2018.

RAPs 2-5 cadastral land and asset inventory surveys were conducted between July 2018 to November 2018 and January 2019 to March 2019 for RAPs 2&4 and RAPs 3a, 3b & 5 respectively. Upon completion of the surveys, valuation reports upon which compensation is premised, were approved by the office of the CGV in July and October 2019 for RAPs 2&4 and RAPs 3a, 3b & 5 respectively.

Following on from the COVID-19 pandemic (starting March 2020), the RAPs 2-5 reports were approved in December 2020 by the Petroleum Authority of Uganda (PAU). Following approval of the RAPs 2-5 reports in December 2020, RAP implementation commenced in March 2021.

The implementation phase started off with awareness creation and sensitization of stakeholders (host communities, district local governments, Civil society among others) about the upcoming activities, processes and requirements for PAP participation. The sensitization and awareness creation campaigns were also informed by the Interim Advice for IFC Clients on Safe Stakeholder Engagement in the Context of Covid-19.

In view of the period between approval of RAPs 2-5 valuation reports (July & October 2019) by the office of the CGV (which approval is a requisite for compensation to become due), approval of the RAP reports and associated project (including specifically in-kind compensation) budgets by PAU in December 2020 and commencement of RAP implementation in March 2021, the Tilenga Project in collaboration with PAU offered a 15% uplift per annum to all PAPs for the two years (July 2019 to July 2020; July 2020 to July 2021). The Tilenga uplift (30% in total) was computed and added to the approved CGV amount (inclusive of 30% statutory disturbance allowance) and presented to PAPs during disclosure of entitlements and Compensation agreement signing.

Please note that, upon completion of the cadastral land and asset inventory and assessment during the RAP planning phase, PAPs were informed and encouraged to continue using (farming mainly) their land until they receive due compensation and are issued with the Notice to Vacate (NtV) by the Tilenga Project.

PAPs were explicitly advised to continue planting and harvesting up until they receive their NtV. These key messages were communicated before, during, and after compensation. In fact, this message continues to be reiterated to PAPs and other key stakeholders while the Project is in the process of completing the resettlement and livelihood restoration implementation programmes. The communications materials/channels include but are not limited to:

- Cut-off date notification posters put up at the notice boards at the district, sub counties, and all Total E&P and Tullow Uganda Notice boards in the communities as well as in strategic locations throughout the Project area (i.e., facilities) - Cutoff date sign posts and Transcripts of radio announcements are readily available and can be provided following TEPU approval.



- Radio announcements in local languages on the local radios in Buliisa, Hoima, and Kikuube (Radio Kitara, Kings, Radio Biiso, Liberty Radio)
- Formal engagements such as individual and public disclosure meetings at national, district, subcounty, and village level, monthly RPC meetings, and monthly DIRCO meetings
- Informal engagements with key stakeholders (e.g., courtesy visits, adhoc meetings in the village, etc.)
- individual entitlement disclosures (on a PAP basis)

These information and communication materials (both printed and audio) were/are shared with PAPs in the local languages (Alur, Runyoro, Lugungu) and English.

In addition to the communication channels, the three RAP implementation documents signed by PAPs clearly state the same. These documents are:

- Cut-off date<sup>2</sup> form – Last sentence in first paragraph states: “I have also been informed that where land is cultivated for food crops, or where land is used for grazing, these activities can still take place up until the implementation of phase of RAP #.”
- Land User Compensation Agreement – Sec 1.2 states: “The LAND USER can continue to use the land until they have received full compensation for their property and a specific notice to vacate is issued by TOTAL (and not the Landowner) and signed. After which, the LAND USER shall within 30 days from the date of receipt of the notice to vacate cease to carry out any activities on the Property, harvest all affected crops or salvage the same, and move all affected moveable assets on the Property.” The duration of the Notice to Vacate is determined in Section 77 (2) of the Land Act which provides for a 30% disturbance allowance if less than six months’ notice to give up vacant possession is given and, 15% disturbance allowance if more than six months’ notice is given. For the Tilenga project, a 30% disturbance allowance was provided and a notice period of one month given.
- Landowner Compensation Agreement – Sec 1.3 states: “The LANDOWNER can continue to use the land until they have received their full compensation for the Property and a specific notice to vacate has been issued by TOTAL and signed, after which, the LANDOWNER shall within 30 days from the date of receipt of the notice to vacate cease to use the land and harvest all affected crops and to salvage the same, and move all affected moveable assets on the Property.”

Additionally, TEPU conducted a Tilenga Garden monitoring survey (2021) to ascertain whether PAPs were still deriving livelihoods from the project affected land and findings indicate that majority of sampled PAHs were cultivating their land prior to compensation and signing of the Notice to Vacate (NTV) form – further information can be obtained from TEPU.

The Project does not take possession or restrict use of any affected land until a PAP is fully compensated in cash and/or in-kind and the signed Notice to Vacate (NTV) form has expired<sup>3</sup>. Up until the point that compensation is paid and an NTV issued (i.e. when land is physically taken over by the Project), there is no physical and/or economic displacement asides from the PAP having to contemplate when resettlement will happen and what their life will be like afterwards. This is mitigated through messaging.

### Question 3

**Inadequate Compensation:** Interviewees described low compensation rates for land, crops, and graves. Interviewees said they were told by Total energies EP Uganda’s community liaison officers and subcontractors, including Atacama, that the rates are set by the district government rather than TotalEnergies or their

<sup>2</sup> This is a published date that determines eligibility of affected entitlements. Any new improvements made post the cutoff date are not considered for compensation.

<sup>3</sup> In exceptional circumstances, there are scenarios where a PAP prefers to sign a consent form granting the project access to undertake activities or, in cases of disputed land, where the disputing parties, especially when the dispute is already in Courts of Law, opt to sign a Memorandum of Understanding (MoU) granting the project access to the land and also requesting, at the same time, the project to deposit the due compensation into an Escrow account with the compensation only being accessed by the winning party following the Court’s decision. All such exceptional scenarios are well documented.

subsidiaries. For those who have received compensation, almost all describe compensation rates for land being substantially below the prevailing market rate to purchase replacement land (even taking into account any "disturbance allowances" being applied). Many interviewees described using their compensation to purchase land at rates 50 to 200 percent more than the money they received from the project for land. This land was often far away and of poorer quality with less improvements (perennial crops, fruit trees etc.)

#### Response

The Constitution of Uganda vests the mandate to set and/or approve valuation of land and assets for purposes of compensation with District Land Boards, specifically;

1. Section 59 (1) of the Land Act provides the functions of the District Land Board (established under Section 56 of the Act), one of the roles is;
    - a. .. to compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and any other thing that may be prescribed.
  2. Section 77 of the Land Act (Cap 227) provides that;
    - a. The value of buildings on the land is taken at open market value for urban areas, and depreciated replacement cost for rural areas;
    - b. The value of standing crops on the land is determined in accordance with the district compensation rates established by the respective District Land Board;
    - c. In addition to the total compensation assessed, there is a disturbance allowance paid of 15% or, if less than six months' notice to vacate is given, then a disturbance allowance of 30% of the total sum assessed applies.
- The Land (Amendment) Act, 2010 states that; The rates set out in the list of rates of compensation referred to in section 59(1)(e) shall be used in determining the amount of compensation payable.

From the provisions of the Land Act (CAP 227) highlighted above, the approved District Compensation Rates (DCR) for Financial Year 2018/19 were adopted for computation of compensation for the affected assets as contained in the approved RAPs 2-5 Valuation reports.

Please note that, despite the requirements set out in Ugandan Law, in consideration of the fact that IFC PS5 requires that, "...persons receive compensation for loss of assets at full replacement cost...", in line with the Tilenga Project's approved valuation methodology, prior to start of cadastral land and asset inventory surveys, the Tilenga Project conducted market research in the project affected Buliisa and Hoima (including Kikuube) districts to establish the market rates and ascertain the Full Replacement Cost for various assets (land, crops and structures).

Replacement Cost covers the pre-project market value and all associated transaction costs. For crops, transactions costs include but are not limited to; cost of seedlings, bush clearing and tilling of land/labour, cost of pesticides, fumigation costs among others.

Replacement Cost for land covers, the pre-project market value of the land parcel in question and transaction costs such as brokerage and titling fees.

The replacement Cost approach that was adopted was in line with IFC PS5 guidelines and recommended by an independent external auditor who reviewed the RAP 1 process.

The Tilenga project established that, upon addition of the statutory disturbance allowance (30%), the proposed Land Rates for the different affected villages and approved DCR were indeed at full replacement cost.

The Tilenga project Uplift (30%) added onto the approved CGV amount, presented adequate compensation for the affected assets.

In September 2022, 1 year and 6 months after the commencement of RAPs 2-5 implementation (within which time period, PAPs had the opportunity to sign their compensation agreements and receive their compensation), the Tilenga project in order to establish the current going land rates, conducted market research in 09 selected villages in Buliisa district.



The results of the research revealed both increasing and decreasing land values in comparison to the approved land rates adopted for the compensation purposes. The increase was observed in Kasinyi and Kisansya West villages, and can be attributed to development of infrastructure specifically, the Central Processing Facility (CPF) and improved accessibility to the Lake via Wanseko. For the 07 remaining villages, the land rates were close to or in some cases, below the rates approved for compensation.

In general, there is the potential for inflation in land prices in villages that are close to the industrial area and alongside newly paved roads. This inflation is a normal feature of construction projects and usually only lasts during the Project construction phase. Land markets stabilize as landowners are able to understand the long-term circumstances for the land market. In other areas, land appears to be available at rates equal to or lower than the Tilenga project's compensation rate.

To-date, a number of landowners across RAPs 1-5 have opted for in-kind compensation for land and the Project has completed purchase of replacement land for those whose identified land passed the site suitability checks<sup>4</sup>.

As pertains to the quality of land, please note that, landowner PAPs that select in-kind (land for land) compensation are requested to identify land of their preference, the identified land is subjected to site suitability checks such as ensuring access to social amenities, future development checks, productivity of the land in terms of arable capability and legal due diligence checks so as to ensure the replacement land does not have any incumbrance. As a last resort, the Project offers to assist PAPs who opt for in-kind compensation to identify potential replacement land options including land identified and purchased by the Project during RAP1 implementation.

In order to preserve and protect cultural heritage of the affected communities from adverse impacts of project activities, the Tilenga project does not pay cash compensation for affected cultural heritage assets including graves but rather, provides in-kind facilitation/support in the relocation of the affected cultural assets from the project area to a relocation area selected by the PAP themselves. Additionally, the Project offers PAPs the option to relocate cultural heritage remains specifically graves to the land acquired by the Project for this purpose during RAP1 implementation.

#### **Question 4**

**Lack of Land for Land Compensation:** Many interviewees described not being offered in-kind compensation for land, particularly along the pipeline corridor. In the Tilenga oil fields, those who have withstood the pressure and insisted on replacement land in line with TotalEnergies commitment to comply with international standards have had their land taken by Ugandan courts

#### **Response**

The Tilenga Project entitlements framework (Chapter 8 of the approved RAPs 2-5 reports) clearly presents two entitlement options for permanent loss of agricultural/farm land as stated below;

1. Option 1: In-kind compensation (Land – for - Land) including provision of security of tenure for the identified land through registration and titling.
2. Option 2: Cash compensation for land, at replacement cost

The compensation agreement presented to PAPs presents both options of cash and in-kind from which a PAP can choose their preferred option. Below is an extract of the compensation agreement showing the table with the compensation options presented.

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<sup>4</sup> These are checks conducted on identified replacement land to ensure that the selected site meets the site selection criteria and/or minimum requirements as set out in the approved RAPs 2-5 reports.

Summary of Eligibility options		
	Option A	Option B
	In kind compensation for the affected Land and cash compensation for all the other affected assets.	Cash compensation for all affected assets.
	Land – Inkind Other Assets – Cash	All affected Assets – Cash
Land		
Structures		
Crops and Trees		
Total (Land, Structures, crops and trees) (UGX)		
30% Disturbance allowance (UGX)		
Total Compensation (as approved by CGV) (UGX)		
Total Compensation in words (UGX)		
Tick one selected option (Please put a ✓ check mark)	<input type="checkbox"/>	<input type="checkbox"/>

The Tilenga Project encourages PAPs to opt for in-kind compensation for land (land-for-land) to ensure that PAPs replace the affected land and as such, minimize impact to the land-based livelihood activities and also obtain security of tenure for the replacement land. In line with the above, all PAPs who lost land as a result of the Tilenga Project were offered in-kind compensation as an option.

The Tilenga Project recommends PAPs who opt for in-kind compensation to identify replacement land within 10km of any of the RAPs 1-5 facilities to mitigate against disruption of social networks as well as, to avoid limited participation of PAHs in Livelihood Restoration activities which tend to take place within the actual vicinity of the project area.

However, ultimately, the PAP reserves the right to opt for the entitlement option of their choice. Both options are presented and contained in the Compensation agreement and only one is triggered at signing. To-date, a number of landowners across RAPs 1-5 have opted for in-kind compensation for land and the Project has completed purchase of replacement land for those whose identified land passed the site suitability checks<sup>5</sup>. For the purchased replacement land in RAPs 2-5, the Tilenga project is currently working on acquisition of land titles (security of tenure), the land titles shall be issued to the PAPs upon receipt from the Ministry of Lands, Housing and Urban Development (MLHUD).

On RAPs specifically, some PAPs expressed interest in identifying land in areas away (more than 10km) from the project area (such as upper Buliisa and Hoima) but claimed not to find land at the rate that was being offered in the compensation. The project assisted them to identify land in those specific locations and an inspection was conducted with these PAPs so that they could choose their preferred option among the identified land parcels. Unfortunately, the PAPs rejected all the sites without providing a clear reason for their rejection – especially as the land was in the location they had chosen.

#### Questions

**Orphaned land:** Some interviewees complained about lack of compensation / acquisition of orphaned land, namely small parcels of land adjacent to developments, especially the pipeline corridor. Several complained that these parcels of land are no longer accessible and have lost resale value without any compensation. Some local activists noted the disconnect between what Total Energies considered orphaned land in the Resettlement Action Plans (RAPs) and lands that did not meet that definition, often because they were smaller, but had been bisected by the pipeline and as a result were usable or valuable.

<sup>5</sup> These are checks conducted on identified replacement land to ensure that the selected site meets the site selection criteria and/or minimum requirements as set out in the approved RAPs 2-5 reports.



### Response

Orphan land/ Residual land refers to land that cannot be sustainably utilized following land acquisition i.e. the remaining portion of land is rendered non-economically viable. The project set a criterion for determining orphan land, based on the following;

a) Percentage land take

Where PAPs are losing more than 80% of their land to the Project, this implies that such PAPs retained less than 20% of their original land size.

b) Retained/ remaining land size

The size of the land is one of the factors that determines the land use of a given land parcel. Some parcels of land are too small to be utilized for any given economic activities and as such, cannot sustain the PAP's livelihood.

c) Nature of the remaining land

- Terrain and nature of the retained land

Where the terrain and nature of the retained land does not favour utilization of the land for the intended land use, the land cannot support or sustain the PAP's livelihood. The retained land with such terrain (e.g. the remaining portion of land is rocky or waterlogged, and therefore, may not support activities such as agriculture or settlement – especially if the Project acquired the portion of this land that was supporting these activities), such land has been identified as unviable residual land.

- Land use on the subject land Parcel and the general land use in the vicinity

Where the previous land use on the total land before the project cannot be continued sustainably on the remaining land. Changes in land use on the remaining land parcel were also considered and consideration was given to the general land use in the vicinity of the subject land parcel.

- Nature of the proposed facility

Where the proposed facility will result in permanent access restrictions to the remaining land particularly for facilities with Above Ground Installations (AGIs), such land parcels have been assessed for the ability to sustain the PAP's livelihood.

It is important to note that, none of the above-stated factors (a, b, and c) were applied independently, all factors were examined for every land parcel during the selection of the unviable residual land.

Following on from the cadastral land and asset inventory assessment surveys, PAPs that had land that was in the categories stated above were engaged and their consent sought (with eligible PAPs having to sign) on whether they preferred to retain or relinquish such land.

Some of the RAPs 2-5 PAPs chose to retain their residual land even if it met the above criteria.

Following the case by case review of the residual land, the Project prepared and submitted the associated Valuation reports to the Office of the CGV for review and approval.

Atacama has maintained records of all identified 'residual lands' based on the project strip maps throughout the Tilenga Project area and is open to, subject to TEPU approval, further review our documentation on the same and discuss cases.

### Question 6

**Inadequate Livelihood assistance:** Interviewees described limited effort by TotalEnergies and its subsidiaries to provide livelihood assistance to communities that lost to the project. Some described receiving food aid in limited quantities. Others described being told that they would receive livestock or assistance with school fees for a limited period but had not received any support. The Resettlement Action Plans approved by the Ugandan government state that livelihood restoration will begin after land acquisition is complete but this does not account for the devastating impacts on livelihoods due to compensation delays nor the substantial difference between compensation rates and market rates at time of compensation.

### Response

In reference to the GoU approved Livelihood restoration programs for the Tilenga Project, LR support is principally premised on the socio-economic situation of the Project Affected Households (PAHs). Specifically, the composition (number of members and vulnerability status) and severity of Tilenga Project Impacts to each individual household.

The Tilenga Project is currently implementing the Livelihood Restoration Programmes below;

- Agricultural (Crop & livestock) Support Services; and
- Financial and Business Capacity Development Services (inclusive of vocational skilling).

The above programs were selected based on the project impact and the livelihoods of the impacted Project Affected Households (PAHs).

The agricultural (crop & livestock) support services was selected because the impact profile of Households obtained from the socio-economic PAH surveys indicated that, 97% of PAHs derive their livelihood from farming and livestock. Therefore, this was selected as one of the livelihood intervention programs.

The financial and business capacity development services was selected to empower PAHs with knowledge on how to manage their cash compensation (especially for those who opted for cash – even though Financial Literacy Training was conducted for all PAPs), the business development program was selected because some PAPs lost businesses hence loss of income due to project activities.

The vocational training was selected because majority of the youth expressed interest in it to better their livelihoods. This was therefore put as an option to give chance to the youth, women and vulnerable for them to gain some skills that can enable them better their livelihoods.

The Agricultural Support Services Program covers: 1) training of PAHs about better crop and livestock management; 2) distribution of farm inputs (cassava cutting, beans, maize seedlings, boer bucks, goats); 3) land use planning/pasture management; and 4) on-farm support to farmers among others.

The Financial and Business Capacity Development Services cover: 1) Business training (costing/budgeting, marketing and bookkeeping); 2) Vocational skilling (hair dressing, welding, driving, tailoring); 3) creation of Village Savings and Loans Association (VSLA); and 4) Job seeker support.

To ascertain the adequacy and/or success of the Tilenga Project LR programs, internal monitoring has been undertaken by Atacama (for the duration of Resettlement services) through periodic/quarterly perception studies as well as, external monitoring by independent parties (through TEFU).

Pre-implementation household visits were conducted before the commencement of RAPs 2-5 LR implementation to assist PAHs develop suitable individual LR Plans which form the basis for Livelihood internal Monitoring & Evaluation.

Key findings from the Livelihood internal Monitoring and Evaluation (LIME) surveys targeted towards determining the current LR status of PAHs, whether more intervention is needed or not, and if needed, to provide recommendations on the intervention as well as the level of LR interventions required, revealed that a number of RAP1 surveyed PAHs had received sufficient LR support, however some PAHs required additional LR assistance and recommendation was made to extend the duration of the specific identified required support to these specific PAHs.

The criteria adopted covered among other aspects, comparison of current farmed area vs affected farm area; assessment of current HH living conditions, focus on land and income status (including but not limited to: how is the HH land situation, had the HH agricultural output changed, how have the earnings of the HH from agricultural output changed, does the HH rely on donations or credit), HH food security situation, vulnerability indicators etc.



During RAPs 2-5 implementation, 95% of the surveyed respondents appreciated the livelihood coaching provided during the development of individual household specific LR Plans and 90% stated that they are very likely to stick to the developed LRPs.

Use of the word 'food aid' can be misleading as this is not the purpose of the transitional support. The Tilenga Project has offered transitional support to PAHs through the distribution of food rations (beans, cassava flour, maize flour and cooking oil). The food package was designed using a ration planning tool called NutVal-4.1 (a spreadsheet application for planning, calculating and monitoring the nutritional value of food assistance; developed for WFP and UNHCR by the UCL Institute for Global Health) in collaboration with the quantities based on calculations linked to the socio-economic data available of the PAHs.

These are distributed to households after they have received their NtV over a period of six months and the transitional support is largely meant to cater for the PAH's loss of a planting season after being issued with the NTV. In order not to create dependency on transitional support to the point where PAHs are no longer working the land and planting crops, the project decided not to provide 100% of the total household food need and limited the distribution to six months. During this period, the PAH is supported to identify alternative lands and is entitled to enrolment into a livelihood restoration program.

The assistance is meant to relieve the land impact – not to replace full household food needs during the transition period. Six months of TSS is industry best practice to not create dependencies. The duration is also linked to the loss of a planting season (average of six months) after being issued with their Notice to Vacate (Ntv). PAHs were constantly informed that they can still harvest their crops prior to vacating and businesses and markets will continue to function.

Available data comparing the crop impact in terms of food with what is being distributed to the PAHs as transitional support indicates that, the Tilenga project is providing 990 MT more food in the form of transitional support than what was impacted by the project.

Livelihood Restoration is about re-establishing self-sufficiency and food security, providing food distribution does not establish food security.

Also refer to our responses under Questions 2 and 3 above with regards to; the devastating impacts on livelihoods due to the delays in compensation and, the difference between compensation rates and market rates at the time of compensation.

#### Question 7

**Impact on affected households:** The vast majority of interviewees described being worse off after they have received compensation and lost access to their land than before the land acquisition program. Many described being largely self-sufficient before the oil project began, using revenue from coffee, bananas and other cash crops to pay for school fees and other household expenses. After compensation was received, often following three-to-five-year delays, households described to Human Rights Watch an inability to pay school fees, having to buy food to feed their families by selling other household assets including livestock, or borrowing from lenders at exorbitant rates to pay their expenses. Families described to human rights their anguish over their children or grandchildren, often girls dropping out of school.

#### Response

At the start of the implementation phase, the project conducted financial literacy trainings to all PAPs and other well-wishers. This was intended to help PAPs better plan the use of their compensation money through mindset change and behavioral adjustments. At the completion of the training, PAPs were presented with FLT certificates which they had to present at the disclosure centers before being disclosed to.

The RAP1 Annual progress monitoring report released in June 2019 had one of the indicators on the use of compensation money. From a random sample of Two Hundred Twenty-Three (223) PAPs, One Hundred fourteen (114) PAPs (51%) had used their money to purchase land.

The RAPs 2-5 annual progress monitoring report released in June 2023 showed that majority of the PAPs used their compensation to pay school fees/buy school uniform for their children. The above findings from both annual surveys show a positive utilization of compensation.

Overall in regards to land impact, it is important to note that the Tilenga Project is acquiring less than 0.4% of the total land area in each of the affected districts.

One of the basic human rights principles is around outcomes (no-one should be worse off in relation to the full spectrum of their rights). Some people may well be worse-off, not necessarily because of the approach taken by the project, but it is still important to understand what has happened and remedy if appropriate. Refer to response provided under Question 6 above for information about the Tilenga Project LiME program. More specifically, the PAH visits are continuous throughout the lifespan of RAP implementation and aimed to meet the following objectives:

- \* Collect Baseline Study data for the PAHs and update data where changes are realized;
- \* Fill data gaps and/or update PAHs available resources for livelihood restoration including unaffected lands;
- \* Deliver messaging about the LiME program and livelihood restoration opportunities including those offered by the LR program;
- \* Work with PAHs to develop a household-specific livelihood plan that helps PAHs to understand how to use their resources and to identify which LR projects (based on the LR Program Framework) and other opportunities are most suitable for them based on how they were impacted by the land acquisition / land restriction and the future livelihoods assets.
- \* Collect data to support preliminary assessment of the PAHs Livelihood Restoration Status.

Also refer to our response under Question 7 above specifically with reference to the RAP 1 LiME surveys. The specific timeline and success of LR efforts can vary significantly based on the context and commitment of PAHs.

We would like to learn more from you about the PAPs whose condition worsened post Tilenga Project implementation for better understanding of their Household profiles pre and post project impact. We are also open to recommendations around adequacy of LR from your global experience.

#### **Question 8**

**Future Risks:** Potential harms from oilfield and pipeline development are predictable yet difficult to mitigate. EACOP and the development of its associated oilfield are located in particularly sensitive ecosystems including Murchison Falls National Park and within watersheds that support high levels of biodiversity and ecosystem functions that millions of people rely on. These factors substantially increase operating risks and underscore the importance of implementing effective risk mitigation strategies. We note that TotalEnergies and subsidiaries have proposed a number of mitigation strategies through the government – approved ESIA and other plans and policies. We note other independent studies have concluded that TotalEnergies EP Uganda has employed a “least cost, high impact development model for the Tilenga project,” further raising concerns about utilizing best practices and implementing effective mitigations. As our preliminary findings in this letter state, the land acquisition project, one of the earlier phases of the EACOP and Tilenga projects, has been fraught with implementation challenges impacting rights and a failure to utilize best practices. Accordingly, many project affected persons expressed concerns to Human Rights Watch about TotalEnergies inability to manage the future environmental and human rights risks from EACOP and Tilenga oilfields, including the pipeline ruptures, dust and noise from construction, and social problems related to the influx of workers. Several interviewees said that the Tilenga oil development had already resulted in increased noise and dust, and worried about the health risks from the noise and dust.

Others noted the impact on the farms from uncontrolled release of water from the Central Processing Facility in Tilenga following heavy rain in March 2023. We also note independent assessments of the expected greenhouse gas emissions over the entire lifetime of the project are 379,000 tons of CO<sub>2</sub>.



**Response**

Atacama is unable to comment on this but refers you to the Human Rights Impact Assessment (HRIA) undertaken by TEPU and, TEPU is best placed to comment on this question 8.

**Other specific Questions(a-g) and Responses**

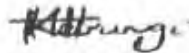
	QUESTION	ATACAMA RESPONSE
a)	Does Atacama have a Human Rights Policy or Human Rights Due Diligence Policy. If so, please provide a copy	Yes, Atacama has a Human Rights Policy, please see attached copy - Annexure 1.
b)	Given low levels of literacy in many parts of rural Uganda along the pipeline corridor and that forms are in English, please describe what measures, if any Atacama officials take to ensure Project Affected Persons (PAPs) understand the land acquisition process, understand the content of forms being signed, and understand possible redress mechanisms.	<p>Atacama tries to ensure that there is an interpreter/translator to help interpret contents of all documents presented to PAPs in their local language. At times PAPs come with their own interpreters (usually a literate relative) to help them understand the contents of the agreement. In addition to the above, PAPs are allowed to choose a witness of their choice when undertaking any RAP related activity.</p> <p>In respect to understanding the land acquisition process, stakeholder engagement material is printed in local languages and some contains supporting graphical (visual) representation of the process (e.g., diagrams with photos). There are also continuous engagements with PAPs and their representatives at village, sub-county and district levels to give them an opportunity to clarify information that they receive as well as provide feedback to the RAP team in terms of the land acquisition process.</p> <p>The PAP representatives at the sub-county level have a committee termed as Resettlement Planning Committee (RPC). The members of this committee were voted through a democratic process by the PAPs. The RPC representatives are engaged on a monthly basis, or more often when needed to inform them of the progress of the land acquisition exercise especially the status of activities and upcoming activities. Overall, before any major activity is undertaken in the project area, village engagements are held with PAPs to inform them about the details of that activity.</p> <p>The redress mechanism is mainly through the Project grievance mechanism. The mechanism was disclosed to the PAPs at the a number of different stakeholder meetings. To date, a number of grievances have been registered and resolved.</p> <p>The statistics prove that the grievance mechanism is known to the PAPs and that they have been using it as a channel to provide their feedback about the compensation and land acquisition process.</p>
c)	Please describe what measures if any, Atacama takes to ensure its staff are not pressuring PAPs to sign agreements and documentation	Staff are coached on the procedure of undertaking engagements and signing of documents with PAPs. It is always emphasized to staff that it is not just about having documents signed but ensuring that the PAP

	QUESTION	ATACAMA RESPONSE
		<p><i>understands the reason as to why a specific document is signed. On the team, that engages the PAPs, there is a legal counsel (i.e. lawyer) that notifies the PAP of his rights including the right to refuse to sign if they are not comfortable with the contents of the documents.</i></p> <p><i>Please also refer to our response under Question 1 above.</i></p>
d)	<p>What redress mechanisms does Atacama have available for PAPs should they experience pressure and intimidation to sign</p>	<p><i>Please refer to our response under Question 1 above.</i></p> <p><i>However, we additionally welcome HRW's ideas on how we can better this mechanism in a manner that is more efficient than what we currently have.</i></p>
e)	<p>Please describe which steps if any, Atacama officials take to make PAPs aware of the option of in-kind assistance for both land and primary housing. To what extent is Atacama involved in finding replacement land for PAPs when they request "in kind" compensation for land?</p>	<p><i>Please refer to our response under Question 4 above.</i></p>
f)	<p>A number of individuals mentioned that they are being pressure to sign a buffer zone agreement, particularly around Tilenga. What is the buffer zone agreement?</p> <p>What limitations on land use does this confer? What monetary or in-kind compensation is being offered for any limitations on use in these areas? What steps will Atacama take to ensure that impacted households understand and give informed consent to this buffer zone? What happens if interviewees do not agree. Will individuals be given copies of the buffer zone agreement?</p>	<p><i>What is termed 'the buffer zone agreement' is correctly named, the 200-meter consent form, a statutory requirement stipulated under Section 135 of the Petroleum (Exploration, Development and Production) Act 2013 (the "Petroleum Act").</i></p> <p><i>This form is signed by landowners within 200 meters of any petroleum related activity.</i></p> <p><i>When the consent form signing exercise was first rolled out in 2021, there was misunderstanding by communities of what it actually meant and its intention, and the activity was therefore first halted/ discontinued.</i></p> <p><i>A meeting was held on 08 September 2021 with the Bulisa District Resettlement Advisory Committee (DIRCO) in the presence of PAU and MEMD who upon review of the form, resolved that the title be changed to avoid any misunderstanding on the intent of the document. The title change from 'Tilenga Project RAPs 2-5: Consent form by landowners for 200m buffer' to 'Tilenga Project RAPs 2-5: Consent form by landowners within 200m of project components' took effect on 09 September 2021. The content of the document remained unchanged however.</i></p> <p><i>Additionally, prior to resuming the exercise, Atacama conducted village sensitization meetings with all RAPs 2-5 affected villages informing the PAPs about the 200-meter consent form and its purpose so as to ensure no mis-conceptions on the same.</i></p> <p><i>In the engagements, PAPs were explained to the contents of the form. They were also informed about their rights including rejecting signing the form.</i></p>

	QUESTION	ATACAMA RESPONSE
		<p><i>It is important to note that the consent form does not place any limitation on land use.</i></p> <p><i>Landowners who signed the form have received or are in the process of, receiving their fully signed copies. The forms could not be issued out immediately at the time the landowners and witnesses signed, because signatures from representatives from the Ministry of Energy Mining and Mineral Development (MEMD) also had to be obtained.</i></p>
g)	How will Atacama be involved in the livelihood restoration and enhancement process in Tilenga after land acquisition?	<p><i>Livelihood restoration contractors are managed by TEPU. Atacama has supported TEPU in this through data sharing and technical support. This will cease within 2023 where TEPU will take full responsibility for meeting the objectives of IFC PS5 in relation to restoring and improving livelihoods.</i></p>

We trust our responses above are sufficient for your current purposes however, should you require any clarifications and/or have any further queries, please do not hesitate to contact us. As previously stated, we are available to meet with you should the need arise.

Yours sincerely,



Juliana Keirungi  
Senior Partner  
Atacama Consulting

**Human Rights and Child Labour Policy - ATCM-IMS-  
004-08**

**Rev: 02**





Date of first issue	15 <sup>th</sup> November 2022	ATACAMA CONSULTING HUMAN RIGHTS & CHILD LABOUR POLICY: ATCM- IMS-004-08		Approved by	Edgar Mugisha
Original Author	Anne Mary Kyeya			Revision no.	02
Reviewer	Diana Ahebwe	Checked by	Edmond Twinobusingye	Date of last review	17 <sup>th</sup> May 2023

### 1.0 Policy Statement

Atacama Consulting shall at all times ensure that working conditions and all business relationships with employees, suppliers, clients, sub-consultants and all stakeholders shall not infringe upon human dignity, principles or, any other fundamental rights, as defined and protected by the United Nations Organisation (UNO) "Universal Declaration of Human Rights" and the International Labour Organization core principles.

Atacama Consulting commits to ensuring that no children (i.e. below 18 years of age) are employed in any of its business undertakings as stipulated in Section 32 of the Employment Act of Uganda 2006, and will ensure protection of children in line with the Children Act (as amended) of Uganda 2016, as well as, International Labour Organisation standards on child labour.

In developing this policy, we are guided by the principles, of the following internationally recognized human rights norms:

- The Universal Declaration of Human Rights
- The Voluntary Principles on Security and Human Rights
- ILO Declaration on Fundamental Principles and Rights at Work
- UN Declaration on the Rights of Indigenous Peoples
- UN Guiding Principles on Business and Human Rights
- United Nations Global Compact

### 2.0 Purpose

The purpose of this Policy is to set out the standards that the firm and its stakeholders must uphold to respect and promote Human Rights including the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; migrant workers and their families and other groups in a society whose situation may render them particularly vulnerable to adverse impacts on their rights.

We are committed to the principles of freedom from forced labour, the abolition of child labour, freedom to associate and organize and the right to collective bargaining, and the elimination of discrimination in employment and occupation.

We aim to ensure that the provision of security to our operations is consistent with the laws of the relevant country and relevant international standards and guidelines, such as the Voluntary Principles on Security and Human Rights.

### 3.0 Scope

This Policy applies to all Atacama employees, clients, sub-consultants, suppliers, sub-consultants and all stakeholders that the firm will engage with in the course of its business.

### 4.0 Responsibility

The Partners will be responsible for ensuring compliance to this Policy throughout the firm and its dealings with stakeholders.

### 5.0 Definitions

- 5.1 **Human Rights:** Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. (<https://www.un.org/en/global-issues/human-rights>) *Child Labour:*

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5.2 *Child labour*: Child labour refers to work that is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling: by depriving them of the opportunity to attend school; by obliging them to leave school prematurely; or by requiring them to attempt to combine school attendance with excessively long and heavy work. ([https://www.ilo.org/moscow/areas-of-work/child-labour/WCMS\\_249004/lang-en/index.htm](https://www.ilo.org/moscow/areas-of-work/child-labour/WCMS_249004/lang-en/index.htm) )

## 6.0 Human Rights and Child Labour Principles

The following are the principles of Atacama Consulting as regards Human Rights and Child Labour:

- 6.1 **No forced labour, modern slavery or human trafficking**: Atacama is committed to the prevention of forced or involuntary labour, modern slavery and human trafficking in any of its business dealings or any of the projects it executes. All employees of the firm shall be recruited through the legal channels as per the national laws on employment.
- 6.2 **No Child Labour**: Atacama Consulting has a zero-tolerance policy on recruitment of children and is committed to prevention of child labour. All employees of Atacama must be above eighteen (18) years of age.
- 6.3 **Diversity and inclusion**: Atacama Consulting embraces qualified employees from all backgrounds in terms of gender, knowledge, tribe, age, race, among others, and is dedicated to preventing discrimination against employees based on their background.
- 6.4 **Equal opportunities for all employees**: Atacama adopts an equal employment opportunities policy for all employees of the firm as per Section 3 of the firm's Human Resource Manual. The firm also provides for equal opportunities for employee personal development, training and, also for the best use of each employee's skill sets.
- 6.5 **Safety and health**: The safety and health of employees and the environment in which they operate is one of Atacama's core priorities, and the firm is certified to the ISO 45001 to further enhance this. Atacama is committed to promoting the safety and well-being of its employees as well as that of the communities in which it operates.
- 6.6 **Community and stakeholder engagement**: Atacama engages with people in communities and different stakeholders. Atacama shall appropriately engage with all persons and respect their human rights including but not limited to; land rights, access to water, health and a clean environment.

## 7.0 General Rules about Human Rights and Child Labour

- 7.1 All employees are expected to avoid any behaviour which could result in a breach of this Human Rights and Child labour policy.
- 7.2 Employees are expected to report any one who is involved in the firm's business operations and breaches this Human Rights and Child Labour Policy to their respective unit head or in line with the firm's Whistle Blower Policy.
- 7.3 All of Atacama business partners, suppliers, clients and sub-consultants are expected to adhere to this policy. The policy will form part of the contractual relationship between the firm and its stakeholders.

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## “Our Trust is Broken”

### Loss of Land and Livelihoods for Oil Development in Uganda

The East Africa Crude Oil Pipeline (EACOP) project is one of the most significant fossil fuel infrastructure projects under development globally. If completed, it will have dozens of well pads, hundreds of kilometers of roads, camps and other infrastructure, and a 1,443-kilometer pipeline, the longest heated pipeline in the world, connecting the oilfields in western Uganda with the port of Tanga in eastern Tanzania. Over 100,000 households will eventually lose their land. The first wells have been drilled, infrastructure construction is underway, and over 90 percent of landowners have received their compensation under the land acquisition project. French fossil fuel giant TotalEnergies is the principal company involved, alongside the China National Offshore Oil Company (CNOOC) and the state-owned oil companies of Uganda and Tanzania.

“*Our Trust Is Broken*,” based on over 90 interviews, including with 83 displaced people in five districts of Uganda, documents the devastating impacts on the livelihoods of Ugandan families whose land has been acquired. Compensation rates far below replacement costs and multi-year delays in payment have led to deteriorating food security, significant household debt, and an inability to pay school fees resulting in many children dropping out of school.

While the project still searches for the financing it requires, TotalEnergies and their East African subsidiaries should dramatically increase compensation rates and livelihood restoration efforts to live up to their responsibilities under international law for the pipeline project. Financial institutions should avoid supporting EACOP due to the devastating impacts of fossil fuels on climate change as well as the future risks of serious rights impacts.

*(above) A road under construction in Murchison Falls National Park, in northwestern Uganda, January 13, 2023. About 130 oil wells are planned to be drilled in this ecologically sensitive area*

*(front cover) A woman walks home from work in Kijumba, Uganda, January 14, 2023. A mother of five and a Project-Affected Person, she told the New York Times that she waited years for the oil company to pay her for her land, and then it was too little to buy a substitute plot.*

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