

COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

To the Ministry of Finance

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UNOFFICIAL ENGLISH TRANSLATION

**Recommendation on the exclusion of SOCO International plc. from the
Government Pension Fund Global's investment universe**

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1 Summary

The Council on Ethics recommends that the British oil and gas company SOCO International plc. (SOCO) be excluded from the Government Pension Fund Global (GPF) due to an unacceptable risk that the company will be responsible for severe environmental damage through its oil and gas activities in the Democratic Republic of the Congo (DRC). The recommendation is based on the company's plans and activities in block V in eastern DRC, which largely overlaps with Virunga National Park and World Heritage Site. As per 31 December 2011, the GPF owned shares in the company with a market value of NOK 208 million, representing 2.27 per cent of the shares in the company.

SOCO has interests in block V through its subsidiary SOCO Exploration and Production DRC. SOCO is the operator of a joint venture (JV) with the state-owned company La Congolaise des Hydrocarbures (Cohydro), which has a 15 per cent ownership interest in the project. SOCO's ownership interest totals 85 per cent.

The Council on Ethics has assessed the values in and vulnerability of Virunga National Park and World Heritage Site, the potential consequences of SOCO's plans and activities, conflicts with laws and international standards, SOCO's preventative and mitigating measures in relation to environmental damage, and whether it is likely that the company's practices will continue.

Virunga National Park is the oldest national park in Africa, and one of the largest on the continent. Due to its exceptionally important universal values, the national park has received several international protection statuses, including as a UN (UNESCO) world natural heritage site and as a Ramsar Site (wetlands of international importance). The national park lies in the most bio-diverse part of continental Africa, and is also one of the most bio-diverse protected areas globally. The park encompasses an unusually wide range of habitats, and is home to many rare and threatened species, including species found nowhere else. Few natural and protected areas in the world contain values matching those of Virunga National Park.

The national park has faced a number of serious threats during the past 20 years, including civil war-like conditions, various armed groups based in the park, organised poaching, organised illegal logging and production of charcoal, illegal exploration for minerals and metals, extreme poverty around the park, a large number of internally displaced people and refugees in the vicinity of the park, a very unstable security situation and the availability of limited resources for the park managers tasked with handling these threats. As a result, the national park was placed on the UN List of World Heritage in Danger in 1994. The national park is still on this list, and is currently one of the most threatened protected areas in the world. The populations of many species have more than halved, and in some cases populations have been reduced to critically low levels.

SOCO has launched preliminary activities to explore the potential for, and map deposits of, petroleum in block V in the national park. Further activities are planned in Virunga National Park and World Heritage Site.

The Council on Ethics has been in contact with SOCO about the company's plans in block V. SOCO has stated that it will implement its plans as long as the authorities in the DRC want it to. The company has referred to the DRC's right and obligation to exploit its natural resources and create development and benefits to society based on them. Further, SOCO believes that its presence and future support for responsible natural-resource management and the protection of the national park may have a positive impact, given the limited resources

available to park managers and the great poverty found in the local area. SOCO maintains that the planned activities in the national park do not conflict with either DRC legislation or the UN World Heritage Convention.

The company has already engaged in activities (such as reconnaissance), in the national park which in the view of the Council on Ethics violate the UN World Heritage Convention and DRC legislation. More importantly, the company is planning further, more wide-ranging, activities (such as aerial studies, followed by seismic surveys of Lake Edward and onshore areas in the national park, possibly followed by exploratory drilling), that will also violate the UN World Heritage Convention, DRC legislation and a number of international standards.

The Council on Ethics considers the consequences of oil and gas exploration – and potential subsequent production – in such a vulnerable and valuable conservation area to be very severe. The Council has concluded that damage to the national park and World Heritage Site can only be prevented by the discontinuation of SOCO's activities in the parts of block V that lie in Virunga National Park. Given the challenging situation in and around the vulnerable national park, it appears unlikely that there are mitigating measures that could prevent severe harm to the natural values in the park if SOCO carries out oil or gas exploration – and possibly production – in the park. If the company continues with its planned activities in the national park, it is likely that UNESCO will have to withdraw Virunga's world heritage status. The DRC authorities will then probably have to reduce the size of or dissolve the national park altogether, since oil and gas exploration contravenes the nature conservation and environmental legislation currently in place.

As stated, SOCO's explicit aim is to carry out oil and gas activities in the national park. The Council on Ethics therefore considers the risk of future environmental damage to be high. The most likely consequence is long-term or irreversible damage to or destruction of the national park and World Heritage Site.

2 Introduction

In November 2010, the Council on Ethics decided to assess the Fund's investment in the British oil and gas company SOCO¹ in relation to the Guidelines for the observation and exclusion of companies from the GPF's investment universe (the ethical guidelines).² This decision was based on information about the company's plans that could affect Virunga National Park and World Heritage Site in eastern DRC.

At the end of 2011, the GPF owned shares in the company valued at NOK 208 million, corresponding to a holding of 2.27 per cent of the shares in the company.

2.1 What the Council on Ethics has considered

The Council on Ethics has considered whether there is an unacceptable risk of SOCO being responsible for severe environmental damage contrary to section 2(3)(c) of the ethical guidelines. There has been extensive local, national and international criticism of the company's activities in block V in eastern DRC. The criticism has focused especially on the company's plans and activities in Virunga National Park and World Heritage Site, which covers parts of block V. The Council has also been approached by several organisations in connection with SOCO's activities in block V. Among other things, the Council has

¹ The company has *Issuer Id*: 225665.

² http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/ethical-guidelines.html?id=425277.

considered the values in and vulnerability of the area and the potential consequences of SOCO's plans and activities. The Council on Ethics assesses what constitutes severe environmental damage in each individual case, based on an overall assessment of the specific operations and activities of the company under assessment. The Council gives weight to matters such as whether:

- the damage is significant
- the damage will have irreversible or long-term impacts
- the damage has considerable negative consequences for people's lives and health
- the damage is a result of violations of national legislation or international standards
- the company has failed to act to prevent damage
- the company has implemented adequate measures to rectify damage
- it is likely that the company will continue its practice.

2.2 Sources

The Council on Ethics has gathered and assessed information and documentation³ through a step-by-step process that began with identifying alleged breaches of standards relating to SOCO's plans and activities in Virunga National Park. Following initial research, the Council contacted SOCO in March 2011. SOCO responded to the Council's questions in writing, and provided additional information in the course of the evaluation. The company also commented on the Council's draft recommendation in August 2012. The Council has collected publicly accessible information from the company, authorities, researchers, international organisations, NGOs and the media.

3 Background

SOCO is an oil and gas company with activities in Vietnam, the Republic of the Congo (Brazzaville), the DRC and Angola. The company is involved in both exploration and production. SOCO is headquartered in London, where it is also listed on the stock exchange.

SOCO has interests in block V in eastern DRC through its subsidiary SOCO Exploration and Production DRC Sprl., which is controlled and 85 per cent owned by SOCO⁴. SOCO is the operator of a joint venture (JV) that as at August 2012 comprised the state-owned company La Congolaise des Hydrocarbures (Cohydro) (15 per cent) and SOCO (85 per cent).⁵

³ Key documentation is referred to in footnotes. Websites that are referred to were available on 17 October 2012.

⁴ The non-controlling ownership interest of 15 per cent is owned by Quantic Finance Ltd. (SOCO 2012. "Annual Report and Accounts 2011", page 88). Quantic also owns shares in SOCO International plc. (<http://www.quanticoil.com/quantic.html>). Quantic is privately owned. There are overlaps among the managements of SOCO and Quantic.

⁵ In March 2008, SOCO, Dominion Petroleum Ltd. and Cohydro signed a Production Sharing Contract for block V. As at 2008, Dominion had an ownership interest of 46.75 per cent in block V. Dominion was acquired by Ophir Energy plc. in early 2012. In July 2012, SOCO bought Ophir Energy's 46.75 per cent stake in the JV, increasing its share from 38.25 to 85 per cent. As at 31 December 2011, the GPFG had no investments in any company in the block V JV other than SOCO.

4 Main issues and the Council on Ethics' findings

4.1 Virunga National Park and World Heritage Site

Virunga National Park is the oldest national park in Africa, and was established as the Albert National Park in 1925. The park has subsequently been extended several times. The national park is located close to the equator in eastern DRC (see Figure 1 below). The eastern side of the park largely borders Uganda and various Ugandan protected areas such the Semuliki, Rwenzori Mountains and Queen Elisabeth national parks. To the southeast, Virunga National Park borders Rwanda's Volcanoes National Park and Uganda's Mgahinga Gorilla National Park. Virunga National Park also includes most of Lake Edward on the border between the DRC and Uganda. At 7,900 km², Virunga is one of the largest national parks on the continent. It is managed by the state organisation Institut Congolais pour la Conservation de la Nature (ICCN), which is responsible for national park management in the DRC.

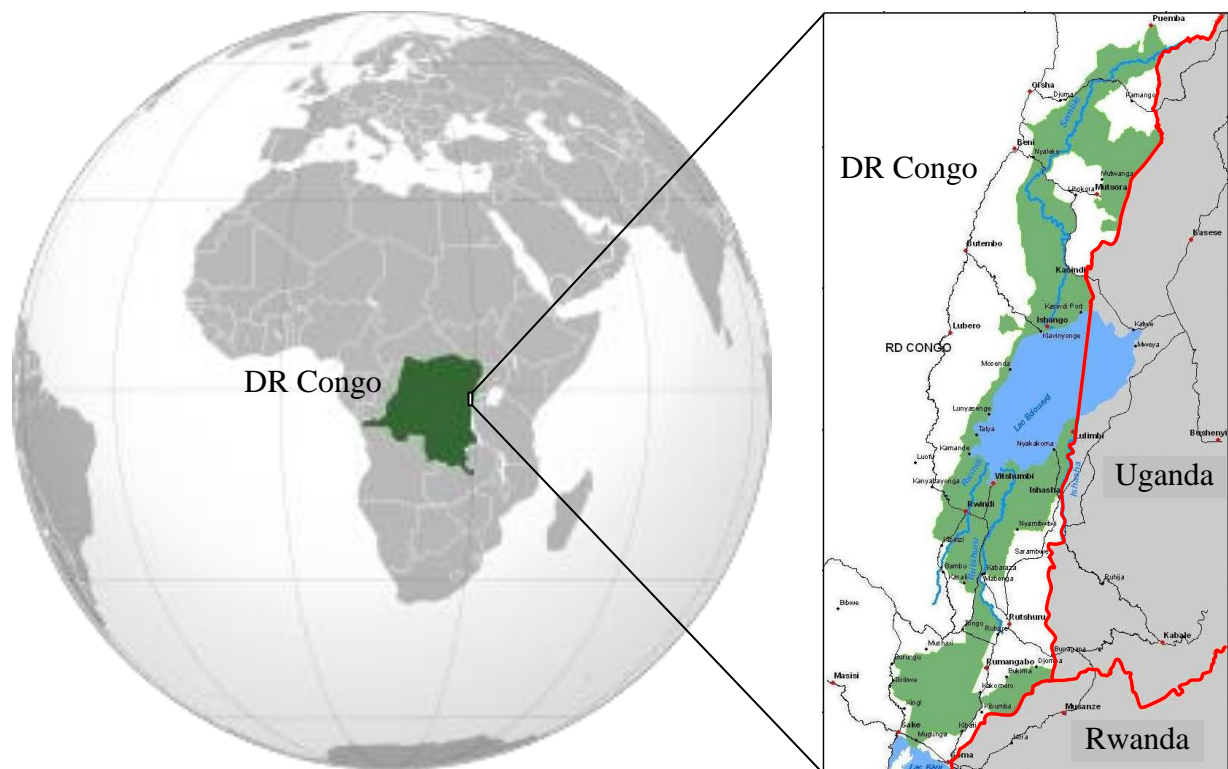


Figure 1 Location of the DRC (dark green to the left) and Virunga National Park (light green to the right) in eastern DRC, on the borders with Uganda and Rwanda (the red line in the map on the right represents international borders).

Virunga National Park is located in mainland Africa's most bio-diverse region, and is one of the most bio-diverse protected areas in the world.⁶ This exceptionally diverse region, often called the Albertine Rift, is home to 50 per cent of Africa's bird species, 39 per cent of its mammal species, 19 per cent of its amphibian species, and 14 per cent of its reptiles and flora species. The Albertine Rift features more than 1,000 species found nowhere else in the world (endemic species). In the Albertine Rift, Virunga National Park is the protected area providing habitats for the most species in total, and the most endemic species.⁷ The park has a unique variety of habitats, including savannah featuring large mammals including elephants, buffalo, hippopotamus, various different antelopes and large predators. Lakes and wetlands are also home to varied, richly diverse animal and plant life. The rainforest and mountain forest areas in particular contain many rare species. Active and extinct volcanoes, high mountains and glaciers contribute to the park's large variety of landscapes and ecosystems. Virunga is home to numerous threatened species on the international Red List.⁸

The national park has received various international protection statuses due to its unique values. Virunga National Park was established as a UN World Heritage Site in 1979,⁹ among other things due to its unique ecological, geological and landscape values, which were deemed to be of particular universal importance.¹⁰ In 1996, the national park was also recognised as a Ramsar Site, i.e. wetlands of international importance.¹¹ The park's great natural value is illustrated, among other things, by its inclusion in most global priority lists for nature conservation and biodiversity, including the WWF's eco-regions,¹² Conservation International's 'biodiversity hotspots',¹³ BirdLife International's Important Bird Areas¹⁴ and Endemic Bird Areas,¹⁵ and the Critical Ecosystem Partnership Fund's list of priorities.¹⁶ Furthermore, this area plays an important role in water supply in the region, in the level of the Nile, and in fishing in lakes such as Lake Edward and Lake Albert, both of which are shared by the DRC and Uganda.

⁶ Languy, M. & de Merode, E. (red.) 2009. "Virunga: the Survival of Africa's First National Park". Lannoo, Tielt.

⁷ Plumtre, A.J., Behangana, M., Davenport, T., Kahindo, C., Ndomba, E., Nkuutu, D., Owunji, I., Ssegawa, P. & Eilu, G. 2003. "The Biodiversity of the Albertine Rift". Albertine Rift Technical Reports No. 3. Wildlife Conservation Society, New York and Kampala.

⁸ IUCN Red List (www.iucnredlist.org).

⁹ The Convention Concerning the Protection of the World Cultural and Natural Heritage (1972) authorises the United Nations Educational, Scientific and Cultural Organisation (UNESCO) to designate natural, cultural and combined world heritage sites. As at September 2012, there were 745 cultural heritage sites, 188 natural heritage sites and 29 combined heritage sites. Virunga is on the list of natural heritage sites.

¹⁰ Virunga National Park was included on the list of world heritage sites because it met three of the four natural heritage criteria: "*vii) to contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance*", "*viii) to be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features*", and "*x) to contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.*" (<http://whc.unesco.org/en/criteria>). For more information on Virunga's universal values, see the UNESCO website. (<http://whc.unesco.org/en/list/63>).

¹¹ According to the Ramsar Convention (Convention on Wetlands of International Importance, 1971), wetlands that are of international importance can be given status as a Ramsar Site based on nomination of the country in question and expert evaluations from a number of parties (www.ramsar.org).

¹² <http://www.worldwildlife.org/science/ecoregions/WWFBinaryitem6498.pdf> and

http://www.panda.org/about_our_earth/ecoregions/albertine_montane_forests.cfm.

¹³ http://www.conservation.org/where/priority_areas/hotspots/africa/Eastern-Afromontane/Pages/default.aspx.

¹⁴ BirdLife International 2001. "Important Bird Areas in Africa and Associated Islands: Priority Sites for Conservation". BirdLife Conservation Series no. 11. BirdLife International, Cambridge.

¹⁵ BirdLife International 1998. "Endemic Bird Areas of the world: Priorities for Biodiversity Conservation". BirdLife Conservation Series no. 7. BirdLife International, Cambridge.

¹⁶ http://www.cepf.net/where_we_work/regions/africa/eastern_afromontane/Pages/default.aspx.

Due to the highly unstable security situation in eastern DRC, there is currently little tourism in the park. Through large investments from international donors, the tourism infrastructure in parts of the park has been significantly upgraded in recent years. Tourist numbers are growing strongly (at about 100 per cent annually in recent years), but still remain at a low level overall.

The national park has faced a number of serious threats over the past 20 years, and park managers have encountered major challenges and, on occasion, direct confrontations with fatal outcomes for both park employees and intruders. Due to the many and serious threats, the park was placed on the UN List of World Heritage in Danger in 1994,¹⁷ an exclusive list in a negative sense. This listing also constitutes encouragement for the international community to implement extra measures and offer further support to safeguard the area. Currently, the national park is one of the most threatened protected areas in the world. It has seen the populations of many species declining by more than half, and in some cases by more than 90 per cent to a critically low level.¹⁸

Civil war-like conditions, various armed groups that have lived in the park, organised poaching, organised illegal logging and production of charcoal, exploration for minerals and metals, extreme poverty in the area around the park, large numbers of internally displaced people and refugees, the highly unstable security situation and limited park management resources are among the factors that have put considerable pressure on the park's resources and values. Virunga National Park is currently very vulnerable.

4.2 Petroleum interests in and around Virunga National Park

After several oil discoveries in similar geological formations in the Albertine Graben¹⁹ on the Ugandan side of the border in recent years, interest in oil exploration in eastern DRC has grown significantly. Three blocks in eastern DRC together cover some 80 per cent of Virunga National Park and World Heritage Site. Blocks V and III are licensed to various companies, while block IV was not licensed as at August 2012. Figure 2 below shows the extent of the park and the three blocks. Exploratory drilling has not yet commenced in these blocks in the DRC. In neighbouring Uganda, licences have been issued for oil and gas exploration blocks that border the DRC. Exploratory drilling has been conducted in a number of blocks on the Ugandan side, and commercially viable oil deposits have been found.

4.2.1 Block V

Block V covers a large area (7,105 km²) in eastern DRC. To the east, block V borders Uganda. More than half of block V overlaps Virunga National Park and World Heritage Site. The national park forms a corridor through block V from the northeast to the central parts of the block in the south. Even though parts of the block are located outside the national park, these areas are in reality of little interest to SOCO, since the areas containing sedimentary rock that may contain oil and gas are largely located in the part of the block that falls within the national park (see Figure 3 for an illustration).

¹⁷ See for example the UNESCO report from the 18th session of the World Heritage Committee (document WHC-94/CONF.003/16). As at September 2012, Virunga is one of 18 world natural heritage sites included on the List of World Heritage in Danger (<http://whc.unesco.org/en/danger/>).

¹⁸ Languy, M. & de Merode, E. (eds.) 2009. *Op. cit.*

¹⁹ The Albertine Graben is located in the area referred to as the Albertine Rift above.

4.2.2 SOCO's activities thus far

In 2008, SOCO and its partners entered into a production sharing contract (PSC) for block V. According to the contract, the company is to carry out geological and geophysical surveys, acquire at least 300 km of seismic data and drill two exploration wells.²⁰ SOCO's proposed activities were rejected by the DRC's Minister of Environment in March 2011, after SOCO had presented an Environmental Impact Assessment (EIA) for its activities in block V, including Virunga National Park. This coincided with the government's announcement that it would conduct a wider strategic impact assessment to evaluate matters including the environmental impacts of petroleum activities in a larger region in the eastern part of DRC. About a year later (March 2012), SOCO reported that it had received licenses from the petroleum and environmental authorities in the DRC to conduct exploration.²¹ SOCO has started preparatory work in the national park, such as reconnaissance. As at September 2012, the company planned to conduct aerial magnetic and gravitational studies on Lake Edward and onshore savannah areas during the course of 2012.²² These areas are part of the national park and the World Heritage Site. Seismic surveys and exploratory drilling may be carried out later.

²⁰ SOCO 2008. "Annual report and accounts 2007", page 19.

²¹ <http://www.socointernational.co.uk/index.php?cID=299&cType=news>.

²² <http://www.socointernational.co.uk/block-v-and-the-virunga-national-park#!tab=695>.

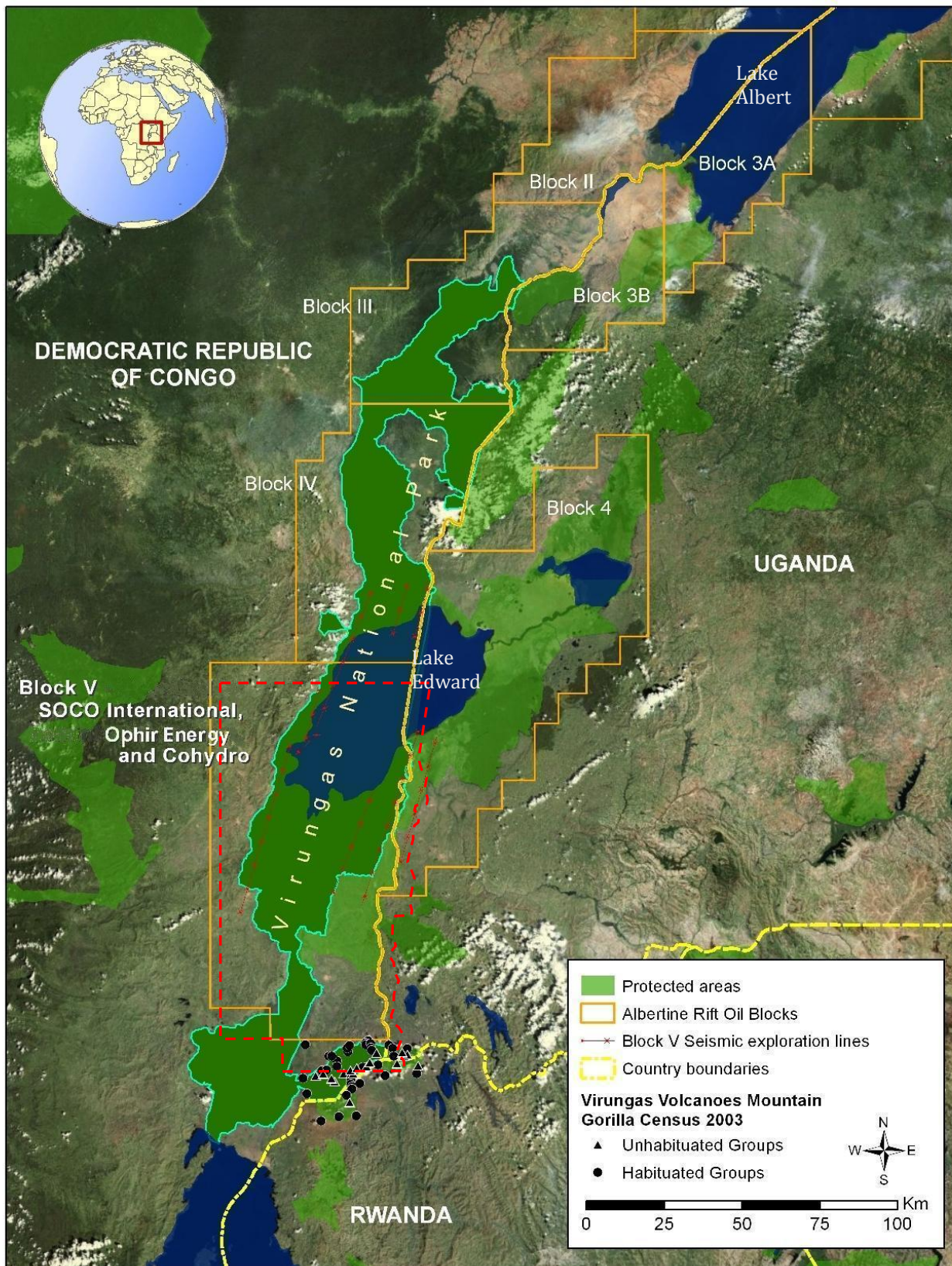


Figure 2 Virunga National Park (in dark green and with a light green border) and oil blocks in the DRC and Uganda (orange borders). SOCO is the operator in block V in the southern part of the national park. Block V is shown with a stippled red line. (Source: based on <http://whc.unesco.org/en/news/849>.)

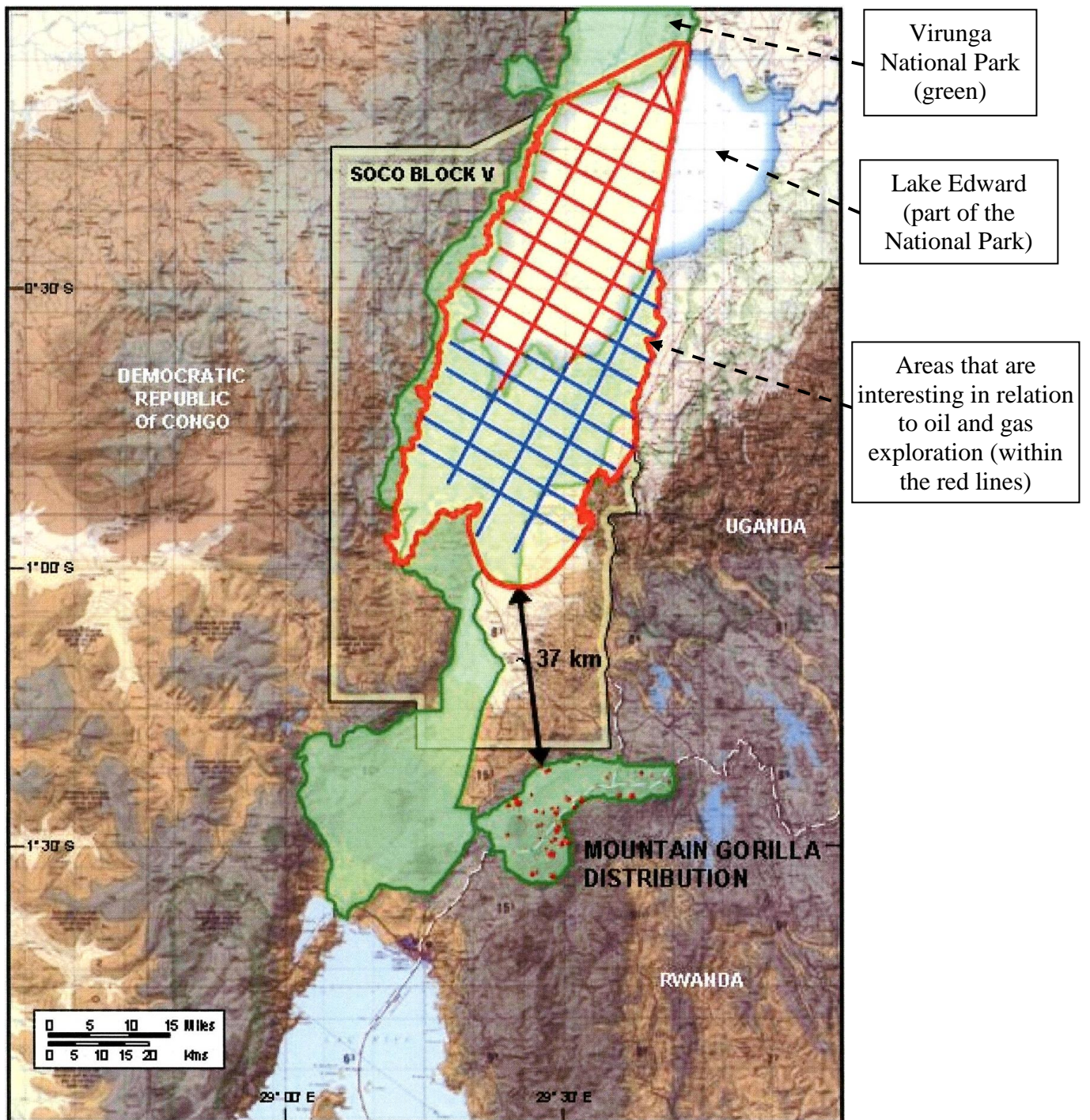


Figure 3 The red line shows areas that are interesting in terms of oil and gas exploration. Almost the entire area falls within the green area that is Virunga National Park, including most of Lake Edward. The red and blue shading indicate areas where seismic studies are to be conducted – Lake Edward and onshore areas, respectively. (Source: SOCO International plc.)

4.3 National laws and international norms

Both national law and international conventions and standards are relevant to the petroleum activities in block V in eastern DRC. Article 3 in act number 69-41 (22 August 1969) on

nature conservation in the DRC²³ and Article 33 in the new environmental act (act number 11/009, 19 July 2011)²⁴ include prohibitions on oil and gas exploration in national parks, and on other activities that harm the environment in such areas.

The UN World Heritage Convention (1972) has been ratified by the DRC.²⁵ Neither the convention nor the operational guidelines for the implementation of the convention permit oil and gas activities in a world heritage site.²⁶ These issues were also considered and settled during the identification of locations for inclusion on the world heritage list. States that are parties to the convention may not permit oil and gas activities at world heritage sites. In one instance, UNESCO has taken the serious step of excluding a natural area from the world heritage list. This was the Arabian Oryx Sanctuary in Oman,²⁷ which was deleted from the list due to the Omani state's decision to reduce the size of the national protected area that formed the basis for the world heritage site, to permit oil and gas exploration.²⁸

UNESCO has reacted strongly to developments in Virunga, and has asked the DRC authorities to stop SOCO's activities in the national park and not to issue licences in violation of the DRC's obligations under the convention.²⁹ SOCO's activities also appear to violate the

²³ "Public land in protected areas may not be surrendered or allocated. Such land may not be given a status incompatible with the protection of nature." ("Ordonnance-loi 69-041 du 22 août 1969, sur la conservation de la nature", "article 3: Les terres domaniales situées dans les réserves intégrales ne peuvent être ni cédées ni concédées. Elles ne peuvent recevoir d'affectation incompatible avec la protection de la nature.")

²⁴ "Any activity that may harm the environment shall be prohibited in the protected area and in the prohibition zones. Any right granted within the borders of the areas and zones referred to in the first paragraph shall be invalid." ("Loi no. 11/009 du 09 juillet 2011 portant principes fondamentaux relatifs à la protection de l'environnement", "article 33: Toute activité susceptible de nuire à l'environnement est prohibée dans les aires protégées ainsi que dans les zones interdites. Est nul tout droit accordé dans les limites des aires et zones visées à l'alinéa 1^{er}.")

²⁵ The DRC ratified the convention in 1974. As at September 2012, 190 countries had ratified the convention.

²⁶ Convention Concerning the Protection of the World Cultural and Natural Heritage, (<http://whc.unesco.org/archive/convention-en.pdf>) and the Operational Guidelines for the Implementation of the World Heritage Convention, (<http://whc.unesco.org/archive/opguide12-en.pdf>).

²⁷ UNESCO 2007. "Oman's Arabian Oryx Sanctuary: first site ever to be deleted from UNESCO's World Heritage List" (<http://whc.unesco.org/en/news/362>).

²⁸ Decision 31 COM 7B.11 (<http://whc.unesco.org/archive/2007/whc07-31com-24e.pdf>).

²⁹ See for example the resolution adopted at the 36th session of the UNESCO World Heritage Committee in 2012: "The World Heritage Committee ... 5. Expresses its deep concern over the granting of a Certificate of Environmental Acceptability for an aeromagnetic and aerogravimetric data gathering campaign, which appears to contradict the Government's decision announced at the 35th session of the Committee to suspend petroleum exploration pending completion of the strategic environmental assessment; 6. Reiterates its request to the State Party to revise its authorizations and not to grant new authorizations for petroleum and mining exploration and exploitation within the property boundaries and recalls its position on the incompatibility of petroleum and mining exploration and exploitation with World Heritage status... 12. Urges the State Party to continue the implementation of the corrective measures decided by the Committee at its 35th session (UNESCO, 2011) in accordance with the commitments in the Kinshasa Declaration to rehabilitate the Outstanding Universal Value of the property..." (UNESCO 2012. "Decisions adopted by the World Heritage Committee at its 36th session (Saint-Petersburg, 2012)". Document WHC-12/36.COM/19, page 13, (<http://whc.unesco.org/archive/2012/whc12-36com-19e.pdf>)). Every year since the 32nd session in 2008, UNESCO's World Heritage Committee has expressed strong concern about Virunga National Park in its resolutions, and commented critically on the oil licences granted for the national park since these breach the World Heritage Convention. The committee has also asked the DRC authorities not to approve, and to withdraw, such licences relating to areas forming part of the world heritage site, and to respect national environmental legislation (<http://whc.unesco.org/archive/2008/whc08-32com-24reve.pdf>, <http://whc.unesco.org/archive/2009/whc09-33com-20e.pdf>, <http://whc.unesco.org/archive/2010/whc10-34com-20e.pdf>, <http://whc.unesco.org/archive/2011/whc11-35com-20e.pdf>, and <http://whc.unesco.org/archive/2012/whc12-36com-19e.pdf>).

Kinshasa Declaration on the protection of the DRC's threatened World Heritage Sites, signed by the UNESCO Director-General and the Prime Minister of the DRC in January 2011.³⁰

World heritage sites contain unique global values. Only states can nominate world heritage site candidates. Nominated areas are subject to a thorough evaluation process before potential inclusion in the UN list of world heritage sites. States, the private sector, local communities, other stakeholders and experts participate in the process of clarifying whether an area fulfils the criteria and can be designated a world heritage site. This process includes clarification of potential conflicts that may prevent inclusion in the list. This thorough process and the opportunities it offers for gathering feedback from different parties was crucial to the 2003 commitment made by many of the world's largest mining companies (through the International Council on Mining and Metals, ICMM) not to explore or produce minerals and ore from world heritage sites, and to avoid interventions near such areas that may harm the universal values being protected there.³¹ Some companies that are not members of the ICMM, including oil companies, have announced similar commitments. Any interventions in this type of protected area are also contrary to international standards, for example the guidelines and standards adopted by the World Bank and the International Finance Corporation (IFC).³²

The European Commission and other donors are financing an Environmental Evaluation Strategy in the DRC that is to provide a comprehensive evaluation of the consequences of petroleum activities in the eastern part of the DRC, not only in block V. This evaluation is still being prepared, and is expected to be completed at the end of 2012 at the earliest. Given the delays thus far, however, it appears most likely that the report will not be completed until after this date. SOCO plans to move ahead with its plans before this evaluation is ready.

A number of international organisations, including the World Bank, EU and numerous bilateral donors and partner countries (e.g. Germany, Norway and Belgium) have voiced strong criticism of SOCO's activities and plans and the DRC authorities' handling of the situation.³³

³⁰ The Kinshasa Declaration (14 January 2011) referred, among other things, to the importance of implementing the World Heritage Convention and environmental and mining legislation in the DRC (<http://whc.unesco.org/uploads/news/documents/news-702-1.pdf>). The resolution adopted at the 36th session of UNESCO's World Heritage Committee in 2012 stated the following, among other things: "*The World Heritage Committee... 5. Considers that the recent permit which has been granted to the international oil and gas company SOCO to start oil exploration activities in Virunga National Park is not in conformity with commitments made by the State Party in the Kinshasa Declaration; 6. Urges the State Party to ensure a full implementation of the commitments made in the Kinshasa Declaration...*" (<http://whc.unesco.org/archive/2012/whc12-36com-19e.pdf>).

³¹ ICCM 2003. "Mining and protected areas – position statement" (<http://www.icmm.com/document/43>).

³² World Bank 2001. "Operational Policy 4.04: Natural Habitats" (<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTSAFEPOL/0,,contentMDK:20543920~menuPK:1286576~pagePK:64168445~piPK:64168309~theSitePK:584435,00.html>), and the International Finance Corporation (IFC) 2012, "Performance Standards on Environmental and Social Sustainability" (www.ifc.org/performancestandards).

³³ See for example the letter to Prime Minister of the DRC Adolphe Muzito dated 30 November 2010, signed by the World Bank's director for the DRC and the EU, Norwegian and German ambassadors to the DRC.

5 Information from the company

SOCO has regularly updated its homepage with information on the plans and developments in block V.³⁴ SOCO has responded in writing to questions from the Council on Ethics, and has commented on a draft of the recommendation. According to SOCO's policy on health, safety and environment, the company shall comply with all applicable laws and requirements pertaining to health, safety and environment in countries in which the company operates. Where these do not exist, industry standards are the minimum.³⁵

The company has consistently been clear about its position that it will implement its plans and activities as long as the DRC authorities want it to. The company has referred to the DRC's right and duty to exploit the country's natural resources and create development and benefits to society from them. Further, the company believes that SOCO's presence and future support for responsible natural resource management and the protection of the national park may have a positive effect, given the limited resources available to the park's managers and the substantial poverty in the area. The company has also emphasised that it is not planning activities in the mountain areas of the national park, which are home to critically endangered mountain gorillas, among others.³⁶

In its communications with the Council on Ethics, SOCO has written that it considers that world heritage status does not prohibit the exploitation of resources in the ground, and that oil exploration licences do not breach the spirit of the UNESCO convention and/or mean that Virunga must be deleted from the world heritage list. Among other things, the company is of the opinion that national legislation takes precedence over the convention, and that the activities do not contravene the convention because they are lawful under national legislation. In support of its view, the company has referred to Article 6 of the convention³⁷ and stated that this implies that national legislation takes precedence over the convention. The company has also referred to Article 3 of the convention³⁸ in support of the view that the states party to the convention have a right to limit natural heritage and cultural heritage sites. On this basis, SOCO has concluded that the DRC authorities may grant SOCO oil and gas exploration licences in the national park. SOCO is also of the opinion that its activities are entirely consistent with the DRC's obligations under the Kinshasa Declaration of January 2011.

The company considers that all activities implemented as at August 2012 are lawful under DRC legislation. The company takes the view that older legislation that applied during the establishment and subsequent amendment of the national park (in 1925, 1934 and 1935),³⁹

³⁴ <http://www.socointernational.co.uk/block-v-and-the-virunga-national-park>.

³⁵ SOCO's "Health, Safety and Environment Policy Statement" (<http://www.socointernational.co.uk/hses-policy-statements#!tab=481>), and SOCO's "Code of Business Conduct and Ethics and Guidelines for Implementation" (<http://www.socointernational.co.uk/code-of-business-conduct-and-ethics#!tab=465>).

³⁶ Around 480 of the world's total population of approximately 780 mountain gorillas (*Gorilla beringei beringei*) live in the Virunga massif in the border region between the DRC, Rwanda and Uganda. Virunga is the habitat of one of the two remaining mountain gorilla populations (<http://www.igcp.org/gorillas/mountain-gorillas/>).

³⁷ SOCO has quoted the following excerpt from Article 6: "*While respecting the sovereignty of States over the territory in which the cultural and natural heritage mentioned in Articles 1 and 2 is located and without prejudice to the real right provided for by domestic legislation over said heritage, the Party states here acknowledge that it constitutes a universal heritage for the protection...*" (The original quote from the company is reproduced even if there are errors compared to the convention text.)

³⁸ SOCO has quoted the following excerpt from Article 3: "*delimit the various assets located in its territory and referred to in Articles 1 and 2 above...*" (The original quote from the company is reproduced even if there are errors compared to the convention text.)

³⁹ Decree of 21 April 1925 on the establishment of Albert National Park. Decree of 26 November 1934 on the boundaries of the national park, amended by decree of 12 November 1935.

recognises the existence of mining company rights, that these rights have not yet been withdrawn, that the rights demonstrate the authorities' acceptance of resource exploitation in the park, and that the rights provide a basis for exceptions from the nature conservation act of 1969. On this basis, the company takes the view that the national park does not bar the conduct of petroleum activities. The company has also pointed out that the state of the DRC is sovereign and may amend the protection status of parts or all of the national park at any time in the interests of national development.

As regards the Environmental Evaluation Strategy relating to the eastern DRC (parts of the Albertine Graben) initiated by the authorities, SOCO's position is that the petroleum potential in the Virunga National Park must be investigated. The company considers that the Environmental Evaluation Strategy will be a useless and imbalanced measure without this information. The company has also written that its environmental and social studies are consistent with UNESCO's operational guidelines for the implementation of the World Heritage Convention. SOCO has emphasised that it is aware that Virunga is a particularly sensitive area, and that it is therefore taking extensive steps to minimise the environmental impact.

The company has emphasised that the most important threats to the national park and the reasons why the park is on the UN List of World Heritage in Danger are unrelated to SOCO. The company has claimed that the development of petroleum resources in the region may both promote development and strengthen protection of Virunga National Park. SOCO aims to ensure that the positive social consequences of petroleum activity greatly outweigh the negative environmental consequences. The company considers that, if petroleum resources are discovered in the national park, these can be produced in an environmentally appropriate and lawful manner, or by modifying the status of the area in which production activities are proceeding. SOCO has written that it has no infrastructure in the park and is not working in the park.

The company plans to conduct helicopters studies over Lake Edward and the savannah areas in the national park in 2012 to collect information on magnetism and gravitation. The studies will cover an area of approximately 3,700 km². Subsequently, the company plans to conduct seismic studies on Lake Edward. SOCO has stated that it has not planned any exploratory drilling so far.

6 The Council on Ethics' assessment

The Council on Ethics has assessed SOCO's activities and plans in block V by reference to the severe environmental damage criterion in the ethical guidelines for the Government Pension Fund Global. The Council has considered the values in and vulnerability of Virunga National Park and World Heritage Site, how severe the damage is expected to be, whether the consequences are expected to be long-term or irreversible, and whether the company's activities violate national law or international standards. Further, the Council has assessed whether the company has implemented or planned sufficient preventative and mitigating measures, and whether it is likely that the company's activities will continue.

The Council has given particular emphasis to the fact that Virunga National Park and World Heritage Site is a large, important protected area that is home to globally unique values, including an unusually large variation in habitats and an extremely high diversity of species. The national park features many rare and threatened species. Among other things, the area is a UN World Heritage Site and a wetland of international significance under the Ramsar Convention, and is included in most global lists of biodiversity and nature conservation

priorities. The Council would point out that there are very few nature and conservation areas in the world that can compete with Virunga National Park in terms of its richness of biodiversity.

At the same time, the area is very vulnerable and exposed to a number of threats. This has led the UN to place Virunga National Park on the List of World Heritage in Danger. Oil and gas activities in the area will have severe, negative consequences for the national park. The Council considers it likely that oil and gas activities in the park also will result in increasing numbers of people moving to the area. Indirectly, this will increase the pressure on the natural resources in the park, as people moving to the area in the hope of finding work and income are highly likely to meet some of their food and energy needs by gathering natural resources illegally in the park. This will put further pressure on a vulnerable area in which park managers have few resources to deal with a range of serious threats to a large area.

SOCO wants to conduct oil and gas exploration in the national park. It has an obligation to the authorities to collect at least 300 km of seismic data and conduct two exploratory drillings in block V. The company's plans and activities show that SOCO is investing with the aim of engaging in a range of petroleum activities in the parts of block V that lie in Virunga National Park and World Heritage Site, both onshore and in Lake Edward. The company considers that these activities are contrary neither to DRC legislation nor the UN World Heritage Convention. The Council has concluded that, in its arguments, the company has been selective and employed incorrect interpretations of the World Heritage Convention and applicable legislation. The company has incorrectly claimed that Article 3 of the convention entitles a state to amend the borders of an established world heritage site. Article 3 points out the right of states to nominate candidates for world heritage status, and their duty to identify locations and propose delimitation in this connection. Decisions regarding the world heritage status of an area, its borders and any subsequent changes are made under the convention – to which the state is a party – not unilaterally by the state. Article 6 of the convention concerns international cooperation and assistance, and obviously does not give the state the right to act in contravention of the convention. Article 6 emphasises how important it is that international cooperation respects the sovereignty of the state and occurs with the consent of the state. As regards national legislation, the Council on Ethics has taken as a point of departure that both the nature conservation act (Article 3 of act number 69-41 of 22 August 1969) and the environment act (Article 33 of act number 11/009 of 19 July 2011) prohibit environmentally harmful activities, including petroleum activities, in Virunga National Park.

The Council on Ethics has therefore concluded that the company's ongoing and planned activities breach international conventions such as the UN World Heritage Convention and the operational guidelines for the implementation of the convention, national legislation and various international standards such as the guidelines adopted by the World Bank, IFC and ICMM. Since the company's activities and plans contravene the World Heritage Convention, UNESCO will probably have to withdraw the national park's world heritage status. It appears likely that the DRC authorities will have to reduce or dissolve the national park, since oil and gas exploration is contrary to the nature conservation and environmental legislation. The most likely consequence of this is long-term or irreversible damage to or destruction of the national park and world heritage site, a location of particular global value and vulnerability.

Given the current situation in and around the vulnerable national park, there do not appear to be any mitigating measures capable of preventing severe damage to the national park's natural values if SOCO explores and potentially produces oil or gas in the national park. As regards preventing damage to the world heritage site, the Council takes the view that only a stop in SOCO's activities in the parts of block V that lie in the national park will have a sufficient impact. SOCO is clear regarding its intentions and plans, and has stated that it has received

the necessary licences from the DRC authorities to begin surveying potential oil and gas resources in the park. The Council therefore considers the future risk of severe environmental damage to be great.

7 Recommendation

The Council on Ethics recommends the exclusion of SOCO International plc. from the investment universe in the Government Pension Fund Global due to an unacceptable risk that the company will be responsible for severe environmental damage.

Ola Mestad
Chair

(Signature)

Dag Olav Hessen

(Signature)

Ylva Lindberg

(Signature)

Gro Nystuen

(Signature)

Bente Rathe

(Signature)