




CONFLICT GOLD TO CRIMINAL GOLD:

THE NEW FACE OF ARTISANAL
GOLD MINING IN CONGO



Coordination of research and compilation of the report:
Enrico Carisch

The following researchers undertook the field research and completed the bulk of the report writing: *Lucien Bahimba, Jean-Marie Barongo, Prof Kennedy Kihangi Bindu, Augustin Byamungu, Richard Etale, Franck Kabwe, Gabriel Kamundala, Nelly Lubala, Jacques Makundju, Hortence Migabo, Alexis Muhima, Raoul Kitungano Mulondani*

Dr Claude Kabemba, SARW Director, supervised the overall project and contributed to the editing process. George Bokondu, DRC SARW Manager provided intellectual orientation and valuable advice throughout the process. Pascal Kambale, OSISA's DRC Country Director, commented insightfully on the text.

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LIST OF ACRONYMS

AGK	Ashanti Goldfields Kilo
ANR	Agence National des Renseignements
CAMI	Cadastre Minière
CEEC	Centre d'Évaluation, d'Expertise et de Certification des Substances Minérales Précieuses et Semi-Précieuses
CEMAO	Coopérative des Exploitants Miniers et Artisanaux de l'Or
CNDP	Congrès National pour la Défense du Peuple
DFID	Department for International Development (UK)
DGI	Direction Générale des Impôts
DGRAD	Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participation
DRC	Democratic Republic of Congo
EU	European Union
FAPC	Forces Armées du Peuple Congolais
FARDC	Forces Armées de la République Démocratique du Congo
FC	Franc Congolais
FDLR	Forces Démocratiques de Libération du Rwanda
FEC	Fédération des Entreprises du Congo
FNI	Front des Nationalistes et Intégrationnistes
FPJC	Front Populaire pour la Justice au Congo
FRF	Forces Républicaines Fédéralistes
ICC	International Criminal Court
ICGLR	International Conference of the Great Lakes Region
MLC	Mouvement pour la Libération du Congo
MONUC/ MONUSCO	Mission de l'Organisation des Nations Unies en RD Congo
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OKIMO	Office des Mines d'Or de Kilo-Moto (see also SOKIMO)
PARECO	Patriotes Résistants Congolais
PROMINES	Project funded by the World Bank and DFID
RAID	Rights and Accountability in Development
RCD-Goma	Rassemblement Congolais pour la Democratie-Goma
RCD-K	RCD-Kisangani
RCD-K-ML	RCD-Kisangani/Mouvement de Libération
SAESSCAM	Service d'Assistance et d'Encadrement d'Artisanal et Small Scale Mining
SARW	Southern Africa Resource Watch
SEC	Securities Exchange Commission (US)
SOKIMO	Société de l'Office des Mines d'Or de Kilo-Moto (see also OKIMO)
SOMICO	Société Minière du Congo
SOMINKI	Société Minière du Kivu - now SAKIMA.
STOL	Short Take-off and Landing
SYPA	Synergie Pour la Paix
UDPS	Union pour la Démocratie et le Progrès Social
UN	United Nations
UPC	Union of Congolese Patriots



EXECUTIVE SUMMARY

The Southern Africa Resource Watch (SARW) initiated a regional monitoring effort to assess the physical, social and economic security risks – as well as the socio-economic, humanitarian and commercial conditions – faced by artisanal gold-mining communities in the provinces of North and South Kivu, Maniema and Orientale in the Democratic Republic of Congo (DRC). The research sought to answer two fundamental questions that have been asked for many years:

- Are illegally armed groups and militias still the most significant threat to artisanal and small-scale miners, who produce nearly all of eastern DRC's gold¹; and
- How do government services respond to the most essential needs of artisanal miners?

DURING THE RESEARCH THE FOLLOWING KEY INSIGHTS HAVE EMERGED:

1.

Gold miners in the eastern DRC have not benefited from notable improvements in the broader economic and security context, which include the:

- Establishment of peace in most gold-mining areas;
- Record-breaking gold prices on world markets; and,
- Restructuring of government agencies, partly supported by the international community, to increase supervision and enforcement in all mining areas.

While most of the artisanal and small-scale miners who were interviewed no longer fear homicidal militias, they are now confronted with daily hordes of corrupt government officials, functionaries, and law-enforcement or security personnel, who all wrest illegal taxes and fees from the miners – in addition to straight bribes and extortions – without delivering any meaningful services in return. The situation is exacerbated by widespread ignorance of the laws in force.

2.

Artisanal gold mining continues its 100-year-long history as one of the most important sources of income and the most powerful monetising instrument for the populations of the provinces of North and South Kivu, Maniema and Orientale. While gold is undeniably the economic lifeblood of the eastern DRC, the government of the Congo lacks any credible and reliable institutional presence, any statistical data, or any genuine plan to collect data. Inevitably, all policy implementation efforts for the informal gold sector are ineffective.

3.

The artisanal gold-mining communities of the Kivus, Maniema and Orientale are in the grip of a historic gold rush, complete with all the classic symptoms – chaotic migrations, poor sanitary and health conditions, dangerous mine excavation techniques resulting in frequent fatalities, increasing criminal exploitation of the entire process, and incalculable environmental costs. And while the exploitation of artisanal and small-scale miners continues, the identity of those responsible has now changed. They are no longer warlords and militia leaders but government administrators, members of the government's military and security organisations, and many regional traders.

KEY RECOMMENDATIONS

1.

STOP THE CRIMINAL EXPLOITATION OF THE GOLD-MINING SECTOR

The government must act to halt the increasingly criminal exploitation of artisanal and small-scale miners by a plague of government bureaucrats, officials and security agents – and end the illegal export of almost 100% of the gold produced in the east.

2.

PROVIDE ADEQUATE PHYSICAL PROTECTION FOR MINERS

If the government provided adequate physical protection to artisanal and small-scale miners – by reallocating funds to support legitimate army regiments – gold production would increase and so would the sector's impact on individual livelihoods and the region's economy.

3.

PROTECT ARTISANAL AND SMALL-SCALE GOLD MINERS FROM RACKETEERS

The government needs to tackle the racketeers, who are buying the miners' gold at unfairly low prices and selling them food, tools and other merchandise at hugely inflated prices – and leaving them constantly digging for survival.

4.

REORGANISE OR CLOSE SAESSCAM

The Service for the Assistance and Supervision of Artisanal and Small-Scale Mining (SAESSCAM) was established to support miners but its underpaid – or often unpaid – agents simply extort 'taxes', 'levies' and other 'fees' without providing any services in return. The government must totally restructure the institution or close it down.

With this project, SARW is contributing to the Congolese people's search for peace, security and, in particular, economic stability. The project also demonstrates how civil society can assume a leadership role in the redevelopment of the DRC by providing original field-research and comprehensive analysis.

The SARW project is on-going. Research teams continue to monitor and assess the general economic and trade conditions, as well as the security, labour, gender, health and environmental issues affecting artisanal and small-scale mining communities. The results of the on-going research will be published in separate reports during the coming months.

INTRODUCTION

The objective of this research report was to establish whether, and to what extent, post-conflict efforts at national, regional and international levels are improving the situation of artisanal gold-mining communities in the provinces of Orientale, North and South Kivu, and Maniema in the Democratic Republic of Congo (DRC). The research proceeded from the assumption that legal and regulatory instruments and institutions created after the 2006 elections to regularise and support the DRC's informal mining sector should now be starting to show positive effects. This report sought to verify that assumption.



1. *Orientale*
2. *North Kivu*
3. *South Kivu*
4. *Maniema*

Enrico Carisch² coordinated the overall research and is the main author of this report. The field research and interviews were conducted by the following Congolese experts: Lucien Bahimba, Jean-Marie Barongo, Prof Kennedy Kihangi Bindu, Augustin Byamungu, Richard Etale, Franck Kabwe, Gabriel Kamundala, Nelly Lubala, Jacques Makundju, Hortence Migabo, Alexis Muhima, Raoul Kitungano Mulondani.

Over a period of six months, the 12 field researchers were deployed in dozens of artisanal gold-mining sites in the four eastern provinces selected for this research. In preparation for the field deployment, all participants gathered for a workshop in Goma to discuss and agree on the research objectives and methodologies. The backbone of the project was then framed in terms of nine substantive research areas, each further refined into sub-categories that formed the basis of a questionnaire to guide the interviews and field research. The nine research areas were:

1. General impediments for artisanal and small-scale gold mining and trade
2. Militarisation of artisanal and small-scale gold-mining sites
3. Valuation of artisanal gold
4. Role of government agencies and public services
5. Challenges for small gold traders
6. Health, hygiene and safety in the mining and marketing of artisanal gold
7. Environmental issues related to artisanal and small-scale gold mining
8. Gender-based violence in the artisanal and small-scale gold-mining sector
9. Children in the artisanal and small-scale gold-mining sector.

Throughout the project, researchers interacted with artisanal and small-scale miners, stone-crushers and gold-washers, including both independent miners and members of mining cooperatives. They also consulted with the managers of the cooperatives or the small-scale mining enterprises, the traditional chiefs of the communities in which mining takes place, and

representatives of local government.³ Local gold traders, who are the first stage in the trading chain, represent an important second group in this research. Frequently, they are part of the same trading chains that supply mining communities with basic foodstuffs, alcohol and other goods and services.

The deployment of the researchers to the gold-mining sites commenced in early November 2011, for periods of up to two weeks per sub-region. Mining sites visited by SARW researchers include:

- **North Kivu:** Walikale, Manguredjipa, Mununze
- **South Kivu:** Three sites in Kalehe, and mining sites in Kamituga and Lugushwa, Biraha, Mushinga and several sites near Fizi
- **Maniema:** Saramabila, Bikenge, Kampene, Katchokolo, Kamanyola, Matumba, Boningina, Punia
- **Orientale:** Several sites in and around Mongbwalu, Iga-Barriere, Mabanga, Baye, Seminor, PK83 and Panga.

Among the many challenges faced by the research team was the difficulty in obtaining official documentation. Government agents continue to act with little transparency or accountability and believe that access to information is a favour they can grant and not a right of the public. Like most government agencies, the Ministry of Mines and the Provincial Mining Divisions still do not have institutionalised mechanisms in place to answer public inquiries about contracts with mining companies or permits issued to exporters and traders. Researchers, members of the media and members of civil society organisations continue to be stopped and questioned at every step during their travels in the mining areas. SARW researchers were required to present an *ordre de mission*, which had to be stamped and signed by the authorities of even the smallest administrative entity. Approval was granted only after lengthy conversations that sometimes involved considerable details about the objectives of the SARW visit.

The density of government representatives, from the main roads to the most remote villages, also resulted in constant extortions ranging from a few hundred Congolese Francs (FC)⁴ to as much as US\$50. Justification for these payments ran the gamut from outright begging (the official had not received his salary for months) to taxes, fees, road tolls and fines. It is self-evident that most are based on fictitious laws or rules and are imposed randomly and without any legal basis.

LEGAL AND INSTITUTIONAL FRAMEWORK FOR ARTISANAL MINING

Following the Global and All-Inclusive Agreement signed in 2003, important institutional capacity had to be rebuilt in order to enable the transitional government to fulfil its mandates. Joseph Kabila, at the time still president of the Interim Government, signed new Congolese mining legislation into law on 11 July 2002. Based on this law, new technical institutions had to be created and staffed in order to support the work of the Congolese Ministry of Mines, including:

1. A mining register or cadaster (CAMI) to record all property rights related to mineral deposits;
2. The Centre of Expertise, Evaluation and Certification (CEEC) to certify the value, quantity and appropriate taxation of all minerals prior to export; and,
3. A specialised service for the assistance and supervision of artisanal and small-scale mining (SAESSCAM) to support artisanal and small-scale miners.

The creation of the mining cadaster and CEEC received immediate attention with new regulations, presidential and ministerial decrees, as well as the necessary financial support. At the Kinshasa level, these two agencies were working relatively well within 2-3 years. After the 2006 election and once security concerns permitted, CEEC also initiated operations in provincial centres and is now substantially operative.

On the other hand, SAESSCAM was neglected for far too long. Except for a few branches operating in Katanga, SAESSCAM's development as an agency with national reach was ignored until very recently. As will be shown throughout this report, the failure to

properly fund this agency, to train and equip its personnel, and to maintain vigorous integrity standards has negatively affecting tens of thousands of artisanal and small-scale miners.

President Kabila and Martin Kabwelulu Labilo, Minister of Mines, demonstrated leadership by playing an important regional role in the International Conference of the Great Lakes Region (ICGLR). The sub-regional organisation came into existence in 2000 when the UN Security Council, as stated in resolutions 1291 and 1304, called for an international conference on peace, security, democracy and development in the Great Lakes region. In November 2004, the 11 heads of state and government of the member countries⁵ unanimously adopted the Declaration on Peace, Security and Development in the Great Lakes region in Dar es Salaam, Tanzania. The Dar es Salaam declaration intended to address the root causes of the intractable conflicts and constraints to development in the Great Lakes through a regional and innovative approach.

One of the key objectives of the ICGLR was the development of a regional initiative to combat the illegal exploitation of natural resources, including a mechanism for the certification of natural resources. The ICGLR's approach was strongly influenced by pioneering institutional structures, procedures and laws to regularise and certify precious and semi-precious minerals and stones that were already in place in the DRC, including the new Mining Law, the digitalised mining cadaster, the specialised centre of expertise, evaluation and certification, and a number of presidential and ministerial decrees detailing the government's natural resource management.

During the December 2010 special summit of the heads of state of the 11 ICGLR countries in Lusaka, a declaration

was signed to adopt six tools to fight the illegal exploitation of natural resources. The six tools are:

1. A regional certification mechanism;
2. Harmonisation of national legislation;
3. A regional database on mineral flows;
4. Formalisation of the artisanal mining sector;
5. Promotion of the Extractive Industry Transparency Initiative (EITI); and
6. A whistleblowing mechanism.

The international community has also supported the peace process and taken positions against those who illegally exploit natural resources – important

steps towards the regularisation of the Congo's natural resource industries. Since 2005 the UN Security Council has steadily broadened the mandate of the UN Group of Experts⁶ and directed it to investigate the relationship between Congo's natural resources and its conflicts and warlords. Both UN and NGO investigations and reports revealed how artisanal and small-scale miners were the primary victims of systemic, illegal exploitation organised by, and benefitting, warlords, militias and their trading partners⁷. In November 2005, the Expert Group succeeded with its recommendation to impose targeted UN sanctions on a number of

leaders of illegally armed groups and affiliated businesspeople (see footnote 19 below) in order to try and sever these linkages. The Group also conceptualised traceability and other certification mechanisms to protect legitimate mineral extraction and trade. The latest effort by the Expert Group has led the Security Council to adopt due diligence principles that must be observed by anyone trading in tin, cassiterite, coltan, wolframite and gold originating in eastern Congo. In theory, those identified as violating or disregarding the duty to investigate the origins of these minerals are now subject to a UN assets freeze and a travel ban.

BOX 1: INTERNATIONAL LAWS GOVERNING CONFLICT MINERALS

A number of countries and regions are making efforts to enact laws and rules to limit the trade in conflict minerals:

1. The Organisation for Economic Co-operation and Development (OECD), in collaboration with the government of the DRC and the leadership of the ICGLR, has developed detailed guidelines for due diligence in the mining sector of conflict or high-risk regions.

2. The US Conflict Minerals Act, under section 1502 of the Frank Dodd Law, stipulates that companies who already have Securities and Exchange Commission (SEC) reporting obligations have an additional duty to disclose whether they import tin, cassiterite, coltan, wolframite and gold (either in raw form, processed, or as part of components of manufactured goods) that originates from the eastern DRC.

3. The European Union (EU) Parliament adopted a resolution for the creation of a new EU law stipulating rules for tracing the origin of imported minerals as a tool to combat illegal exploitation of conflict minerals from African countries.

4. The EU Commission wants to reflect a similar concept with an amendment to its 2008 Raw Materials Initiative. In particular, the amendment will include a country-by-country disclosure obligation similar to the US Dodd Frank law, but will add disclosure obligations regarding payments made by publicly listed companies to governments.

5. In 2010, the Australian government released due diligence guidelines for respon-

sible supply chain management of minerals that originate from the eastern DRC.

6. There are two bills pending (C-571 and C-300) in the Canadian parliament that, if enacted, would require Canadian companies to exercise due diligence before purchasing minerals from the Great Lakes region. They would also require the government to annually report on companies it suspects of having violated Canadian corporate social responsibility standards.

While such efforts signal idealistic intentions in some parts of the world, the reality is that none of them have been implemented so far, apart from Dodd Frank. The SEC finally approved the regulations in August 2012 – two years after the bill was enacted.

HISTORICAL BACKGROUND

THE RISE OF GOLD-MINING RELATED ABUSES

The earliest exploration for gold deposits in the DRC began in 1904, shortly after two Australian explorers working for the administration of King Leopold II discovered alluvial gold along the Angola River. The discoverers, Hannam and O'Brien, quickly recruited local workers to start exploiting this rich resource. Long before they found gold, King Leopold had issued decrees designed to maximise the exploitation of the Congo's many natural resources. According to these decrees, each village chief would be subject to 'prestations' - a system that forced them to assist in the requisition of workers and porters, food, and construction material. The decrees also established the Force Publique, the police and security units composed of locals and led by European mercenaries, which enforced the King's will by wielding the chicotte,⁸ burning villages, and torturing, flogging and raping villagers.

By August 1906, Hannam and O'Brien reported a monthly output of 600 ounces of gold and they shipped the first consignment of gold to Brussels.⁹ Other gold veins were subsequently discovered in parts of eastern Congo, increasing the pressure to coerce locals into mining. During the First World War, the lives of the people of eastern Congo became even more difficult. The Belgian colonial authority forcibly recruited Congolese into the Force Publique to fight against the forces of German East Africa. To support the Belgian Congo's military adventure, Congolese were forced to work as porters or to grow food for the soldiers. The colony could afford the military effort because of the 'voluntary' payment of taxes, and the Congolese Central Bank's increasing intake of Ituri gold. Meanwhile, the Germans exploited the Sekenke Mine in Tanzania in order to finance their war effort.





Little is known about the situation of Congolese gold miners after the First World War because international attention on the abuses perpetrated in the Congo subsided considerably once Leopold II was forced to cede control of the country to the Belgian government. Internal reporting by the colonial administrators provides some glimpses into the continuing abuses – including in the copper mines of Katanga, which were by far the most important sector of the mining industry – and reflect scandalously high mortality rates. David Northrup, who has researched the labour situation in the Congo extensively, concluded that the method of abuse changed over time but not the actual abuse: “expanding demands for labour brought many more people under some sort of coerced labour system. Thus, for the affected Africans, slavery had changed its form more than its character.”¹⁰

After the Congo gained independence in 1960, looting Congo’s gold became the pastime of the leaders of the government military and rebel groups. The Simba insurrection led by Christophe Gbenye took much of north-eastern Congo and established the ‘People’s Republic of the Congo’, making Kisangani (Stanleyville) the new capital. Gbenye occupied and looted the Moto mines around Watsa. According to Time magazine, he stole 1500 pounds of gold from the safe of the mining operations.

When Joseph Mobutu seized power at the end of 1965, he consolidated the gold-mining operations of the eastern Congo under Société de l’Office des Mines d’Or de Kilo-Moto (SOKIMO or OKIMO)¹¹ in which he integrated the industrial production of the Kilo and Moto gold mines. SOKIMO was soon known to be Mobutu’s personal piggy bank.

Mismanagement led to the gradual dismantling of the industrial structures, and by the late 1980s OKIMO generated revenue only by taxing informal, artisanal and small-scale miners. The economic collapse was made worse by the First Congo War. Once Laurent-Desire Kabila assumed leadership of the Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL) and launched an armed revolt with his allies Presidents Paul Kagame (Rwanda) and Yoweri Museveni (Uganda), he systematically occupied and exploited the gold-rich mining areas. Long before he had deposed Mobutu and taken full control of the country, he started to sell gold concessions to the highest bidders.

A new wave of violence, coerced labour and economic disruption crashed over the artisanal and small-scale miners with the Second Congo War. The occupying forces of Uganda and Rwanda raided the gold-mining centres of the east, followed by waves of Congolese militia groups. RCD-Goma,

RCD-K-ML, RCD-K, MLC, UPC, FNI, FAPC, FPJC and finally CNDP and FDLR all occupied and looted the gold-mining centres and the surrounding villages. In some instances, they established quasi-administrations and issued new gold-mining permits. In all instances, they imposed taxes, coerced other payments, killed, maimed and took revenge on artisanal gold miners for the most spurious reasons.

NATIONAL AND INTERNATIONAL REACTIONS TO GOLD-MINING RELATED ABUSES

The horrors of the First and Second Congo Wars, and the Ugandan-Rwandan occupations of the country’s most important mining sites, mobilised significant resistance by Congolese civil society. Justice Plus, for example, organised a campaign against ethnic persecutions and the illegal exploitation of natural resources. Activists from local organisations, such as ASADHO-Beni, were routinely arrested for denouncing mining activities by Ugandan forces. Officers of the Ugandan military, their local allies from RCD-K-ML and other rebel groups attempted to silence this resistance. However, they did not succeed because many Congolese activists denounced these abuses and contributed significantly to raising national and international attention. One important milestone towards greater recognition of the atrocities linked with gold-mining was reached when Congolese researchers and investigators supported Human Rights Watch and its landmark report “The Curse of Gold” published in May 2005.

Civil society campaigns against the untransparent and unfair allocation of mineral rights by rebel-leader-turned-President Laurent-Desire Kabila had already started after the First Congo War. In the year 2000, Synergie Pour la Paix (SYPA) was established in Butembo as a network of local groups, including the Catholic Church and civil society organisations of the Kivus. The organisation grew quickly to national stature and became an important actor in the Inter-Congolese Dialogue, which was one of the principal peace initiatives, created under the Sun City Accord in 2002. The Inter-Congolese Dialogue helped to ensure that the Congo’s Transitional Parliament would set up a parliamentary investigative committee to look into, among other things, the links between mining contracts and the continuation of war.

This critical initiative, which would eventually be known as the Lutundula Commission, received very little – or no – backing from representatives of the international community. According to the report of the Lutundula Commission, countries such as the United States, Canada, Belgium and others refused to grant members of the Commission visas to investigate in companies in their countries of origin that were suspected of feeding into the conflict and mining cycle in the DRC.

The international community largely ignored Congolese efforts – at times even undermining them – in order to pursue its own ideas for resolving the Congo’s natural resource problems. A pivotal moment came when the Permanent Representative of the US to the UN, Richard Holbrooke, and US Secretary of State Madeleine Albright decided that January 2000 (the month in which the US delegation was going to preside over the Security Council) would be dedicated to defining a global strategy to tackle the most persistent problems on the African continent.

Holbrooke planned open meetings to discuss the conflicts in Burundi, the DRC, Angola and Sierra Leone and the scourge of AIDS. On 24 January 2000, the Security Council chaired by Albright welcomed the presidents of seven African countries; Laurent-Desire Kabila was the first president invited to the round table of the Security Council, followed by the presidents of Rwanda, Zambia, Mozambique, Uganda, Zimbabwe and Angola.¹²

Kabila had funded his long years hidden away in the Itombwe Mountains of South Kivu in part by gold smuggling and other commercial activities. When he went to war to oust Mobutu, the military forces of Rwanda and Uganda were important allies. Eventually they turned against each other, and the Second Congo War turned into a vicious war of attrition. Rwanda, Uganda and their Congolese allies were involved in resource extraction as they fought the Kabila regime. The fact that Kabila paid his foreign allies and their fighters with access to the Congo’s natural wealth did not stop him from stating bluntly to the Security Council: “Is there anyone here who is unaware of the systematic plundering of Congolese resources on and below the ground by the Rwandan, Ugandan and Burundian occupiers? Their booty – wood, diamonds, gold, cobalt and zebras – is all being sold on the open market, including in some of the countries represented here today.”¹³

WHAT IS ILLEGAL?

With his reference to the ‘systematic plundering of Congolese resources’, Kabila set into motion a new dynamic in the conflict resolution dialogue. Following Kabila’s call for an intervention by the international community, the Security Council decided to send a mission led by Ambassador Holbrooke to Central Africa to define the steps to be taken in support of peace-making in the DRC. After a four-day blitz mission, Holbrooke and his colleagues delivered the defining report for all future Security Council actions on the Congo’s natural resources. The key recommendation was that the UN Secretary General should create a ‘UN Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo’.¹⁴

A critical point in the language, which was first suggested by Kabila and expanded on by the Holbrooke mission, was the concept that the Congo’s natural resources were exploited ‘illegally’. This term introduced an extremely contentious concept and the Panel of Experts described its struggle to define illegality in its first report.¹⁵ The report offered four criteria to determine illegality: violation of sovereignty; respect by actors for the existing regulatory frameworks in the country or territory where they operate; discrepancy between widely accepted trade and business practices and the conduct of business in the DRC; and, the violation of international law, including ‘soft’ law. The Panel further stated that it was going to ‘utilize the aforementioned elements in a complementary manner, refusing to be exclusive or to focus on one single element’. However, the Panel’s subsequent reports revealed that their work focused on one single element – the fourth criteria, using definitions derived from the OECD’s emerging guidelines.

Based on this definition, the Panel released a report on 16 October 2002 with annexes¹⁶ of names of individuals and companies that it accused of exploiting the Congo’s natural resources illegally. Subsequently, the OECD guidelines and the associated national contact points were supposed to assume an adjudicatory role. However, it never proved particularly effective, especially where companies or individuals from OECD member states were involved.¹⁷

The Panel’s work would have had more legitimacy had there been less reliance on the OECD guidelines and more grounding in the laws of the Congo. There is not one attempt in the Panel’s report to define the documented abuses as violations of Congolese laws, although President Joseph Kabila had signed the new Congolese Mining Law on 15 July 2002, three months before the release of the UN Panel report.

Apparently relying on emerging Congolese legal structures was not an option. Indeed, using Congolese legal structures to define a strategy against illegal exploitation of the country’s natural resources would remain unacceptable for years to come, as the fate of Ministerial Decree 2503 of February 2007¹⁸ would demonstrate. The international community – especially the highly industrialised, mostly western members of the international community – wanted to build on the evolving standards of corporate social responsibility that were under development at the OECD at the time. However, the OECD’s voluntary Guidelines for Multinational Enterprises turned out to be ineffective in regulating the DRC’s mining sector. Eventually, investigations by the British NGO Rights and Accountability in Development (RAID) revealed that virtually none of the companies and individuals identified by the Panel as being in violation of the OECD guidelines were subjected to any administrative procedure by their governments, as the OECD process promised.



UN SANCTIONS AGAINST THE ILLEGAL EXPLOITATION OF NATURAL RESOURCES

With the OECD process turning into a paper tiger, those in the DRC who had hoped to receive assistance from the international community in the rebuilding of a legitimate natural resource sector saw their options diminishing. By 2004, the UN's natural resource Panel was discontinued, partly in response to heavy criticism of their evidentiary standards and methodology. However, the Security Council accepted one of their recommendations to impose an arms embargo on the Congo and established another UN Expert group to monitor compliance with the embargo. By 2004, the Group of Experts was ap-

pointed with a very narrowly defined arms embargo-monitoring mandate.

While the natural resource panel had stirred up a lot of media attention, it was the new Group of Experts that convinced the Security Council in November 2005 to impose targeted UN sanctions against all major Congolese militia leaders and their affiliated businesspeople¹⁹. The measures imposed on those most responsible for massacres in eastern Congo included the freezing of their assets and a travel ban. Although effective implementation of these measures would remain challenging, singling out these individuals as outcasts of the international community blocked their chances of ever achieving legitimacy.

The Group also succeeded with its recommendations to the Security Council to further investigate individual culpability in the use of natural resource revenues to finance violations of the arms embargo. With the establishment of a hard standard for illegal exploitation of natural resources and strict evidentiary standards, people or companies 'illegally' exploiting or diverting minerals from eastern Congo moved into the crosshairs of targeted sanctions.

Using the threat of UN sanctions certainly was a valuable addition to the arsenal against perpetrators of violence, but to achieve lasting peace and security the linkages between natural resource exploitation and trade had to

be based on a stronger footing. Both the UN Panel²⁰ and senior officials within the DRC Ministry of Mines had come independently to the same conclusion: enhanced institutionalised solutions, such as mechanisms to trace natural resource origins, were required.

The Ministry of Mines and CEEC were already seeking ways to develop a certification system, but it may have been somewhat premature for the officials of the transitional government since the mineral deposits in both North and South Kivu, the eastern sections of Maniema and Katanga, and Orientale were beyond the authority of the government. Customs agents at border crossings, tax collectors, and the officials of the subsidiaries of the Central Bank in the eastern provinces, along with many other government functionaries, did not accept the transitional government's authority. In Bunia, the local headquarters and operations of OKIMO were taken over by the Ituri rebels, who also took all income from the artisanal gold-mining sites situated on the parastatal's three huge gold concessions. At the same time, FDLR, Mayi-Mayi and other groups overran the artisanal and small-scale miners operating within the concession areas of SOKIMO. So why were the new functionaries in Kinshasa interested in devising traceability and certification systems?

During that pre-election chaos, it was evident that the Congo and its natural resource sector would never find peace and prosperity unless at least two conditions could be fulfilled. Firstly, physical security in all parts of the Congo was key. And secondly, property rights and trading mechanisms for natural resources had to be secured. The same conceptual approach dominated the UN Panel's agenda: first monitor compliance with and investigate violations of the arms embargo; and second investigate diversions of natural resources and

interdict the revenue streams to illegal armed groups whenever possible.

By early 2007, the democratic multi-party elections had given Joseph Kabila the presidency. On 5 February 2007, days before the new government took over, the outgoing Minister of Mines, Professor Matthieu Kalele-Ka-Bila, signed Ministerial Decree 2503, which laid out the administrative processes for the certification of precious and semi-precious stones and minerals. The new law was unequivocal: without CEEC certification, no minerals or stones could be exported. To further buttress the Congolese effort, the Group of Experts made two key recommendations in its next report²¹. It recommended that the international community should provide financial, technical and administrative support to the implementation of the Congolese law. It also recommended that companies that could not demonstrate adequate due diligence practices should be sanctioned.

Parallel to this development, Belgium, the former colonial power, wanted to play a leading role in the development and implementation of a natural resource certification system. A task force of Belgian specialists was set up and a study group was begun to not only devise a tracking methodology for copper and cobalt, but also to establish a Lubumbashi-based commodity exchange²². Belgium was one of the elected members of the Security Council at the time and used this position to develop a high profile on natural resource and conflict issues.²³ Simultaneously, Belgian representatives to the UN became particularly hostile to the UN Group of Expert's recommendation to support the Congolese natural resource certification mechanisms. They also rejected an effort to clarify due diligence principles for anyone involved with the Congo's natural resources as well as the Group's evidence for the dominant role that Belgian companies played in Congo's natural resource trade.

Belgium succeeded in the short-term in stopping the Experts' efforts. However, thanks to an initiative by the German government, the original concept of supporting the DRC government's certification mechanism finally succeeded.²⁴ But it would take another three years (and another Panel) before the Security Council endorsed the recommendation to impose UN sanctions against anyone who could not demonstrate adequate due diligence in the trading of minerals from eastern Congo. It would also take another violent convulsion of the east - pitching the Congolese army (the FARDC) and the peacekeeping forces of the Mission de l'Organisation des Nations Unies en RD Congo (MONUC) (later MONUSCO) against the renegade Congrès National pour la Défense du Peuple (CNDP) forces under General Laurent Nkundabataware and against the Forces Démocratiques de Libération du Rwanda (FDLR). Nkunda's troops took control of numerous mining sites, collected taxes and imposed fees at will. Meanwhile, FDLR forces challenged the CNDP's grab of mining properties and revenues. Mayi-Mayi militia forces and certain FARDC units pillaged, looted and raped with equal ferocity. In the two-year-long struggle, hundreds of thousands of Congolese fled and lost their belongings, thousands were killed, and untold numbers of girls and women were raped. Finally, as part of 'Umoja Wetu',²⁵ Rwandan military forces arrested Nkunda in January 2009. Nkunda's CNDP forces were then integrated into the FARDC under the leadership of General Bosco Ntaganda - another warlord who has been charged with war crimes by the International Criminal Court.

Since that last major war, armed confrontations have consisted of fighting bands of severely diminished FDLR, Mayi-Mayi and newly formed groups. Thankfully, these military operations have mostly been reduced to local and short-term fights, with casualty numbers distinctly lower than at any other time during the past 15 years.

DUE DILIGENCE POLITICS OF PRESIDENT KABILA

While the UN Security Council embraced due diligence principals for certain minerals originating in eastern DRC with resolutions 1952 (2010) and 2021 (2011), the US Congress prepared its ‘Conflict Minerals Bill’. This measure is designed to force companies with SEC reporting obligations²⁶ to disclose to the public if they import and use coltan (columbine-tantalite), cassiterite, wolframite and gold from eastern DRC. The bill was incorporated into the Dodd Frank Bill under section 1502 and signed into law by President Obama on 21 July 2010. But its final implementation rules were only approved by the SEC in August 2012 after a lengthy battle between activists and affected industry groups and lobbyists.

However, even without its application the ‘Obama Law’ had an impact within a few months of his signing it. President Kabila took advantage of the global attention and on 20 September 2010 signed Decree 705 suspending mineral exports, although only from South and North Kivu and Maniema. On the same day, he also signed Decree 706, listing the following requirements for Congolese institutions to fulfil before he would lift the export suspension – although none of these requirements appear to have been fulfilled when he lifted the suspension six months later without any explanation:²⁷

<p>SAESSCAM and the Ministry of Mines must:</p> <ol style="list-style-type: none"> 1. Deploy their agents along the entire chain beginning with the point of origin to the point of refining; 2. Identify artisanal miners and their cooperatives, and verify that they operate legally; 3. Propose, together with the mining cadaster, new artisanal mining zones; 4. Assist artisanal miners to reorganise into mining cooperatives; 5. Complete the establishment of Centre de Negoce²⁸; and, 6. Establish, together with international partners, a map of artisanal mining sites. <p>The Mining Cadaster and the Directorate of Mines must:</p> <ol style="list-style-type: none"> 1. Deploy officers in the three provinces; 2. Suspend all registry examinations of current applications in the three provinces; 3. Close application process for any new registration in the three provinces; 4. Examine, in collaboration with the 	<p>mining services, whether – and how effectively – the development and construction of mining projects is proceeding and report to the Minister of Mines no later than 10 October 2010; and,</p> <ol style="list-style-type: none"> 5. Initiate forfeiture of all holders of mining titles who are in default, regardless of their situation. <p>The CEEC must:</p> <ol style="list-style-type: none"> 1. Reinforce efforts at all levels in the fight against fraud and smuggling of mining products. <p>The three provincial governments must:</p> <ol style="list-style-type: none"> 1. Ensure that no minerals will move during the suspension period; 2. Ensure that mining services are ready to implement and manage all measures of the decree; 3. Ensure the effective deployment of the technical services of the Minister of Mines; 4. Identify all artisanal miners, traders, exporters, processing and refining facilities, as well as 	<p>entities with mining permits;</p> <ol style="list-style-type: none"> 5. Identify all artisanal and other mining sites; 6. Require accountability and verify the evidence for payment of taxes that were due by 1 January 2010 at the place of operation of the traders and exporters, and review all information about the origin of the funds that are used to buy minerals; 7. Verify whether funds were appropriately repatriated after minerals were exported since 1 January 2010; 8. Co-ordinate the government authorities in the fight against fraud in the mining industry; 9. Encourage permit holders to stay on schedule with their development and construction; 10. Apply sanctions in accordance with the law against anybody who contravenes the dispositions of the decree; 11. Organise a fund for the realisation of basic infrastructure; and, 12. Provide, within 30 days from the decree entering into force, an evaluation of supervision measures with a view towards the eventual lifting of the suspension.
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CHINESE BUYERS CONTINUED TO EXPORT CASSITERITE, COLTAN AND WOLFRAMITE THROUGHOUT THE SUSPENSION

- AND DID SO AT GREAT PROFIT.

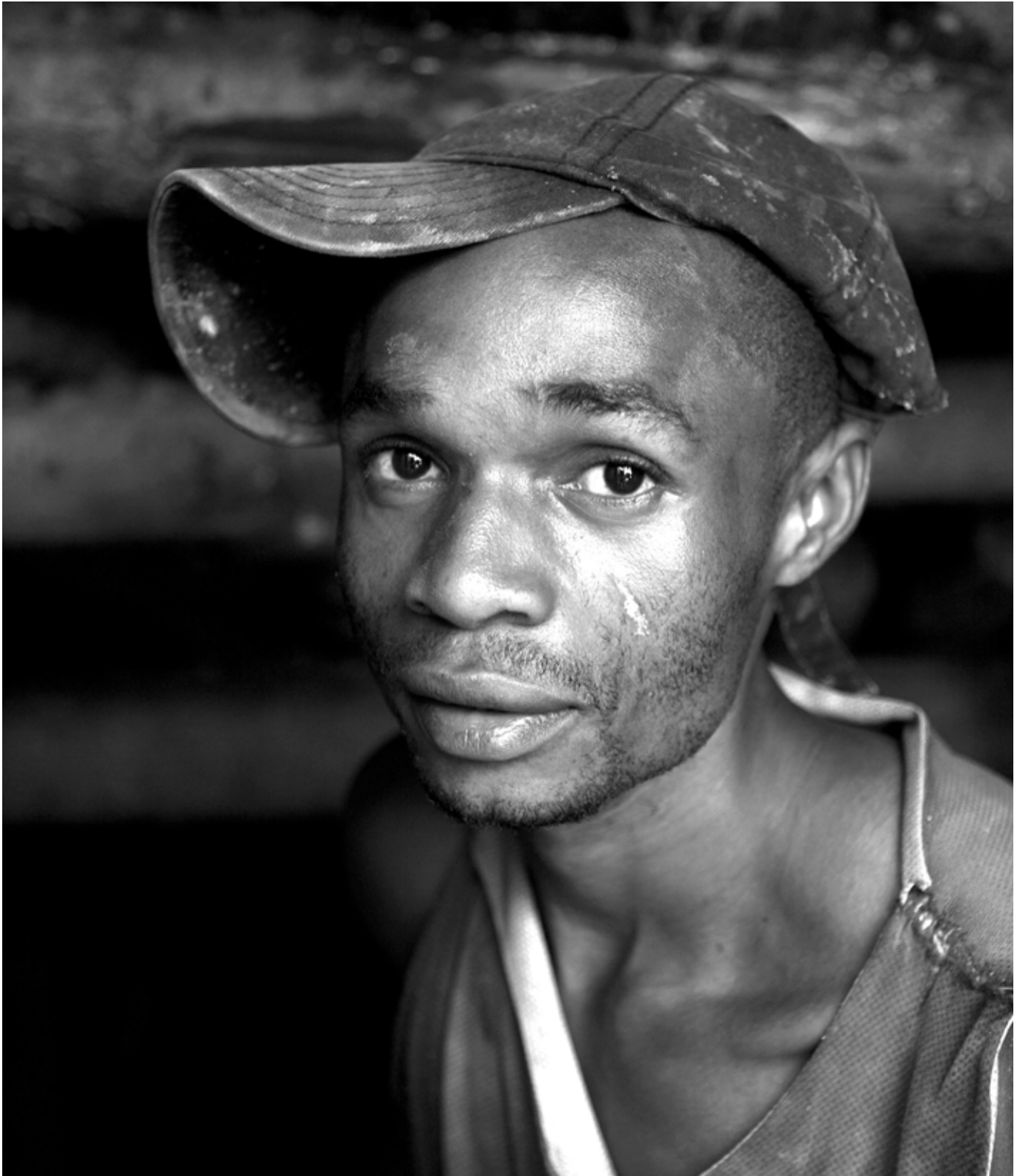
The SARW research found no evidence that any of the requirements listed in Decree 706 had been fulfilled. While SARW did not systematically research the precise details of the suspension order, it did collect anecdotal evidence. For example, Chinese buyers continued to export cassiterite, coltan and wolframite throughout the suspension²⁹ – and did so at great profit. According to buyers in Goma and Bukavu, who abided by the suspension decree, buyers from TTT Mining and Huaying Trading exploited the growing desperation of artisanal cassiterite miners, who were afraid of losing their livelihoods and were willing to sell their product at significant discounts (of up to 80 percent compared to world market valuations).

SARW has found no evidence of a stoppage in gold production and export. Since almost all gold still leaves the DRC illegally, it was predictable that gold exporters would ignore President Kabila's suspension, although artisanal gold miners came under significant price pressures (losing on average 20-25 percent compared to their normal selling price).

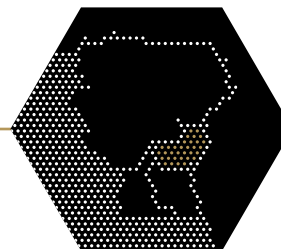
President Kabila's decree appears to suffer from the same weakness as the 'Obama Law'. Both can be characterised as being overly ambitious and too far removed from the realities on the ground. Both laws have delivered little improvement for artisanal and small-scale mining communities. The US Conflict Minerals law suffers from the additional problem that the SEC only operationalized its application in August 2012. Until the law is properly implemented and enforced, any possible impact is based on voluntary compliance by individual companies.

Hopes for the eventual success of the law are not high. Chinese buyers and manufacturers have already made it abundantly clear by their actions that they will not follow any due diligence. The front is already crumbling. SARW is aware of a number of other major buyers of cassiterite, coltan, wolframite, and gold who will not wait much longer before they start buying and exporting as well. Their reasoning is compelling: if the US Conflict Minerals Law only creates competitive advantages for those who can afford not to comply, the market is distorted and the law is not sustainable.

There are other parallels between President Kabila's ill-fated suspension and the US Conflict Minerals Law. Over the past 15 years, the cycles of violence have repeatedly demonstrated that the control of mining sites is never static. One month a site is occupied or exploited by a militia, the next it is 'liberated' by renegade FARDC forces that allow government administrators to do their work. In another month, no armed groups are present at all, but government agents start to exploit the artisanal miners. The possible exception to this pattern is Walikale in North Kivu. Since the beginning of the coltan boom in the late 1990s it has always been occupied by one or another illegally armed group. Successfully implementing the Conflict Minerals Law or fulfilling the requirements set forth in the suspension decree requires accurate, sustained and up-to-date monitoring of the situation in all mining regions at all times. No one has any illusions that the DRC government is currently living – or indeed can live – up to this responsibility.



A WORLD APART: EXPLOITATION AND TRADE CONDITIONS IN MINING SITES



NORTH KIVU PROVINCE

While gold deposits in North Kivu receive far less international attention than the province's tin, cassiterite, coltan or wolframite mining, artisanal gold production is nevertheless a substantial contributor to the local economy. Located between the Kilo Moto gold belt in Orientale and the Twangiza-Namoya gold belt in South Kivu-Maniema, there are approximately 12 regions with artisanal and small-scale gold-mining in North Kivu - Walikale, Masisi, Lutunguru, Manzia-Luholy-Lubereri, Mohanga, Lundjulu-Loiki-Ubiro, Lubero, Makwasu,

Lutela (includes Manguredjipa), Biabune-Loya and Bilolo-Mobissio-Abakuasimbo. Up to now, very limited exploration has been conducted at these locations apart from the prospecting and semi-industrial exploitation that was conducted by a Belgian colonial company at Manguredjipa.

North Kivu's artisanal gold-mining communities, which are small and dispersed compared to those in Ituri, have been under heavy pressure during the past 15 years of violence. Successive

waves of militias and bandits repeatedly displaced many miners, forcing them into a nomadic lifestyle and pushing them largely outside the reach of traditional academic studies.

The relative isolation of most of these communities, the poor state of the roads, and their complete dependence on regional traders, who buy their gold and sell them foodstuffs and consumer goods, comes at a heavy price for artisanal and small-scale miners (see table 1).

TOOLS, CONSUMER GOODS, FOODSTUFFS	GOMA	MANGUREDJIPA	MUNUNZE	WALIKALE
Large chisel	13 500 FC	22 500 FC	18 000 FC	
Hand chisel	US\$16-20	n/a	n/a	US\$16-25
Hammer	US\$5-10	n/a	n/a	US\$10-13
Mallet 10 Kilo	20 000 FC	25 000 FC	25 000 FC	n/a
Spade	4 500 FC	6 000 FC	4 000 FC	9 000 FC
Torch or flashlight	1 200 - 1 800 FC	2 700 FC	2 000 FC	2 000 FC
2 small batteries	200 FC	400 FC	450 FC	300 FC
2 large batteries	400 - 500 FC	900 FC	600 FC	500 FC
1 pair of boots	US\$10	US\$10	n/a	US\$16
1 bottle of Fanta	500 FC	1 000 FC	500 FC	1 000 FC
1 bottle of Primus (beer)	1 300 - 1 500 FC	2 000 FC	2 000 FC	2 000 FC
1 bottle of Mutzig (beer)	1 400 - 1 800 FC	n/a	2 000 FC	2 300 FC
1 measure of rice	1 000 - 1 500 FC	400 FC	n/a	600 FC
1 measure of manioc flower	400 - 500 FC	n/a	n/a	600 FC
1 salted fish	1000-2000 FC	6 000 FC	4 000 FC	1500-3000 FC
1 measure of green beans	900 - 1 000 FC	1 500 FC	1 000 FC	1 200 FC
1 glass of local brandy	600 FC	1 200 FC	2 000 FC	n/a

Table 1: Retail prices in Goma compared to gold-mining towns in North Kivu

To fully assess the socio-economic conditions of artisanal and small-scale gold miners in eastern Congo it is necessary to analyse the individual buying power they have in their communities. For this purpose, SARW collected retail prices from the Congo's principal trading hubs and the isolated gold-mining sites. In the following sections where the conditions in each province are discussed, tables with retail price comparisons are included. The discrepancies in the retail price of tools, foodstuffs and consumer goods range from 0 to over 100 percent, with no apparent justification other than the dictate of local vendors or their suppliers in Kisangani, Butembo, Goma and Bukavu. The dominant sense is that traders are able to extract a heavy bonus from the gold miners.

Manguredjipa

Manguredjipa is located in Lubero Territory³⁰ and its only road connection is to Butembo, about 100km to the east. Manguredjipa is the centre of sprawling gold-mining communities. Several thousand people live in Manguredjipa, while anywhere from 30,000-45,000 are widely distributed in the 10,000 square km of surrounding forests and mountains. There is no available information about the quantity of gold that is currently extracted from this region.

One international mining company, Loncor Resources, has acquired 55 prospecting permits and in 2009 commenced an exploration programme in and around the historic extraction sites of Manguredjipa. According to Loncor, over 300,000 ounces of alluvial gold and platinum were extracted from the area under the Belgian colonial company, Minière des Grands Lacs (MGL), between the 1920s and the 1960s.

The current gold rush has turned the traditional order of Manguredjipa upside down. According to the Chef De Secteur, Batsosi Nyamwisi, "historically Manguredjipa was the breadbasket of Butembo and of the Grand Nord thanks to large rice and palm plantations. During the war, mining for coltan and later for gold pushed farming almost completely out of this region." The residents of Manguredjipa now import foodstuffs to ensure the survival of the rapidly growing population. A general hospital, primary and secondary schools (some of them Catholic schools), as well as a number of churches serve the population relatively well. Since gold-mining became the dominant activity of many thousands of people in this area, SAESSCAM, the Provincial Mining Division, the mining police, National Intelligence Agency (ANR) and FARDC have arrived too.

SARW focused its monitoring on three quarries: Bakele, Byamungu and Bichakuchaku – all of them located within 15km of the centre of Manguredjipa. In addition to interviews with artisanal diggers, carriers, crushers, washers and panners, the SARW researchers also talked with gold traders, local suppliers of foodstuffs, representatives of the Provincial Mining Division, the mining police, military intelligence, the head of the local medical services, Catholic priests, and other religious leaders. Chef de Secteur³¹ Batsosi Nyamwisi (a recent arrival in Manguredjipa) also assisted with information. There was no representative of SAESSCAM available in Manguredjipa during the time that the SARW researchers worked there.

Until very recently, the tens of thousands of miners working in and around Manguredjipa operated without protection from the FARDC or other state security. Mayi-Mayi groups would periodically come to Manguredjipa and "disturb us" – as one artisanal digger put it – but all artisanal miners reported that the threat of militia attacks has diminished significantly. Only the Chef de Secteur warned that he had reports of Mayi-Mayi groups controlling some outlying mining sites, which are several days march to the west of Manguredjipa. The town is now protected by a recently-deployed FARDC regiment. "When they arrived they had no supplies whatsoever, nor money to buy food or shelter," explained Nyamwisi. "I had to go around town and beg for food for 300 soldiers and officers." Throughout the SARW research period in Manguredjipa, there were no signs of confrontations with armed groups. However, on the return to Butembo, a short fire fight between a FARDC patrol and a small group of combatants blocked the road for several hours. The identity or affiliation of the combatants could not be clarified, as they retreated without taking any casualties.

The absence of any sustained militia threats does not mean that there is no violence in the gold-mining areas. Selemany, an artisanal miner who is working on an old abandoned Belgian mining site without having obtained legal permits, stated: “There are only bandits who are organised by the FARDC soldiers. They extort payments from us.” A miner who did not want to be named for fear of retribution confirmed: “Our biggest problems stem from gangs of young villagers who come here to chase us around the mines until we pay. They are not really organised but they like to pretend that they are militias.” One of the biggest risks, he explained, is robbery on the roads to and from the mines.

Artisanal small-scale gold miners explain how the fees imposed by the agents of the Provincial Mining Division and the taxes raised by national government authorities are a serious threat to their livelihoods. While most of the miners could afford the legitimate fees and taxes, the additional illegal extortions and the daily incidents of ‘la petite corruption’³² add up to an amount that exceeds the means of most artisanal miners. On average, the fee paid for the annual artisanal mining permit ranges from US\$15 – US\$25, which is often lower than the official government mandated price. However, almost all miners pay various surcharges for the permit. Once they pay, they become targets for further random extortions and other fictitious taxes by the agents of the Provincial Mining Division. The flood of charges, fees, duties, taxes and other levies are too much for many artisanal and small-scale miners, and they give up any attempt to operate within the legal space. “I don’t earn enough money to pay for these papers,” said Selemany explaining his decision to conduct illegal artisanal mining activities.

Extra-legal financial impositions exacerbate the already deeply anchored belief that the government is not a force for good in gold mining. Not even SAESSCAM, the agency that is supposed to support and guide artisanal and small-scale miners, is appreciated. “The authorities only come here to get our money,” said one artisanal miner. “Most of the time, SAESSCAM does not even have an agent in Manguredjipa.” When questioned about whether they are aware of SAESSCAM’s mandate to assist with safer extraction methodologies or with the replacement of mercury in the processing of gold ore with safer practices, a group of miners, who wished to stay unnamed, answered: “No.” It is clear that the lack of support and assistance from government agents is a serious hindrance to a safe mining industry.

The impotence of state authority is glaringly obvious even before one arrives in Manguredjipa. The first half of the road between Manguredjipa and Butembo was recently improved and is in fairly good condition, even during the rainy season. However, over the past three years, the last 40km of road have deteriorated

to the point that not even 4x4 vehicles can operate. The only practical modes of transport are light motorcycles, bicycles, and the muscle strength of thousands of people carrying goods over many kilometres. Traders from Manguredjipa transport gold hidden in palm oil containers, sacks of vegetables, or other goods that they want to sell in Butembo. On their return journey, they carry rice, palm oil and manioc, beer, soft drinks, shovels and picks, batteries and electronic gadgets, clothes and household items. Occasionally a few 10-15 ton trucks attempt to traverse this stretch, but they get stuck and their drivers are forced to hire locals to dig through metres of mud in order to move their vehicles forward, inch by inch. On average, a truck takes 1-2 weeks to cover the last 40km to Manguredjipa.

Crossing the mud requires backbreaking effort, but it is the first step in transporting raw gold from Manguredjipa and exchanging it for food and basic necessities. However, the exchange is between massively under-priced gold and massively overpriced food and goods. SARW has calculated that the gold miners in Manguredjipa and other gold-mining centres of North Kivu pay on average 45 percent more for food, tools and consumer goods than they would in Goma.

Despite their important economic contributions to the region, gold miners receive virtually nothing in exchange – including no attention or services from the government. Gold extraction is accompanied by serious violations of human rights, especially against women and children. “There are no measures taken against the frequent cases of sexual violence against girls, women and children in general. There is no police or judicial intervention, no place where victims can go and find protection,” stated a high-ranking official of the provincial government. An artisanal miner and father added: “How can we report our problems about illegal and exorbitant taxation, about the lack of protection and legal remedies when our women and daughters are being harassed, and in most cases the perpetrators are government officials?”

Walikale

Until a few years ago, Walikale was inaccessible by road either from Goma, Bukavu or Kisangani. Since 2005, thanks to the efforts of international donors, passable roads have been built connecting Bukavu and Goma with Walikale. The road from Kisangani is only passable by passenger vehicles as far as Lubutu. Before the roads were constructed, the only way to access Walikale – in an isolated, mountainous area 270km west of Goma – was a short asphalt airstrip built by RCD-Goma over 10 years ago on which STOL aircraft can land. Although the edge of the strip is littered with the wrecks and debris of crashed planes, it remains the only landing site for the entire region.

Roads are the principal entry point for all consumer products for the tens of thousands of inhabitants of the region. In exchange for these supplies, raw minerals with a value of hundreds of millions of dollars are exported to the regional trading centres. Most of these minerals are delivered in sacks after arduous 50km walks through swampy forest from the tin-oxide (cassiterite) and wolframite deposits of Bisie, and from other artisanal mining sites.

The massive wealth generated by the informal mining industry and the ubiquity of rebels and corrupt FARDC soldiers, who illegally exploit the mining communities, has made Walikale the most publicised example of a conflict-mineral zone – with good justification. Following bloody contests between RCD-Goma, FDLR and Mayi-Mayi up to 2004, Walikale, the cassiterite supply lines, and Bisie ended up under the control of the renegade and unintegrated 85th FARDC brigade.

“On average we have to flee from armed attacks every six months. This insecurity has never changed since we started gold-mining here,” explained Nelson Muzema, an artisanal gold miner interviewed at the Wanyarukula mining site near Osso centre. “We have become nomads but with limited spaces to move to.” The southern part of the Walikale region is under the control of the government, but the north of the territory is controlled by the FDLR. Until very recently, Bisie, Omate and Mutchele were under the control of the Nduma Defense Force – better known as Mayi-Mayi Sheka, formed by Ntabo Ntaberi Sheka. Until a few years ago Sheka was the manager of the Groupe Minier Bangandula (GMB), a group established by leading business families from Goma who vied for control over the mining concessions of Bisie. However, CAMI had granted exploration permits for these deposits to Mining and Processing Congo (MPC), a company controlled by South African investors. In March 2011, MPC sold 70 percent of its assets to the Canadian company Alphamin Resources Corp, which has now installed its own management. According to guarantees given directly by President Kabila to MPC in 2009, all FARDC units would leave Bisie by mid-June 2009³³. This guarantee only emboldened Sheka and others to move in again on the rich mining regions.

For gold miners and traders, the security provided by legitimate FARDC troops has its price. “We are required to pay at least 1000 FC for each gram of gold we produce,” explained Nelson Muzema, which is the cost of keeping the soldiers in Wanyarukula friendly. “If we produce greater quantities, they take one twentieth of our income.”

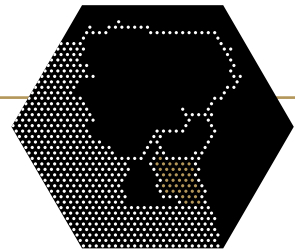
In the Walikale region – widely known for its rich cassiterite mines – gold is an attractive hedge during times when cassiterite and wolframite fetch less lucrative prices on the world markets. The SARW research focused on the gold-mining sites of Zua Idée, Omate, Mucbele, Matungu and Kintimba. In all of these sites, SARW found that artisanal gold miners are subject to considerable violence, extortion and economic hardship.

The lack of credible government authority is aggravated by the unreliable or predatory behaviour of its agents. “On our site there are no officials of the Provincial Mining Division,” stated Faustin Arthur Bingombe, a miner who is also director of a small company in Wanyarukula. “They come by for inspections,” clarified his colleague Limu Papy, the chief of the Etoile Company at Zua Idée. “Every time these government agents are visiting us, we have to arrange for a proper reception. We have to host them with a meal and provide transportation for them. All of this costs a lot of money.”

For Tshiwara Bajunda, who works in Zua Idée, the role of the SAESSCAM agents is a mystery: “We are not aware what their role is, and we have never received any assistance or contributions from them.” Zebo Makenda Ize who works with the LK small-scale mining operation in Zua Idée confirmed: “SAESSCAM has never given us any kind of training.” Balagizi Butu stated bluntly: “The government representatives are extorting us with each sale of gold.”

One of the problems that plague the local gold trading communities is the increasing circulation of fake gold and the inability of government agents to intervene against this emerging criminal element. “There are significant quantities circulating,” explained Mboko Kapunyola Raphaël, head of Isolé des Mines in Walikale. “It is usually offered for around 30,000 FC when real gold goes for up to 60,000 FC per gram.”

Fraudulent gold scales are another widespread criminal ploy that cuts into the income of miners and traders. Lwaboshi Chiraga, a small gold trader based in Walikale centre explained: “We have great difficulties to make ends meet. Somehow in Bukavu, where we sell our gold, they seem to have more exact gold scales.” Once the traders from Walikale arrive there, they always end up with less gold than what they had weighed in Walikale. “We lose every time we go to Bukavu,” said Chiraga. At the same time they have to watch out that their business is conducted when the government agents are not around. “It costs us too much money when they are present and demand their share.”



SOUTH KIVU PROVINCE

The second-richest gold deposit in the DRC, the Twangiza-Namoya gold belt that cuts across South Kivu in an east-west direction, is also one of the spaces where the nexus of conflict and gold has a particularly long history. Armed groups operated from the Itombwe Range during 25 years of perpetual rebellion against Mobutu. It is also the original refuge of the Banyamulenge,³⁴ who were one of the catalysts for the Congolese wars. This is the first region that is on the verge of moving from many years of informal gold-mining into industrial production. In October 2011, the Canadian-managed Banro Corporation started to produce gold at its Twangiza mining site. Other sites around Lugushwa and Kamituga are now under development and will commence production in the coming years. Industrial gold production is expected to bring additional revenues to the people of South Kivu.

There are many secondary gold-mining sites in addition to rich deposits of cassiterite, coltan, wolframite, silver, copper, cobalt and other minerals. Most of these deposits (including the gold now being mined by Banro) used to be part of the vast Belgian-Zairian conglomerate Société Minière du Kivu (SOMINKI).

During Mobutu's Zairianisation of the mining sector, the industrial installations were abandoned and exploitation of the region's assets reverted back to artisanal and small-scale operations.

Historically, South Kivu has spawned a diversity of armed groups. Together

with North Kivu, the province is dotted with surviving units of FDLR and Mayi-Mayi. In recent years, Hutus who banded together in FDLR units have come under attack in successive military operations, starting with 'Umoja Wetu' in 2009, a joint Congo-Rwanda military offensive, and 'Kimia II' that was assisted by MONUC. While the FDLR are now fractured and decimated, they are still a destabilising factor as the last major confrontation in Shabunda province (November-December 2011) demonstrated. And roaming FDLR bands still threaten gold-mining communities, as SARW learned in interviews with artisanal gold miners in Kalehe.



Mwenga/Walungu

The historically prominent gold-mining centres of Kamituga and Lugushwa and many other sites in the Walungu and Mwenga Territories tap into the Twangiza-Namoya gold belt. In the past, these sites were mined industrially by SOMINKI. The Banro operations in Twangiza and at Namoya to the west in Maniema Province are expected to yield 240,000 oz of gold per year. The expected revenue will fund expansion costs at the Banro sites in Kamituga and Lugushwa. The required investments will infuse hundreds of millions of dollars into the regional economy in the form of direct taxes, dividends, as well as indirectly through the commission of various works, acquisitions and salaries.

While the mid-term prospects for the region are positive, the short-term prospects are dominated by widespread fear of the consequences that the transition from informal to formal gold production will have on local communities. Misinformation and rumours abound that Banro will displace entire villages and deprive the Congolese of their traditional right to benefit from their land's gold riches. Any white visitor to the region is normally mistaken as an emissary of Banro, and will be viewed with a great deal of suspicion. The assumption is that Banro will gradually displace the entire artisanal and small-scale population within its extensive concessions. "All of Kamituga is part of the Banro concession territory," explained Mukupi Bulambo, a miner on the Isomisa gold mining site. "There is no mechanism to guide us to free mining sites, or information available about alternative artisanal mining zones. Instead of helping us, the government just blocks the issuance of artisanal mining permits." Another local miner, Mulmabi Karubandika, is very aware of how exposed they are to Banro's decisions. "Everything can change from one moment to another. We do not know our rights. We do not know the precise boundaries of the Banro concession land." Bulambo and many of his colleagues fear that any day Banro will arrive and shut them all down. "From time to time a Banro representative comes to reassure us that they are not ready to work in our area," said Bulambo. While that is helpful, the miners still fear the inevitable day when Banro will change its plan. "It will be a great tragedy because we will not be prepared for that day," added Bulambo.

To some extent these fears are offset by Banro Foundation's efforts, including the building of roads, the Mulambi Mission medical facility north of Twangiza, the Kibiswa primary school near Namoya (on the South Kivu side of the border with Maniema) and the Makalanga Women's Resource Centre in Lugushwa. The company also provides water-supply remediation, supplies latrines to hospitals, builds sports facilities, rebuilds churches, and sponsors an array of local

AT LEAST 80 PERCENT OF THE POPULATION OF THE KAMITUGA AREA DEPENDS ON INCOME FROM MINING

and regional activities – social contributions that are required of any mining company by national laws. But Banro has missed important opportunities to make these contributions better known in the wider region by publishing reports about its plans and efforts not only in French but also in Swahili. According to its most recent release, Banro currently has 634 skilled employees of whom 558 are Congolese. Another 2,600 Congolese are directly or indirectly employed in the construction phases of the various projects that the company is undertaking in South Kivu and Maniema.

With or without Banro, the backbone of the local economy is mining. "At least 80 percent of the population of the Kamituga area depends on income from mining," estimated Messe Wangalusu, manager of a small-scale gold-mining operation at the Kabatongo site. The remaining 20 percent of the population indirectly depend on mining since they are the traders who supply the communities.

With the new regulation issued by the Ministry of Mines that forces all artisanal miners to organise themselves into cooperatives, the economic dynamics have changed for the worse. "Rather than represent and protect our interests, we now find that our cooperatives are just another cost factor that has to be borne by the miners," explained Messe Wangalusu. "These escalating financial pressures will swallow us up." The rising cost of living is taking a heavy toll on the wallets of miners. "To put food on the table for my family of five, I pay at least US\$10 per day. Everything we buy here has to be brought in from Bukavu – for which we pay. And because the roads are in a very bad state, we are forced to pay an extra price on top of the already higher costs for all the goods and foodstuffs."

Everyone interviewed throughout the entire artisanal mining structure, including the small gold traders and the local associations representing miners and traders, agrees

REPRESENTATIVES OF ARTISANAL MINERS AND GOLD TRADERS <i>Taxation authority</i>	ITONGWA <i>Mine manager</i>	THIERRY BABINGWA <i>President of the Association of Artisanal Miners of Mwenga</i>	AMULI MUZUNGU <i>President of the Miners of Nyamurhale</i>	SONGA ILUBA <i>President of the Association of Gold Traders of Kamituga</i>	JOHN KIBUKILA <i>President of the Association of Gold Traders of Mapale/Lugushwa</i>
Provincial Mining Division	US\$125 per year	US\$25 per year Application form for artisanal mining permit; US\$15 per year Artisanal mining permit; US\$30 per year Technical exploitation permit; 1000 FC per day entry fee to mining site for each artisanal miner	US\$10 per year Application form for artisanal mining permit; US\$15 per year Artisanal mining permit	US\$50 per year Application form for permit de negociant (no receipt); US\$150 per year Permit de negociant	US\$50 per year for Application form for permit de negociant US\$10 Authorisation for transport of minerals
Provincial Revenue Services	n/a	n/a	n/a	US\$33 per year	US\$150 per year
SAESSCAM	US\$80 per year without receipt	US\$10 per month and mining site; US\$100 per year membership fee for cooperative; US\$50 per year fee for mining site management; US\$10 per month tax per mining shaft (Loutra); 500 FC per day for each gold washing station;	1000 FC per month and per artisanal miner	US\$10 per month	US\$10 per month US\$10 for each transactions US\$15 per year 'Identification fee'
FARDC	US\$45 per year	1 gram of gold per month and mine	Not disclosed	Not disclosed	400 FC per week
ANR	Not disclosed	Not disclosed	Not disclosed	Not disclosed	Not disclosed
Direction Générale des Impôts (DGI)	US\$60 per year	Not disclosed	Not disclosed	US\$100 per year	US\$30
Ministry of Environment	Not available	Not available	Not available	US\$35 pollution tax; US\$40 general fee; US\$50 permit; US\$0.1 charge	US\$75 one-time fee; US\$50 permit per year; US\$25 environmental tax
Ministry of Energy	US\$60 per year with receipt	US\$30 per generator; US\$30 treatment fee	Not available	Not available	Not available
Local Officials (Groupment/Cheffrie)	US\$60 per year	3 grams per month and mine for Groupment; 4 grams of gold per year for Cheffrie	Not disclosed	US\$60 per year	Not disclosed
Traditional leaders "Ntulo"	US\$50 per year	Payments in stone of raw gold varies according to mining site	30% of the entire production; Entire production of each Friday goes to Mwami;	Not disclosed	US\$50 per year
Association of artisanal and small-scale enterprises	n/a	n/a	n/a	US\$64 measuring instruments	US\$33 patent; US\$64 measuring instruments
SONAS National Insurance Company	n/a	n/a	n/a	US\$50-100 per year	n/a

Table 2: Legal and illegal taxes, fees, and extortions in Walungu and Mwenga

that on-going harassment and extortions by government officials is the most challenging and threatening problem. Lehopa Butumani, who is a miner in the G7 mine and has been working since the age of 14 without a proper artisanal mining permit, summarised the problems of working as a gold miner: “Administrative harassments by the military, the traditional leaders and the police; lack of assistance and tools, and starvation.”

According to all interviewed miners, government functionaries sometimes collect the legitimate fees for the artisanal mining permit. However, it is much more likely that the same administrators – together with soldiers and officers, traditional leaders and policemen – will extort numerous additional payments. Regardless of whether the fees, taxes or levies raised against them are legitimate, the miners and traders are left with little or nothing in net earnings. Despite their contribution as one of the most significant regional wealth providers, the artisanal and small-scale miners receive no services from the government in return. “SAESSCAM agents only show up to collect our money,” said one miner. Lehopa Butumani illustrated the point: “If one of us requires hospital care, we have to carry the patient 50km from Lugushwa to Kitutu over a horrendous road that turns into a metre-deep mud river during the rainy season. With a motorbike the trip costs US\$20-US\$30.”

Itongwa, who is the manager of a mining cooperative, explained: “The mining police come here only if somebody hasn’t paid the taxes. In that case they shut down the mine.” Until the penalised miners pay a US\$50 fine they are not allowed to resume mining. Thierry Babingwa, president of the mining cooperatives of Mwenga Territory, complained: “The Mining Division has found a new twist by charging for the application form and for the actual artisanal mining permit.” In his opinion, SAESSCAM has completely confused its mission. “Instead of providing training and education to artisanal miners, they see themselves exclusively as a tax collection authority.”

Claude Maliza, an artisanal miner from Birhala, explained how combatants frequently visit the mines. “It used to be just FDLR rebels but they have been pushed out. On the rare occasions when they still come by, they are disguised in civilian clothes. Units of the FARDC are now in control, and they show up frequently to collect ‘little presents’. Whenever FARDC units appear, we have a little panic sweeping the mine,” said Itongwa. “We represent such attractive looting opportunities that if their superiors order them to be transferred, they will fight those orders and simply stay.” Butumani explained: “The soldiers are clearly interested in

nothing else but gold. We never see them during the time we develop a mine or during the rainy season when most of our mining sites are flooded and we are unable to work.”

“When the mines are ready for production, FARDC units will immediately be present. They either enforce a fictitious reason to close the mine so that they can take over the operation themselves, or they force us to give them a certain amount of stone. Frequently, they will crush the stones and wash out the gold themselves. We have, for example, First Lieutenant Guilan of the 14th Brigade who works in the Tobola mines outside Kamituga. He not only runs his own mine, he also acts as financier for other mining sites and is trading gold on his own account,” explained Thierry Babingwa.

Another president of a regional mining cooperative said: “Every Saturday, the FARDC who are based in Butuza extract from all miners in the surrounding areas the gold ore that they produce during two hours of work.” Even if the police and military try to hide their true intentions, the legal adviser to the artisanal miners who are members of the G7-Cooperative knows that the miners are subject to extortion: “They come into the mine to look for trouble and to shut down the entire mine. Unless we pay hefty fines, they will not allow us to go back to work.”

In addition to raw gold or untreated gold ores, many mining communities are regularly asked to contribute food rations of manioc, beans or sweet potatoes to FARDC soldiers.

A secondary area where the gold industry is subject to extortion is the road to the nearby trading centres of Uvira and Bukavu. “There are always armed men out looking for somebody to rob,” explained Songa Iluba, the chief of the local gold traders association. “They are usually in civilian clothes to make us think that they belong to the FDLR.” Even if they are FDLR, it does not matter. Iluba further explained: “The thievery usually takes place in plain sight of an FARDC checkpoint. Our national military forces never intervene.”

In addition to the extortions and grotesque over-taxations, the gold miners of Walungu and Mwenga are also often forced to pay highly exaggerated retail prices. “We spend only 20 percent of our time farming,” stated one indigenous miner. No one pursues farming anymore – the traditional source of income in this part of South Kivu. Degradation due to over-cultivation of the once fertile soil and an increase in pests, such as cassava mosaic, brown streak and many other parasites, have had deleterious effects on the economy of South Kivu.³⁵

Now, the majority of the food consumed in the mining areas is imported and bought at a steep premium by the miners.

Kalehe

Kalehe is situated at the crossroad going from Bukavu northwest to Walikale or northeast to Goma. Despite its strategic location, Kalehe has been traditionally cut off from formalised mining. The region is rich in cassiterite, coltan, wolframite, tantalum, niobium and gold, and since 2008 has attracted foreign investments. The largest holder of exploration permits is the Canadian company, Shamika Resources, which – under its local subsidiary Shamika Congo Kalehe – controls wide-ranging permits in Kalehe and on neighbouring Idjwi island. Shamika has released no information about its financing, or when and where it intends to commence an exploration programme, and any production seems to be far off in the future.

Kalehe's relative isolation is one of the main reasons why the industrialisation of the region has been so slow, particularly as its isolation and the nearby Kahuzi-Biega National Park make the area an ideal resupply base for FDLR and Mayi-Mayi groups. Several times in recent years, the UN Group of Experts has reported on how sections of Kalehe were dominated or controlled by FDLR, Patriotes Résistants Congolais (PARECO), and FARDC units entirely composed of former CNDP combatants. In 2009, the Group also reported how FARDC Colonel Zimurinda controlled many mines in Kalehe, and how his officers were once intercepted transporting 1500 kilograms of wolframite to a trading house in Goma. There is no known follow-up by the government in this case.

Debra Basomi Charangabo, an artisanal miner explained: "Our site is not far from the forest where FDLR are sometimes camped. From time to time, they come by to loot, pillage and inflict other abuses on us". Despite the on-going presence of militias and criminal groups, many artisanal miners stated that they were not being disturbed. On the other hand, they complained of being forced to make regular payments to FARDC soldiers and provide weekly 'military rations' as well as suffering occasional looting sprees by militias. Somehow, artisanal miners in Kalehe have come to accept these abuses and extortions as an unavoidable part of life. Banga, an artisanal miner who is part of the Cominya cooperative, said: "The soldiers regularly impose 'community service' on all miners." However, Patrick Ameli, a member of the artisanal mining cooperative Nyawaronga, pointed out: "Actually, the soldiers do not disturb us much and for the 500 FC we pay weekly they are the only ones who can intervene in conflict situations, or where we can obtain some justice."

In Kahale too, the so-called fees, taxes and levies that are imposed by a swarm of government officials take on absurd dimensions. According to several members of the Cominya cooperative, the weekly fee for the FARDC is 500 FC per miner, US\$22 for one artisanal miner card, US\$4 for an identification card, another US\$10 per month and per mine for each miner plus US\$10 for the SAESSCAM identification document. "Finally, we are also paying US\$5 per week to the president of our cooperative." Bahati Bosco, one of the local miners is under no illusion about the real purpose of these taxes: "They only come here to get our money."

BOX 2: HIGHER RETAIL PRICES IN GOLD-MINING AREAS

While the reasons appear to be quite diverse, a few commonalities have emerged:

1. In a typical gold rush mentality, the populations of many gold-mining communities have ballooned. While no reliable demographic statistics exist, sprouting shacks and haphazard housing in artisanal gold-mining communities are unmistakable signs of explosive growth.

2. Another sign of the gold rush mentality is the complete abandonment of farming and other activities that do not promise high income. As a consequence, large communities that formerly exported home-grown staple foods are now forced to import food. In Misisi in the Territoire de Fizi (South Kivu), which was traditionally a rich agricultural region, palm oil is now imported from Maniema, manioc has to be transported over 130km from Lulenge, and Banyamulenge communities from the north provide beef.

3. There are no asphalt roads outside DRC's main urban centres. As a consequence, most roads are difficult to travel, either because they turn into massive mud streams during the rainy season, or during the dry season thick dust clogs the air filters of vehicles. Transporting food supplies and consumer goods to gold-mining communities across these difficult roads is a monumental task and adds significantly to overall costs.

4. Payment for the delivery of goods and food to gold-mining regions is directly or indirectly made in the form of raw gold. The resulting two-way trade is very advantageous for traders but not for gold miners. Artisanal gold miners are dependent on traders for delivering food and consumer goods to them and for accepting their gold in payment. As a consequence, all goods sold in gold-mining communities are overpriced, while gold is generally undervalued.

Of all the artisanal miners interviewed in Kalehe not a single one could identify a positive service or useful contribution by government agents. “We don’t have too many difficulties obtaining our permits and artisanal miner permits,” stated Ameli “except that we often have to search long and hard to find gold in order to pay for it.”

The prevalent view among the mining communities is that the living and working conditions are ‘deplorable’. Fina Mucweru and Chalonza Natkucheba, two women who operate small trading posts, explained: “We have no health centre, no school, and the roads are so bad that our goods can only be transported to and from Bukavu by motorbike.” Lack of services and rule of law in their community has resulted in complex land disputes and a direct threat to their survival. The land for

which the chief of the camp obtained a mining permit actually belongs to a local farmer. Lwaga Macine, one of the miners, stated: “The landowner wants to raise crops in the surrounding fields and is not allowing our women to farm for our own needs. This jeopardises our survival.”

Ameli pointed out that there are no police stationed near their site with currently over 200 miners at work. Felix Wazekwa Zihahirwa, the chief of the camp, explained that the lack of security even extends to transportation. Neither motorbikes nor bicycles can be used, forcing miners and traders to walk six hours to sell their gold in town or to bring food and supplies to the mining sites. Zihahirwa said: “That exposes us and our traders to high risks of being robbed.”

TOOLS, CONSUMER GOODS, FOODSTUFFS	BUKAVU	FIZI	KALEHE	KAMITUGA	MWENGA	WALUNGU
Large chisel	US\$20	n/a	US\$40	n/a	US\$40	US\$30
Hand chisel	US\$4	n/a	n/a	n/a	US\$6	US\$5
Pick	US\$4.50	n/a	n/a	n/a	US\$7	US\$5
Motor pump	US\$450-500	n/a	n/a	n/a	US\$600	US\$500
1 Explosives set	US\$20	US\$16.-20	n/a	n/a	US\$35	US\$25
Mallet	US\$10-15	US\$16	US\$30	n/a	US\$30	US\$25
Spade	US\$5	n/a	n/a	n/a	US\$8	US\$6
Torch	1,500-3,000 FC	2,000- 8,000 FC	n/a	n/a	3,500 FC	2,500 FC
2 small batteries	200 FC	300 FC	n/a	n/a	400 FC	300 FC
2 large batteries	500 FC	600 FC	600 FC	n/a	900 FC	700 FC
1 pair of boots	US\$8-12	US\$12	US\$12	n/a	US\$15	US\$10
1 bottle of Fanta	600 FC	1 500 FC	1 000 FC	1 300 FC	1 300 FC	1 000 FC
1 bottle of Primus (beer)	1,500 FC	2,500 FC	2,000 FC	2,500 FC	2,500 FC	2,000 FC
1 bottle of Mutzig (beer)	1,800 FC	3,000 FC	2,500 FC	3,000 FC	2,500 FC	2,500 FC
1 measure of rice	1,300 FC	n/a	n/a	1,200 FC	1,800 FC	1,700 FC
1 measure of manioc flower	900 FC	n/a	n/a	800 FC	2,100 FC	1,400 FC
1 salted fish	US\$2	n/a	n/a	US\$2	US\$3	US\$2.50
1 measure of mikeke	4,000 FC	2,000 FC	n/a	2,000-3,000 FC	6,000 FC	5,000 FC
1 measure of green beans	1,400 FC	n/a	n/a	1,200 FC	1,800 FC	1,500 FC
1 measure of peanuts	700 FC	n/a	n/a	1,500 FC	1,000 FC	800 FC
1 can of palm oil	US\$37	n/a	n/a		US\$58	US\$40

Table 3: Comparisons of retail prices in Bukavu and gold-mining centres of South Kivu

Fizi

The hinterlands of Fizi, extending along Lake Tanganyika to Baraka and to the northwest towards Mwenga, and then along the adjacent Itombwe mountain range and the Minembwe plateau, are rich in gold deposits. The plateau is the homeland of the Banyamulenge people, an ethnic group deeply embroiled in the Congo wars. As a leading member of the People's Revolutionary Party, former President Laurent-Desire Kabila lived and operated from Fizi for many years. As the leader of the Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre, he staged the successful overthrow of Mobutu from this region.

Until very recently, rebel activities have prevented industrial mining. However, over the past five years this has been reversed and companies are showing strong interest in acquiring mining permits. TransAfrikaResources had secured permits for the largest tracts of land for mining exploration, brought in drilling equipment and advanced rapidly towards production. However, the UN Group of Experts recently reported that the founder and operations manager of TransAfrikaResources might have a relationship with the Forces Républicaines Fédéralistes (FRF), a Banyamulenge-dominated rebel group.³⁶ The manager, Thomas Nziratimana, was formerly a Vice-Governor of South Kivu and a RCD functionary. According to the UN, the FRF receives logistical and general support from Banyamulenge communities in return for protection. It was also discovered that the FRF raised taxes from local markets and gold traders. These UN allegations were serious enough to cause TransAfrikaResources to abandon its work in South Kivu.

Another concession encompasses Makenda mine, a traditional artisanal and small-scale mining site. According to CAMI records, Kashama Muteba holds an exploration permit together with 38 additional licenses throughout the DRC. They were all granted on 22 January 2007. Kashama Muteba appears to be Ferdinand Kashama Muteba, the President of the Union pour la Démocratie et le Progrès Social (UDPS) chapter in Ontario, Canada. SARW researchers did not detect any sign of activity on this property, leaving the entire gold-rich region once again to artisanal gold miners.

Leda Mining, a company that appears to be a subsidiary of Anvil Mining, owns large concessions to the South of Fizi. Leda sold 75 percent of its rights to a property located southwest of Fizi in Misisi to a junior gold exploration company called Casa Mining, which has also acquired gold exploration rights in Maniema and Katanga. The company has commenced a drilling programme on its Misisi property, but it will be a number of years before any industrial gold production is likely in this

location. Nevertheless, rumours have already made some local gold miners and traders nervous. "If the company begins operations, all traders will be unemployed as we depend on our business of buying gold," said Safari Kazinguvu, the secretary of ANEMISA, the gold traders association in Misisi. "We are not in favour of the industrialisation of this region."

Of concern is the widespread presence of FARDC soldiers who engage in every aspect of gold-mining. "Whenever a mine shows promising gold veins, the FARDC soldiers and officers and the ANR and National Police make us work a certain amount of hours for them," said Mwanza Assumani, a miner and member of a cooperative in Kimbi. "The commanders of the FARDC 10th Military Region have stone-crushers working for them on a permanent basis – they have no choice."

Instabilities caused by the presence of Mayi-Mayi Yakutumba, FDLR, FRF and the forces of the FARDC 112th Brigade (which integrated former FRF combatants) have only recently abated. Once again, the on-going presence of FARDC soldiers continues to impose heavy penalties on artisanal communities. Justin Bitombo, who works in the artisanal gold mine in Misisi, described the relationship with the FARDC stationed in his region: "Most of the time they are ok with us. But it is dangerous. The situation can change at any moment as we saw during the military operation Kimia II. They came frequently into our villages and mining camps to loot, pillage and to take our women."

Under closer questioning, Bitombo admitted that he was subjected to many different abuses, including daily extortion for money or food. "They ask us to work for them for two hours, but then they force us to go on for two days. And in the neighbouring Miba mine soldiers frequently work there but they force the locals to wash their sand for free." With small bands of FDLR and Mayi-Mayi roaming the area, most miners around Misisi are more than willing to accept the transgressions of FARDC soldiers, since their presence is a security-enhancing factor.

To avoid extortion by renegade soldiers – mostly imposed on traders who buy raw gold from the mining sites and transfer it to Fizi – the administrator of the territory has ordered all gold ore to be crushed in Fizi. However, these types of measures just shift the cost around. Raphael Bofoya Limwawa, a member of Comiki, a cooperative in Misisi, stated: "Transporting the stones to the stone-crushers in the centre of Fizi increases transportation costs enormously – that we pay."

The exorbitant payments to the military still do not protect the cooperative against illegal coercions. Comiki's chief has to pay SAESSCAM 300,000 FC per month. Artisanal miners

who are not part of the cooperative but would like to work in the same mining site have to pay 50,000 FC per month. “The traditional leaders of the land where we work demand payments as well, usually in collaboration with ANR agents, the officials of the Provincial Mining Division and the mining police,” said Limwawa.

When President Kabila imposed a six-month suspension on all mining activities, the officers of the 112th and 113th Regiments did not enforce it but took advantage of it. “Each stone-crusher was required to pay each week in order to be permitted to work,” explained Mwanza Assumani, a miner and member of a local cooperative. The approximately 200 stone-crushers who work at the Miba mining site ended up paying 1 million FC just to secure the military’s permission to continue to work. After they were allowed back into the mine, they were still forced to pay 15,000-20,000 FC per day.

A GOLD TRADER BY THE NAME OF BENJAMIN KUJIRABWINJA BAGALWA WAS SHOT AT CLOSE RANGE BY SOLDIERS OF THE 113TH REGIMENT.

BOX 3: FARDC CRIMES AGAINST GOLD MINERS AND TRADERS IN THE FIZI-MISISI REGION:

Gold miners and traders operating in the region around Fizi-Misisi are particularly exposed to violent attacks by soldiers of the 112th and 113th Regiments of the FARDC. The soldiers commit frequent robberies, attacks, and rapes and erect illegal road-blocks to systematically extort money from local inhabitants.

Most of these crimes remain unpunished and are particularly upsetting in the case of the 112th FARDC Regiment commanded by Colonel Samy Matumo – the same Colonel Samy who for years headed the 85th Brigade of non-integrated Mayi-Mayi combatants that terrorised Walikale and controlled the rich cassiterite mines in Bisie as well as the nearby gold mine in Omate. Colonel Samy is understood to be a close ally of General Gabriel Amisi (Tango 4), the current Chief of Staff of the

FARDC Territorial Forces, and has been cited numerous times in UN reports.³⁷

The following are some of the incidents involving FARDC troops in the area in the last year:

5 January 2012: Mr Elia, a gold trader, was shot dead by unidentified armed bandits. The assailants also stole 25 tola³⁸ of gold.

3 January 2012: At around 2.30 pm a gold trader by the name of Benjamin Kujirabwinja Bagalwa was shot at close range by soldiers of the 113th Regiment. These soldiers came to rob him of 18 tola of gold. The merchant is recuperating in Panzi Hospital in Bukavu.

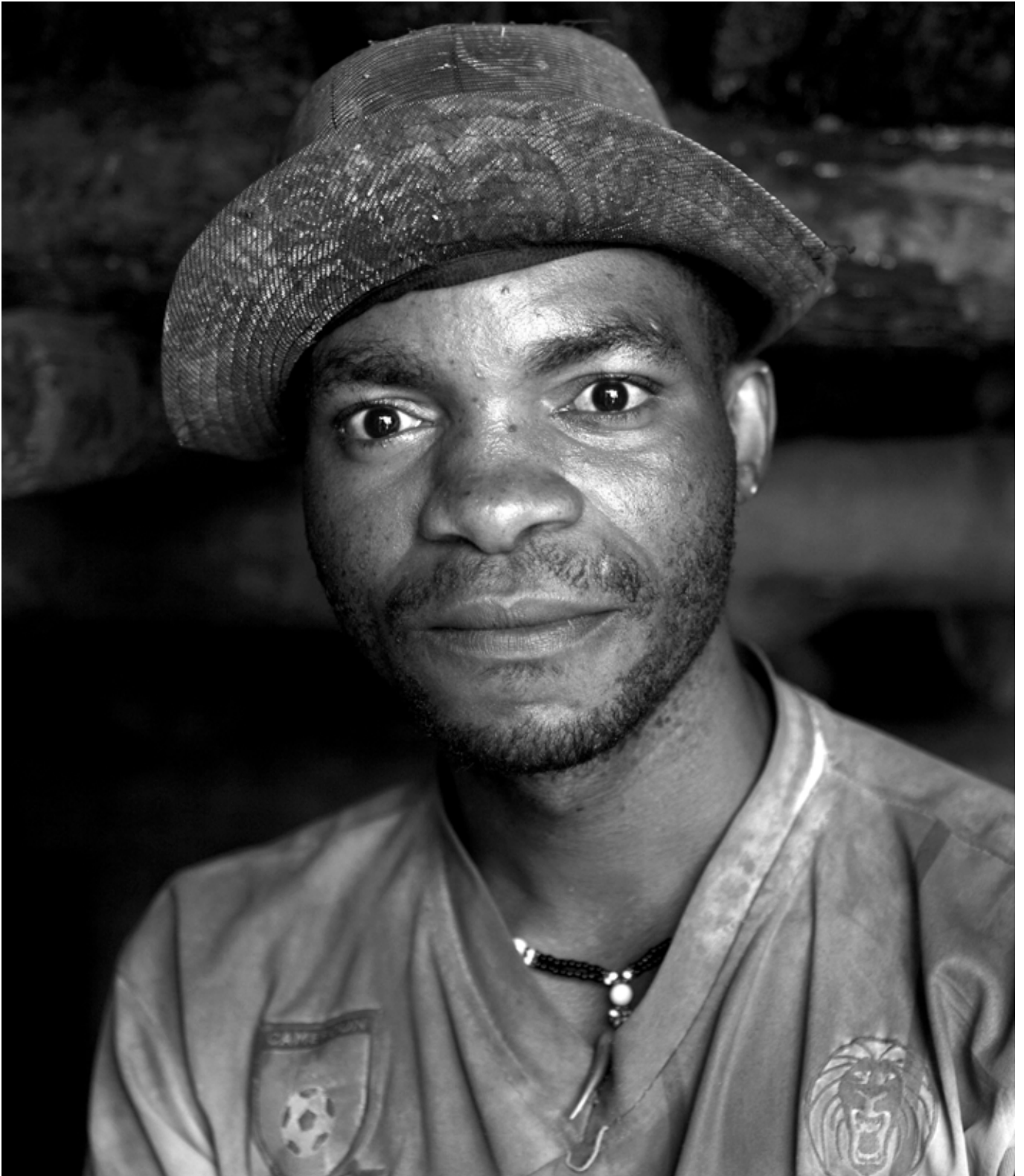
2 November 2011: Soldiers of the 113th Regiment under command of Colonel

Tchikas killed Funga Mali, a gold trader in Lubichako, 12km from Misisi.

1 October 2011: Soldiers of the 113th Regiment killed a dealer who answered to the name Mufungizi in a place 10km from Misisi.

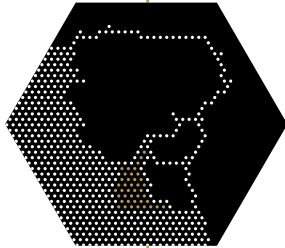
11 September 2011: A gold trader by the name of Mopero was shot seven times at close range by soldiers of the 113th Regiment while he was buying gold. He survived and received appropriate care at the Hospital of Lulimba, 12km from Misisi. The soldiers stole 2,500,000 FC from him.

May 2011: Mr Cishugi, a gold trader, was shot dead. The killers stole US\$4,000 from the victim.



“WE WANT NOTHING
TO DO WITH THEM;

THEY GIVE US
NOTHING BUT TAKE
TAXES FOR WHICH
THERE IS NO LEGAL
FOUNDATION.”



MANIEMA PROVINCE

Of all the eastern Provinces of the DRC, Maniema is the most isolated and least populated. Its rich and highly diversified natural resource deposits attracted some investments during and immediately after the colonial period, including limited industrialised alluvial gold exploitation by Belgika Or and Symetain. Road connections from the surrounding provinces to Maniema are poor with ground transportation from Maniema to the most important regional trading gateways (including Kisangani to the north and Bukavu to the East) coming to a virtual halt during the rainy season. The railway network has been completely destroyed. Only a few local aviation companies provide links to the outside world, but the transport is provided with old aeroplanes that are inadequately maintained and do not meet accepted safety standards.

Weak institutional structures make a mockery of the entire mining industry. There are not only statistical inconsistencies between reports from state agencies, but their data reflect such unrealistically low overall gold output (ranging from 7 to 29 kilograms per year) that the effort to compile data might as well be abandoned (see table 4). Provincial and national authorities do not reliably fulfil their supervisory role – for example, ensuring that gold traders and exporters are licensed and follow all legal requirements. The weakness of state institutions is demonstrated by the fact that of the 537 agents of the Provincial Mining Division who are supposed to be active, only 137 have received contracts so far. The rest are left in limbo regarding their authority and their income.

YEAR	PRODUCTION DATA REPORTED BY THE PROVINCIAL MINING DIVISION	PRODUCTION DATA REPORTED BY SAESSCAM	EXPORT DATA REPORTED BY CEEC
2007	29 097.7 gram	n/a	7 495.5 gram
2008	15 712.9 gram	3 975.9 gram	8 267.9 gram
2009	16 983.5 gram	n/a	15 035 gram
2010	25 103.3 gram	n/a	n/a
2011	22 180.2 gram	n/a	n/a

Table 4: *Inconsistent statistical data about annual provincial gold production and exports*

However, industrial exploration and exploitation will soon increase in Maniema Province. The Australian company, Erongo Energy Limited, has acquired a 70 percent share of nine permits originally owned by Afrimines Resources. The company is run by a former Tiger Resources Executive and Klaus Eckhof, formerly of Motogold. Testing and drilling started in 2011 on some of the properties. The Erongo projects are to the west of Banro's Namoya mine, which is situated in the border region near Salamabila. When the mine commences industrial operation in 2013 it will be Maniema's most important industrial mineral exploitation venture.

Construction for the Namoya project is underway and throughout this year several hundred locals will be employed in the construction phase, while an additional contingent of permanent employees will be added once the Namoya plant is operational next year. Around four villages are directly affected by Banro's build-up and will have to be moved. Representatives of the company are negotiating with artisanal miners to determine who should be considered a genuine resident and as such, eligible for Banro Foundation's compensation scheme. Predictably, the number of affected residents differed significantly when the negotiation began, with Banro recognising 106 residents while the locals identified 856 residents. The likely compromise will provide a significant number of new houses, financial compensation, and a yet-to-be-determined number of job opportunities for suitable candidates at the Namoya plant.

Localised confrontations between the FARDC and UN peacekeepers on one side and remnants of the FDLR and Mayi-Mayi groups in North and South Kivu on the other side produce spill over security issues affecting Maniema's gold production. Since the SARW research commenced, FDLR units, Mayi-Mayi Simba and other groups sometimes withdrew from Shabunda in South Kivu or from Walikale in North Kivu in the direction

of Salamabila or Lubutu respectively. Small, semi-permanent Mayi-Mayi and FDLR units, as well as FARDC troops already deployed in Maniema, frequently harass artisanal gold miners along the Maniema-South Kivu border.

For Paul Wembolenga, the provincial director of FEC, the only issue is whether the artisanal miners choose to pay armed aggressors voluntarily or not. François Muhemedi, the chief of the Provincial Mining Division, believes that there are a few soldiers in the gold-mining areas along the border, but that none of them bother the miners. "Members of the Police and FARDC may at times, during their official missions, demand from the artisanal mining communities a per diem for their rations." But in Wembolenga's experience, armed groups and military units come to gold-mining areas for three reasons only: "Kidnapping, rape and looting." However Wembolenga does admit that sometimes FARDC troops do intervene for their protection. Nevertheless, Monsieur Ibrahim, the chief of SAESSCAM, said: "In some sites, the security is not sufficient." As a result, many communities fear the military and are deeply distrustful. Hélène Andjelani who leads Réseau Wa Mama Simameni, a self-help group for women, summarised her experience: "There is no security for us."

On the list of most worrisome issues for artisanal and small-scale miners, physical security is topped only by the daily transgressions committed by government officials. "I have personally witnessed several incidents when government officials have extorted the miners," explained Wembolenga. Agents of the provincial mining division, SAESSCAM, CEEC, DGM, ANR and the mining police are usually found on or near the mining sites. The individuals interviewed are in agreement that these government agencies offer scant benefits. "The biggest challenge is the many taxes that government agents impose on us," said Sefu Zakunani, secretary to the artisanal

miners association of Bikenge. “We are quite certain that these agents are not channelling the money they get from us into the treasury of the province or the state.” SAESSCAM agents enjoy very little respect from the artisanal miners of Bikenge. “We want nothing to do with them; they give us nothing but take taxes for which there is no legal foundation.”

Wembolenga makes similar accusations: “The mining police come here with the only mission to get the miners’ money.” His members made Jean Népomgongo Kaborongo, the president of FEC Kampene, aware that the representatives of SAESSCAM

provide no assistance or training to the miners. He believes that the same agents are working closely together with the Provincial Mining Division to dictate who is permitted to access a mine and work there and who is not.

Defao Waupenda, the chief of the artisanal miners association of Bikenge, believes that many problems are fundamentally connected with widespread ignorance of the laws in force. This basic lack of information and understanding leads to what he describes as “acrobatics in order to obtain all necessary documents and widespread discouragement and multiplicity of taxations.”

TOOLS, CONSUMER GOODS, FOODSTUFFS	KINDU	KAMPENE	BIKENGE	PUNIA	KAMANYOLA	KAOLE
Large chisel	37 200 FC	36 800 FC	12 000 FC	40 000 FC	60 000 FC	60 000 FC
Hand chisel	6 510 FC	18 400 FC	n/a	15 000 FC	25 000 FC	25 000 FC
Pick	13 950 FC	23 000 FC	n/a	15 000 FC	25 000 FC	25 000 FC
Compressor	4 500 FC	9 200 FC	n/a	n/a	n/a	n/a
Mallet	23 250 FC	46 000 FC	40000 -45000 FC	30 000 FC	40 000 FC	40 000 FC
Spade	5 500 FC	7 000 FC	5 000 FC	5000 FC	8000 FC	8000 FC
Torch	2 000 - 4 500 FC	3 000 - 5 000 FC	4 500 FC	4000 FC	5000 FC	5000 FC
2 small batteries	400 FC	420 FC	400 FC	400 FC	600 FC	600 FC
2 large batteries	600 - 800 FC	1 700 FC	600 FC	1000 FC	1500 FC	1500 FC
1 pair of boots	9 000 - 10 000 FC	15 000 FC	15 000 FC	13000 FC	20000 FC	20000 FC
1 bottle of Fanta	1 500 FC	2 000 FC	2 000 - 2 500 FC	1500 FC	3000 FC	3000 FC
1 bottle of Primus (beer)	2 500 FC	4 000 FC	4 200 FC	2000 FC	5000 FC	5000 FC
1 bottle of Mutzig (beer)	3 500 FC	n/a	n/a	2500 FC	6000 FC	6000 FC
1 measure of rice	280 FC	250 FC	300 FC	500 FC	1000 FC	1000 FC
1 measure of manioc flower	80 FC	120 FC	100 FC	150 FC	300 FC	300 FC
1 salted Fish	3 500 - 9 000 FC	4 600 FC	3 500 - 5000 FC	2000 FC	3000 FC...	3000 FC...
1 measure of green beans	300 FC	350 FC	400 FC	750 FC	1500 FC	1500 FC
1 measure of peanuts	250 FC	250 FC	300 FC	800 FC	1500 FC	1500 FC
1 can of palm oil	24 000 FC	15 000 FC	14 000 FC	18 000 FC	30 000 FC	36000 FC

Table 5: Retail prices in Kindu and Punia compared to mining sites of Maniema



The improper behaviour of national and provincial government employees extends to the exploitation of children. Alphonse Kibwe, a 12-year-old miner who works on gold-mining sites around Kailo, northeast of Kindu revealed: “I have to pay US\$20 to US\$50 for a document that the government agents say gives me the right to mine.” On the mining sites where he works, other children, including orphans and abandoned or demobilised child soldiers, work in the mines. “They help with washing the gold, they carry the sand bags, and girls work in road-side stores or as prostitutes.” None of these activities worry government officials. “They only come here to extract money from me,” said Kibwe. Rather than protecting miners and seeing to it that safer work conditions prevail in the mines, government agents, the traditional leadership of the local villages, soldiers and security forces compete with each other for control over the mines and the gold. In the midst of this chaos, the 12-year-old boy has adjusted to the rule of the strong: “We are on good terms with them as long as we keep paying.”

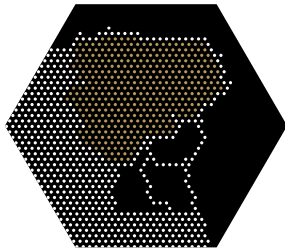
... other children, including orphans or abandoned or demobilised child soldiers work in the mines. “They help with washing the gold, they carry the sand bags, and girls work in road-side stores or as prostitutes.”

Bongelo Balimwatcha, a 53-year-old miner working on the same sites as Kibwe related very similar experiences: “Where we have armed government officials, we are being harassed and exploited. The worst are the mining police officers who fine us for a never-ending list of infractions.” The irony is that insecurity for the miners increases dramatically once the military arrives. Balimwatcha explained: “Extortions and violence increase when they are here.” Representatives of the government are not permanently stationed in Kailo. “But they do visit us on a regular basis whenever they are broke,” said Balimwatcha.

Stéphane Lutika, a former artisanal miner who now earns his living as a small gold trader described how the region around Kailo used to be destabilised by Mayi-Mayi groups: “The military has gained control over our area and should now create conditions that promote secure mining. But we pay for the peace. The soldiers show up every day to get manioc, rice, banana and oil.” In addition, soldiers are often also competitors for the rich deposits in the mines. “They come in and start to dig in our richest mines – whether we want them here or not.” A young restaurant operator, Amba Yengola, described the bureaucratic hurdles to obtain permits necessary to work as a miner: “We have to do a lot of acrobatics to get our permits, and yet, we are still bothered by the government and military who come to our mining sites.” Twelve-year-old Kasimu Mujana described the relationship with the government: “Tense and particularly with soldiers who we do not trust.” Kasimu explained that miners must satisfy many demands for money and goods, but the military still does not look after their security. “Many children work in the mines and young women are used for prostitution. There is no protection for us.”







ORIENTALE PROVINCE

Nowhere is artisanal and small-scale gold-mining anchored more deeply into the history, economy and suffering of the Congolese people than it is in the Ituri District, the western section of Orientale Province. Over the past 15 years, beginning with the First Congo War, Ituri's gold-mining regions spiralled into uncontrolled ethnic violence. During the Second Congo War, when Ugandan and Rwandan troops occupied and thoroughly pillaged most sites, the remaining infrastructure of the major parastatal company OKIMO was dismantled, and whatever pieces of value that were left were hauled off across the border to Uganda. For three years, a succession of warlords battled each other for temporary control of the gold mines around Mongbwalu and Watsa.³⁹ Beginning in 2004, the UN and the Transitional Government of the Congo made a determined effort to bring peace to Ituri. Eventually, the leaders of the most violent militias were sent off for prosecution at the ICC in The Hague, others were incarcerated in Kinshasa and international mining companies were invited back to restore the dilapidated operations. At that point, OKIMO existed only as a terribly undermanaged entity, with its staff in Bunia thinking and operating as if they were independent of the company's headquarters in Kinshasa.

During the post-war period, exploration agreements between OKIMO and international joint venture partners, such as Anglo Gold Ashanti and Motogold, were signed under less than transparent conditions. A third international partner, Mwana Africa, obtained exploration rights. However, the terms of these contracts soon became subject to contentious renegotiations because the DRC government discovered a number of unfair terms. By 2007, the original permit holders had to surrender their rights and make room for new international partnerships:

- The only major gold operation left unscathed was Mwana Gold, owner of the Zani-Kodo project situated west of Aru, whose contract was signed in June 2005. Mwana controlled 80 percent and OKIMO retained 20 percent of the project. The sites on which the company conducted its exploration were mined industrially until 1964. Currently, there is no timetable for commencement of industrial mining and processing.
- The Mongbwalu project downsized to half its original territory and is now called Ashanti Goldfield Kilo (AGK)

with 13.78 percent still controlled by OKIMO. The project is commonly referred to as AGK. The joint venture partners project the treatment of 500,000 tons of gold ore per year over five years at their first subterranean exploitation site at Adidi-Kanga. The date of inauguration of that mine has not yet been set.

- The Kibali project replaced Motogold and is now operated as a 90/10 joint venture between Randgold, Anglo Gold Ashanti and OKIMO. The project is advancing rapidly towards operationalising one open pit and one underground mining site, as well as one processing plant. Limited production is expected to commence by 2014 with 600,000 ounces of gold ore at 4.1g/t gold per annum for the first 12 years. Camps for construction workers, who will be recruited from nearby communities, and the resettlement of 15 communities are progressing according to the social contribution plans approved by all partners.
- Kilo Goldmines Ltd is a Canadian gold exploration company that has secured an exploration permit from OKIMO for a 7000 square km area to the west of the

Kibali project. No data is yet available about exploration or exploitation.

- In July 2010, OKIMO signed an agreement with the Swedish junior gold-mining company, Mineral Invest International AB, for a 1442 square km area, which is known as the Wanga deposits. They are situated south of the road connecting Faradje and Dungu. So far, the company has conducted preliminary exploratory steps only. It intends to develop the property, possibly in a joint venture with a large gold-mining company. The company, which is listed on the Swedish Stock Exchange, is involved in the mineral trade, but it is uncertain whether they will engage in gold trade or export in the DRC.
- Negotiations for a number of additional exploration permits for junior mining companies were ongoing during late 2011 and into 2012.

International gold-mining companies have also shown increasing interest in gold deposits located outside the OKIMO properties. Loncor Resources has acquired several exploration rights in the province, one of which is located at Ngayu, 270km northeast of Kisangani.

Around Yindi, important gold deposits were historically exploited by Belgian enterprises.

Thanks to the strong interest of industrial mining companies, the region should experience significant growth in the coming years. For artisanal and small-scale miners, however, this is a time of heightened concerns. For some, eventual displacement and loss of access to traditional artisanal mining might be inevitable. Others might be affected in more positive ways. Social impact mitigation schemes require that all companies wishing to engage in industrial mining in the DRC provide employment, resettlement in furnished housing, schools and improved medical care for local residents and artisanal miners. But for the time being, a sense of insecurity (and sometimes anger at the foreign companies) dominates the discourse.

In large part, the insecurities result from very poor communication strategies by the joint venture partners. While the companies appear to live up to all legally mandated disclosure statements, operating plans, socio-economic assessments, papers and studies that discuss eventual displacements and resettlements of villages, or employment opportunities, none of these important documents are published in the local languages spoken by the affected populations. The lack of correct information extends to the most elementary level. For most locals, the correct names and roles of SOKIMO and its joint venture AGK are shrouded in mystery. There is on-going confusion about the name of the company. The fact that SOKIMO (the legally correct name for the company) is no longer a parastatal but is a public company has not yet registered with the informal mining community of Ituri District.

For artisanal and small-scale miners, it matters a great deal whether they operate on property controlled by SOKIMO or dig for gold on land under the jurisdiction of the Provincial Mining Division. Emmanuel Maki, the technical director of the small-scale mining operation at Kipe Yayo, which is within the SOKIMO-AGK land area said: “The company has signed an exploitation contract with me. In exchange they demand 30 percent of the sand we dig out and charge US\$1000 per 500 square metres we use per year.” The remaining output of the mine is for the contractor, his sub-contractors, their labourers, material and tools. On the other hand, an ‘Encadreur’, who operates as the primary contractor pays 30 percent to SOKIMO but keeps 30 percent and distributes the remaining 40 percent among his local sub-contractors or mine manager, also known as ‘De Trou’. He in turn decides how much to pay his labourers.

The labourers are hired to dig, carry and wash the sand. For these workers, the income they earn under the SOKIMO system can vary significantly. On one site SARW researchers found women carriers at Iga-Barriere who earn as little as 200 FC per day, whereas at another site nearby the diggers take home 8000 FC per day (converted into weekly pay this is approximately US\$50). Despite these local variations the conditions that artisanal and small-scale miners find outside the SOKIMO-controlled area are much more favourable. The lawful annual fee for the artisanal mining permit is US\$25. In principle no other charges should apply – a huge advantage over their colleagues labouring inside the SOKIMO perimeter. They are very much aware of these differences, as Basa Mateso, manager of the Nizi IV mine and chief of Baluma Village confirmed: “... the barrage of bribes, taxes and other demands by government agents add up so that we cannot afford them.” Unfortunately, Mateso is caught inside the SOKIMO territory.

BOX 4:

GETY - WHERE ITURI'S BLOODY PAST LIVES ON

Even though the Ituri war was settled in 2005 and most of the leaders of the Ituri militias are under UN sanctions, in a Congolese jail or at the ICC awaiting trial, not all of Ituri is pacified. In February 2012 the FPJC took over Gety, 60km south of Bunia. According to SARW research there are about 2000 individuals in the Gety area who are associated with FPJC.⁴⁰

“Their presence does not cause more problems to us than usual. What we fear most is when fighting breaks out between the FARDC and the FPJC,” explained Philemon Macho, a 16-year-old gold miner who works on the Olonga mine near Gety. “At that point, the FARDC and FPJC will treat civilians as accomplices, they will pillage, loot and rape.” In the meantime, the population is buying its way out of trouble. Pasteur Bamunoba Katala said: “It is obligatory for everybody to pay something, either to the army or the militia.”

FARDC or FPJC makes no difference to Mainaro Machosi, a young woman who operates a small store near the Sodhu mining site. “The gunmen – military or militia – are all the same: they pillage, they rape, they kill and they force us to give them money all the time. We have no peace, no matter who controls the region.”

Why, he asked, do the miners have to pay taxes to the officials from the Ministry of Environment when they do absolutely nothing to protect the environment?

Mongbwalu

What is commonly referred to as the Mongbwalu gold-mining site encompasses a large area where informal or formal mining has been in existence for over 100 years. It is estimated that about 80 percent (or 36,000–42,000) of the people living in Mongbwalu depend on artisanal and small-scale gold mining.⁴¹ There are hundreds of other mining communities within the permit area of the Mongbwalu project, each with a significant population of artisanal and small-scale miners.

Operating as artisanal or small-scale miners on the Mongbwalu site imposes different conditions compared to other parts of the DRC. As a parastatal, OKIMO has the privilege of licensing artisanal and small-scale mining operators wishing to be active on its properties. In order to better assess the relationship between OKIMO and its private sector partners and between Anglo Goldfields Kilo and the artisanal mining community, the SARW research focused both on outlying areas and mining sites in the immediate vicinity of the future Mongbwalu industrial zone.

Lébi Faruku, a manager of a mine in Pluto highlighted the ambiguity in which the artisanal and small-scale miners must operate: “AGK has suspended the issuing of mining licenses. However, the company pretends to be blind when thousands of artisanal miners continue to exploit gold. Traditional chiefs are selling them these rights even in contravention of AGK’s property rights.”

“We don’t experience many difficulties,” stated Eric Ukumu, an artisanal miner who works at the Pluto site, “except that we are on OKIMO’s property and it is impossible to obtain a mining permit from them.” Ukumu and other artisanal miners in Pluto are seriously bothered by the amount of exaggerated tax-schemes that state agents impose on them, notwithstanding the fact that none of them have any legal mining permits. Government services such as the Ministry of Economy, Mines, or the Environment are only acting as tax collectors. “It is disproportionate, particularly compared to the old times when we would give OKIMO 1 gram of raw gold every 2 weeks,” said Faruku. He then went even further: “We are victims of veritable organised extortion by the civil servants.” Why, he asked, do the miners have to pay taxes to the officials from the Ministry of Environment when they do absolutely nothing to protect the environment?

For Matthieu Ovoa, the co-ordinator of CEMAO, there are even more principled issues at stake: “We are all unemployed Congolese who have been abandoned by the state. We must find a way to survive and exploiting our natural resources is what

we can do.” That is why his cooperative has been fighting over the last five years for the protection of the interests of artisanal miners and to modernise their work. This primarily means finding financial resources that will be used to introduce safer mining techniques. Ovoa explained: “We have to work without legal permits, without support by the state or any other organisations.” However, his members are all exorbitantly taxed by a growing number of governmental organisations. “It’s always about money they want from us.”

All artisanal miners agree that the physical threats from militias are clearly in the past. “The military is in charge and does effectively protect the population,” said Ovoa.

Gold traders who either act as independent buyers of artisanal gold or more often are agents of larger gold traders situated in Bunia, Butembo or Aru, are also tolerated by AGK – and extorted by government employees for whatever they are worth. Traders and merchants are well aware that they are targets of state agents and that they should maintain a quiet existence. One trader, who wished to stay anonymous, stated: “To government officials we are *chakula yetu* – our Swahili expression for ‘from where you eat’.”

Although they trade gold produced by artisanal miners who lack proper permits, the traders are still required by the Ministry of Mines to buy permits at US\$190 per year. Other agencies also raise money from the traders without giving any reasons for the tax. “What ANR is doing, is anyone’s guess,” said the trader, “as is true for others, such as DGI. Very often, they don’t give us any receipt for our payments. That’s our country.”

Hubert Ngabu, another trader who works in the Mongbwalu area, blamed AGK: “They are putting artisanal miners under pressure and make only those zones available that have already been exploited.” This situation stands in stark contrast to what many miners and gold traders fondly recall as the *belle époque* before the war, when Kilo-Moto employed local residents, paid good salaries and constructed roads, hospitals and schools.

Iga-Barrière

Iga-Barrière is situated midway between Bunia and Mongbwalu, at a crossroad that also leads to Fataki, Mahagi and Aru. This privileged geographic position has turned the formerly small mining site into an important trading hub for consumer goods, foodstuffs and gold. The chief of the Groupement estimates that 18,000 artisanal and small-scale gold miners are currently working in Iga-Barrière. They exploit tailings along the banks and in the Nizi River. Significant mining is also going on in the surrounding hillsides, which are exploited by small-scale mining operations, often involving several dozens of employees.

A mini gold rush was recently triggered in Mbudu, a village to the northeast of Iga-Barrière, when a local resident was digging a septic tank and hit upon a very rich gold vein. In a short period of time, the entire village of farmers began digging in their backyards and fields and even ripped their houses apart. Not much is left of the original Mbudu except pits that indicate a major occurrence of artisanal gold-mining.

Such mad rushes on their land may be explained by the extraordinary difficulties and confusions concerning property rights and access to gold deposits. “Who owns the land? OKIMO, SOKIMO or AGK?” asked Généreuse Lotsove, who works with a small-scale mining operation in Mbundu, “No representative told us anything about the future of this space.”

Many suspect that the confusions and the pressures that SOKIMO exerts on the local communities with the help of ANR agents is designed to drive people off their land, which is considered a historic right by many Congolese. “On one site managers of SOKIMO frequently buy our gold because trading with artisanal gold is still their most important source of income,” explained Ngona Lossa, a catechist in one of the local villages. At the same time, many SOKIMO managers appear to take advantage of the miners to the point that they can barely survive. “They take the little that is left to the artisanal miners when in fact all we want is to use the land that belongs to Baluma, our ancestor.”

Small-scale miner Richard Ngbemu explained: “In order to work a mine, one pays 30 kitcheles of raw gold that is currently about US\$1290.” After that there are quantities of sand with high gold content that are given to the police, soldiers, ANR, and other government and non-government employees. Tsala Dhekana, the mayor of Iga-Barrière and a contractor on mining sites, described the full picture of economic deprivations: “The price we have to pay for the rights to mine the land from SOKIMO is beyond our means and still we are required to pay

and obtain the same rights from the traditional leader. Now, once we have the permit, the government services knock on our door to get what they consider their share. The demands by the local ANR intelligence agents are particularly odious. No local miner sees any benefits from their presence. There are a lot of misgivings about these so-called taxes, but we pay them in the hope that we will not be squeezed further.”

For female miners, the economic pressures are particularly difficult. In many cases their husbands were killed during the wars and militia violence, they were displaced or they were otherwise separated from their men and families. Without any capital, there are very few opportunities for survival left for them. The relationship with the government agencies and the joint venture partners is crucial to their survival. “SOKIMO has always bothered us because they have never tolerated our presence unless we paid them,” explained Pascaline Ndjangusi, a female miner and stone collector working on the Sombe-Dimo mine, “But AGK is much worse – they have prohibited everything we do.” The exploitation of single women can take many other forms too. Généreuse Lotsove recalled how a policeman recently fined her for allegedly not respecting the traffic rules while she walked away from a gold buyer. “He knew that I had cash because I just sold a little bit of gold.”

All miners report real improvements regarding the elimination of physical threats and attacks by militias or renegade FARDC forces. “We have no militias left in the region,” stated Issamba Jado, a farmer and part-time artisanal miner from Mbudu. “We have total peace; nobody has to fear for his life anymore. The security situation has improved to the point where our most serious problems are now with AGK.” Some miners have even pointed out that they rely on FARDC to protect their mines and gold when they transfer it to the buyer. A catechist, Dieudonné Bapu, confirmed that whatever precarious situations created by the joint venture partners might exist, the military has no part in it. “We are at peace with the soldiers who are here, they just do their work.” Virginie Love, who runs a little shop in Iga Centre pointed out that recourse for victims of violent crimes is now available: “The police will take violent crimes seriously and there is now also a special court for legal issues related to children.”⁴²

“They take the little that is left to the artisanal miners when in fact all we want is to use the land that belongs to Baluma, our ancestor.”

Mabanga

In contrast to Iga-Barriere, Mabanga is far from the main roads that connect Bunia with Mongbwalu or with Mahagi-Aru. The road to Mabanga is in a deplorable state and even with a good 4-wheel-drive vehicle during the dry season it takes over one hour to navigate from the main road to Mabanga. During the rainy season Mabanga is often inaccessible. Notwithstanding these problems, the gold rush has attracted over 2000 miners and their families, who have built makeshift houses near the three principal mining sites.

Mabanga is part of the territory granted to AGK, but the joint venture partners have not initiated exploration drilling in the immediate vicinity. That does not mean that AGK – or maybe OKIMO – has not established a revenue sharing system with the local gold miners. “According to OKIMO’s rules we are supposed to pay 30 percent of our gold sand, but on average we end up paying 40 percent of our revenues because that’s how much they take from our excavated sand,” explained Gratien Ndahora, a local miner. “It is an abusive system because on top of these payments, agents from ANR, representatives of the Ministry for the Environment and even the FEC are demanding a share of our gold.”

The relationship with the military, on the other hand, brings practical and positive benefits to the miners. In Mabanga, gold is mined in open-pit mines. Substantial amounts of sand, all with a high content of gold, are dug up and stored until the crew can start to wash out and divide the gold.⁴³ “Storing so much valuable sand is risky,” explained Philippe Lokana, a sub-contractor in charge of a mine in Dimo. “It can be stolen, or even our workers may start to wash it out prematurely.” To prevent theft, most miners rely on the military to guard the gold sand deposits day and night, seven days a week. The fee for the soldiers is customarily around 10 percent of the production, which is considered a good investment by most miners. “Their presence on our site has absolutely no negative impact on our work or the security of our families,” assured Lokana, “because they leave once their work is done.”

BOX 5:

FAMETAL – CHINESE SMALL-SCALE GOLD MINERS

On 14 March 2012 the district commissioner of Ituri signed a decree to shut down all operations by Chinese-owned and operated company Fametal. The company had come to wide public attention in the previous weeks when it was found that 39 employees were operating powerful dredging pumps along the Ituri River in a place called Komanda, 75km south-east of Bunia.

TOOLS, CONSUMER GOODS, FOODSTUFFS	BUNIA	MONGBWALU	IGA-BARRIERE
Large chisels	US\$22.50	US\$20	US\$16
Hand chisel	US\$6	\$ 10	n/a
Pick	US\$4.50	n/a	n/a
Motor pump	US\$360	US\$365	US\$ 365
Mallet	US\$15	US\$15	n/a
Spade	US\$4.50	US\$4.50	US\$4
Flashlight	US\$2	US\$3	US\$3
2 small batteries	200 FC	200 FC	200 FC
2 large batteries	500 FC	500 FC	600 FC
1 pair of boots	US\$10	US\$10	US\$10
1 bottle of Fanta	600 FC	1000 FC	700 FC
1 bottle of Primus (beer) v	1400 FC	1800 FC	1800 FC
1 bottle of Mutzig (beer)	1800 FC	2200 FC	2000 FC
1 measure of rice	550 FC	600 FC	700 FC
1 kilo of rice	1100 FC	1200 FC	1300 FC
1 bag of rice (250 kg)	US\$52	US\$55	US\$58
1 measure of manioc flour	250-500 FC	250-500 FC	n/a
1 salted fish	3500 FC	4000 FC	n/a
1 measure of green beans	800 FC	900 FC	800 FC
1 kilo of green beans	1600 FC	1800 FC	1600 FC
1 bag of green beans	US\$130	US\$140	US\$130
1 measure of peanuts	300 FC	-	300 FC
1 kilo of peanuts	2200 FC	1700 FC	2100 FC
1 bag of peanuts	US\$240	\$ 190	\$ 240
Can of palm oil	23 000 FC	24 800 FC	25 000 FC

Table 6: Retail prices in Bunia and mining sites of Ituri District

Bondo/ Banalia

Mining sites in the two territories of Bondo and Banalia are very isolated and only connected by poor roads to the southeast where the next trading centre is in Kisangani, 600 km away. Baye and Seminar are the principal gold-mining sites in Bondo, while Panga and Mangi are the centres in Banalia. Some industrialised gold exploitation began in this area during the colonial period, but the Belgian installation quickly fell into disrepair after independence. The current, informal artisanal mining started in the early 1980s as part of the Zairianisation of the mining industry.

ONE MINER STATED LACONICALLY:

“THIS IS THE LAW OF THE JUNGLE.”

Over ten thousand artisanal miners have been drawn to these remote regions. In the minds of the gold miners, the record prices quoted on world gold markets make it practical to travel these distances and endure the hardships. Government services and oversight functions have not kept pace with the massive influx of artisanal miners. Although SAESSCAM has deployed 150 agents to all areas of the province, not all of them are formally under contract and most of them see monthly salary payments only a few times per year. On the rare occasions when salaries are paid, even senior agents receive a mere US\$30 per month.

The deplorable state of government oversight extends to CEEC, an agency that generally tends to be proactive. According to the head of the Kisangani bureau of CEEC, none of the gold exporting firms that operate in Kisangani have requested legal licenses to do business. The entire output from the artisanal miners is therefore leaving the country illegally and without having been properly taxed.

The unpaid agents responsible for the oversight and law enforcement of the province have turned into hungry predators, who regularly descend upon the artisanal mining camps with fictitious orders and payment demands. “The glaring contradictions in their so-called taxation systems and the multiplicity of government services do not keep the officials from proceeding with whatever they want on any given day,” said a miner from Buta by the name of Bruno Masebu Ngboyoy. “SAESSCAM agents are not bothering to help and instruct

artisanal miners. They are just here to ask us for money – often without giving us any receipt.”

According to the miners, even the government agent’s thievery is not organised properly. “They charge us an exorbitant US\$25 for an artisanal mining permit,” stated Ismaël Marmalaba, a miner from Baye, “but frequently they are out of forms.” Artisanal miners are supposed to pay anyway. Miners who wish to obtain evidence for their payment receive no help. For Marmalaba the conclusion is inevitable: “There is nothing legal here.” Another miner, Jean Ngbangbo agreed: “We are abandoned by the state and no laws protect us.” The lawlessness extends deep into the working lives of each miner, as Ngbangbo and Marmalaba explained: “As soon as we start to find gold in a newly dug mine, a local administrator may show up on behalf of the landowners to chase us off.”

The miners also have to consider that the Disciplinary Brigade is sent against them. These are poorly trained police officers who tend to create a lot of problems. FARDC soldiers and normal police can cause even more serious security problems. Bruno Masebu Ngboyoy told SARW: “The soldiers are not permanently deployed to our mining sites. But every time they show up, they start to loot and pillage our camps and if we object, their answer is arbitrary arrests. This is always a time of terror for our families.”

One miner stated laconically: “This is the law of the jungle.”



CONCLUSION



CONFLICT GOLD TO CRIMINAL GOLD

The artisanal gold-mining communities of eastern DRC are in the grip of a historic gold rush, complete with all the classic symptoms – chaotic migrations, poor sanitary and health conditions, dangerous mine excavation techniques resulting in frequent fatalities, increasing criminal exploitation of the entire process, and incalculable environmental costs. And while the exploitation of artisanal and small-scale miners continues, the identity of those responsible has now changed. They are no longer warlords and militia leaders but corrupt government administrators, members of the government's military and security organisations, and many regional traders.

Gold is undeniably the economic lifeblood of the eastern DRC and could be the driving force behind growth and socio-economic development in the region, but the government lacks any credible and reliable institutional presence, any statistical data, and any genuine plan to properly administer the sector. Inevitably, all policy implementation efforts for the informal gold sector are ineffective.

The result is that gold miners in the eastern DRC have not benefited from notable improvements in the broader economic and security context, including the establishment of peace in most gold-mining areas, record-breaking gold prices on world markets, and restructuring of government agencies, partly supported by the international community, to increase supervision and enforcement in all mining areas.

Indeed, in most cases, artisanal and small-scale miners are no better off than during the chaotic reign of the militias – and in many areas, they are worse off. It is time for the DRC government to act to provide peace and security and allow for gold-driven economic growth in the east.

1

STOP THE CRIMINAL EXPLOITATION OF THE GOLD-MINING SECTOR

One of the central questions this report sought to answer was whether illegally armed groups and militias still represent the most significant threat to artisanal and small-scale gold miners. With the exception of a few minor gold mining sites held by M23, by Mayi Mayi groups around Walikale, the most recent FPJC occupation of Gety in Ituri District, and on-going instability along the Uvira-Fizi-Kilembe axis, the answer is clearly no. The surviving armed groups represent a mere fraction of the previous number of combatants. One well-trained FARDC regiment usually suffices to successfully overpower a band of armed combatants.

Armed groups are still present and are roaming around eastern DRC. As long as they are not stopped there will be continued loss of life, livelihoods and human rights violations in the region. Some communities (as SARW researchers learned, for example, in Kalehe) are preyed upon by FARDC bands, which usually hide in the surrounding forests. Sometimes, their only choice is to escape the banditry. Regardless of how localised such threats against communities are, they signal an unacceptable lack of political will by the national government to stop lawlessness and protect its citizens.

However, as serious as the problem of armed groups is in some areas, the continued spotlight on them distorts reality and distracts from the true task at hand. SARW research shows that the actual challenges facing artisanal and small-scale gold miners and the communities at large are the following:

1. Criminal acts by members of the FARDC and other government agencies;
2. Widespread impunity regarding most violations of laws and human rights;
3. Systemic extortion throughout the informal gold-mining sector; and,
4. Nearly 100 percent of the gold being exported illegally.

In particular, most of the artisanal and small-scale gold miners who were interviewed claim that they no longer face threats and looting from homicidal militias. Instead, they are confronted on a daily basis by hordes of corrupt government officials, functionaries, and law-enforcement or security

personnel, who all wrest illegal taxes and fees from the miners – in addition to straight bribes and extortions – without delivering any meaningful services in return.

The government of Congo must take urgent steps to stop the criminal exploitation of the miners by this plague of bureaucrats and security officials.

2

PROVIDE ADEQUATE PHYSICAL PROTECTION FOR MINERS

The criminal exploitation of gold mining (and the mining sector in general) in eastern Congo is not surprising. In particular, to expect the FARDC and other security services to guard mountains of gold with soldiers who are rarely paid, poorly fed and under-equipped is absurd. Congolese leaders who ask military and security forces to serve in the midst of artisanal gold production worth over US\$1 billion without paying them adequate salaries are playing a cynical game with the soldiers and the miners – and with development in the region.

Since the production volume of eastern DRC's artisanal and small-scale gold mining is not statistically recorded, its importance to the regional economy is largely lost. As a result, the need for effective physical protection of artisanal and small-scale gold miners does not enter into the national dialogue.

It is one of SAESSCAM's roles to assess the output of artisanal and small-scale miners but because of its complete failure to fulfil its mandate, a mosaic of alternative – and incomplete – datasets must be used. The number of artisanal gold miners and their production or value to the DRC economy can only be roughly estimated using a World Bank study,⁴⁴ which showed an annual production of 12,000 kg of gold in 2008 in Orientale, Ituri and the two Kivus. Using the World Bank estimate of 12 metric tons of gold produced per year, calculated at the gold price of US\$500 per ounce from May 2008, the export value might have been around US\$187 million.

One can deduce that the World Bank study must have assumed that approximately 115,000 artisanal gold miners were operating in these provinces. However, Promines estimates that for all categories of informal mining (including gold, tin, copper,

RECOMMENDATIONS

cobalt and diamonds) there are between 370,000 and 600,000 artisanal miners at work in Katanga, the two Kivus and Ituri. International Alert, which worked together with the Belgian NGO IPIS for the Directorate General for Development of the European Commission, concluded in an analysis of gold-mining sites in Katanga, Maniema and Ituri that each miner could produce 0.5 grams of gold per day⁴⁵.

SARW will not venture a guess as to how many artisanal and small-scale gold miners are currently active. However, it would like to offer some illuminating calculations: Taking the current gold price and assuming the same productivity and population of gold miners as the World Bank did in 2008, current production would now be worth US\$500 million per year. But today's much more favourable conditions – in terms of more peace and much higher gold prices – make it likely that there are very many more artisanal gold miners active now⁴⁶. It would not be surprising if their total output was not 2-3 times higher than the 2008 estimate – producing revenues of between US\$1-2 billion per year.

If the government provided adequate physical protection, these amounts would likely be even higher and the sector's impact on the region's economy even greater.

The Congolese government – and the international community – should reallocate funds from the fight against vanishing armed groups to the support of legitimate FARDC regiments.

3

PROTECT ARTISANAL AND SMALL-SCALE MINERS FROM RACKETEERS

In its 2010 study, Promines stated that artisanal mining is one of the most important livelihoods in the DRC and has a potentially important role to play in the country's economy and society, if practice, regulation and impact could be improved.⁴⁷

However, practices and regulations are currently stacked against the gold miners. The dominant trading enterprises of the east deprive the gold miners of the natural benefits that should accrue to them as the originators of the gold. The merchants, who usually operate monopolistic trading networks in a region, buy the raw gold from the miners and sell them foodstuffs and consumer goods in Congolese currency. In the process, they take advantage at both ends of the transactions to

leverage their power. When the traders buy raw gold, they are usually under-pricing the gold and overpricing the US Dollar relative to the Congolese currency. When they sell foodstuffs and goods, they overprice them and benefit from monetising gold to purchase their supplies abroad. Merchants are winning at both ends as well as profiting during the dramatic currency fluctuations of the past years⁴⁸. Miners are losing at both ends – as sellers of raw gold and as buyers of food, tools and other merchandise (see tables 1, 3, 4 and 5).

All these conditions add up to a situation where everyone exploits Congolese gold miners.

BUYING GOODS AND FOODSTUFFS	MINING	SELLING RAW GOLD
Pay for exaggerated transportation costs	Pay for illegal surcharges on artisanal miner permits	Pay for unfavourable gold prices
Pay unfavourable FC: US\$ exchange rate	Pay a host of extra-legal taxes, fees and other charges to government officials	Pay for unfavourable methods of weighing gold
Pay legal and illegal road tolls on the way to and from merchant and mining site	Pay traditional leaders	Pay for unfavourable assessment of content in their raw gold
<i>Table 7: Forms of exploitation of artisanal and small-scale miners</i>	Pay manager or supervisor of mining site	Pay for unfavourable currency exchange rate
	Pay entrance fee to mine	Pay legal and illegal road tolls on the way to and from gold buyer to mining site
	Pay military ration to FARDC	
	May be subject to extortion by illegally armed groups	

Given the sordid role of many government agents, mandating them to impose price controls will very likely achieve unintended and negative consequences. However, political and community leaders should step up to the challenge anyway and at the very least initiate a national debate about improved consumer protection mechanisms and, where existing laws may be applicable, encourage law enforcement actions against criminal racketeering.

REORGANISE OR CLOSE SAESSCAM

The SARW research identifies two groups that subject artisanal and small-scale miners to the most significant illegal and unfair exploitation:

1. Principal trading companies that dominate the import of goods and the export of gold;
2. Agents of various government structures.

While the proto-capitalistic greed of commercial operators surprises no one, the parasitic role of government representatives cannot be excused. In the rankings of the most shameful government agencies, the SARW research puts agents of SAESSCAM (Service for the Assistance and Supervision of Artisanal and Small-Scale Mining) at the top, followed closely by the officials of the provincial mining divisions and ANR.

In 2003, when SAESSCAM was created it received the mandate to assist the artisanal and small-scale mining sector. SAESSCAM exists to:

- Promote the economic development of the artisanal and small-scale mining sector;
- Ensure that training and technical assistance needs are met to strengthen the capacity of the sector;
- Monitor the flow of minerals produced by artisanal and small-scale mining from the mine to the point of sale;
- Ensure that these minerals flow through legal chains of commercialisation;
- Ensure that the correct taxes from artisanal mining are collected for the state;
- Support the creation of artisanal mining cooperatives;
- Assist artisanal and small-scale miners so that they operate in accordance with the laws of the DRC;
- Work in collaboration with other public services and the ministry of mines in the design, production and acquisition of appropriate equipment for artisanal and small-scale miners;
- Improve the quality and quantity of the production of artisanal and small-scale miners;
- Disseminate guidelines on security at artisanal mining sites and ensure that they are observed;
- Ensure the integration of women in the artisanal and small-scale mining sector;
- Encourage artisanal and small-scale miners to invest in other economic sectors; and,
- Participate in the creation of credit sources and funds to promote artisanal and small-scale mining.

It took far longer than expected to get SAESSCAM agents in the field, and according to every agent who SARW researchers

interviewed, once they are deployed to the mining regions they rarely receive salaries.

While the lack of payment is no excuse, it may explain the cynicism with which most SAESSCAM agents operate. Over several days, SARW researchers had the opportunity to work with and closely observe the SAESSCAM supervisor for an entire province. He never made any attempt to explain how he intended to live up to a single point in the SAESSCAM mandate. Rather than implement a clear position against collecting capricious payments, he himself expected to be paid bribes.

The weaknesses of SAESSCAM and the fact that its agents are prone to corruption are not new insights. A 2010 Promines study made the point:

There are many irregularities in the application of tax regimes to artisanal mining and the minerals they produce, including disparities between provinces. Artisanal mining is particularly prone to illegal taxation which places a huge burden on the miners and traders yet, paradoxically, does provide a means of wealth distribution at a community level and fills the gap in payment of many government services. The most extreme cases of illegal taxation include up to 30 percent 'product share' with certain authorities and 'community labour' to pay security services.⁴⁹

The responsibility for a well-functioning artisanal and small-scale mining sector lies with the government of the DRC and its development partners. Given the long-term failure to build SAESSCAM into a functional government unit, it should be self-evident that actions need to be taken immediately. The obvious solution is to either reorganise SAESSCAM, or to close the institution altogether.

A reasonable first step is for the Minister of Mines to order a top-to-bottom management and financial audit by no more than five Congolese management experts, administratively and financially supported by Promines and the Ministry of Mines. The terms of reference for the auditors have to be drafted in consideration of the fact that the current mandate of SAESSCAM may be unrealistic and require significant revisions. The principles guiding any reorganisation of SAESSCAM must be clear: there can be no hiring of an agent if the salary is not guaranteed; there can be no deployment of an agent to the field as long as the infrastructure necessary to do the job is not in place; and all agents must be tested and certified to be competent to do their jobs with integrity.

Finally, the Ministry of Mines must review its internal oversight mechanisms. The pervasive failures of SAESSCAM were obvious long ago and should have triggered decisive interventions by the minister.

ENDNOTES

1. In October 2011 Banro Corporation started the first and so far only industrial gold production in DRC at its Twangiza mine in South Kivu
2. Enrico Carisch has served on the UN Group of Experts on the DRC and on other UN Expert Panels in Somalia, Liberia and Sudan (from 2003-2010). Commissioned by the German Ministry for Economic and Technical Development, he has worked as an advisor and consultant on natural resource certification mechanisms for the DRC Ministry of Mines and the ICGLR.
3. The administrative organisation of the DRC is structured into provinces, districts, territories, and collectives (some local officials also use the terms “sectors” and “groupments”). SARW researchers have typically interacted with the senior administrators of the territories and collectives.
4. From November 2011 to February 2012 the currency exchange rate was US\$1:920-950 FC.
5. The eleven member states are: Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, Sudan, Tanzania and Zambia
6. UN Groups of Experts or Panels of Experts are small, independent units that monitor compliance with Security Council sanctions resolutions that usually contain an arms embargo and a number of supporting mechanisms, such as assets freeze, travel bans, and others. These sanctions monitoring mechanisms should not be confused with the Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the DRC, which was a short-lived experiment when no sanctions mandate was in existence.
7. See Reports of the UN Group of Experts on the DRC under S/2005/36, S/2005/436, S/2006/53, S/2006/525, S/2007/423, S/2009/603 and Human Rights Watch, *The Curse of Gold*, May, 2005.
8. A bullwhip made of hippopotamus hide, used by overseers to punish and intimidate villagers. Sometimes nails were attached to its end to cause particularly deep and painful wounds.
9. *Get Gold from Congo Mines*, Los Angeles Herald, 26 August, 1906
10. Northrup D. “The End of Slavery in Africa” in Miers Suzanne and Roberts, Richard L. Eds. 1988 *The Ending of Slavery in the Eastern Belgian Congo*. University of Wisconsin Press Madison
11. Over time, the meaning of the abbreviations SOKIMO and OKIMO have changed. The three most commonly found meanings are: Société Minière de Kilo-Moto, Société des Mines de Kilo-Moto, and Office des Mines d’Or de Kilo-Moto.
12. UN Security Council 24 January 2000 Transcript of 4092 Meeting at 10 am S/PV.4092
13. UN Security Council 24 January 2000 Transcript of 4092 Meeting at 10 am S/PV.4092
14. See Security Council Mission Report S2000/416, dated 11 May 2000 and S/2000/20 which is the Statement by the President of the Security Council of 2 June 2000
15. UN Security Council, S/2001/357, Paragraph 15 of the Report of the Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the DRC.
16. S/2002/1146 Annex I-III; UN Security Council, Report of the Panel of Experts on the illegal exploitation of natural resources and other forms of wealth of the DRC.
17. *Protect, Respect and Remedy: A Framework for Business and Human Rights*, UN SRSG for Business and Human Rights, Prof. John Ruggie, adopted by the Human Rights Council in June 2008, and *Fit for Purpose*, RAID, November 2008
18. Text of Arrête Ministérielle 2503 see Journal Officielle de la République du Congo <http://www.leganet.cd/Legislation/JO/2007/Sommaires/JO.15.02.2007.n4.pdf>
19. On 1 November 2005 the Security Council listed the following individuals for targeted financial and travel sanctions: Frank Kakolele Bwambale, Jérôme Bukande Kakwavu, Germain Katanaga, Thomas Lubanga, Khawa Panga Mandro, Douglas Mpano, Sylvestre Mudacumura, Dr Ignace Muwanashyaka, Jules Mutsebutsi, Matthieu Cui Ngudjolo, Floribert Ngabu Njabu, Laurent Nkunda, Bosco Ntaganda
20. UN Security Council, S/2005/436, paragraph 87-88, Report of the Group of Experts on the DRC.
21. S/2007/423 paragraph 128 and 173 in the report of the Group of Experts on the DRC; UN Security Council
22. *Problems of certification and traceability of copper and cobalt, Lubumbashi*, Final remarks. By Gorus Jan, De Putter Thierry; International scientific colloquium on good governance and transparency in the mining sector. 11 and 12 April 2007; Task Force on Mineral Resources in Central Africa, published by Ministry of Foreign Affairs, Brussels
23. Security Council Presidential Statement about maintenance of international peace and security: natural resources and conflict http://www.un.org/ga/search/view_doc.asp?symbol=S/PRST/2007/22
24. The initial discussions and agreements between Germany and the DRC took place in 2008, and with the ICGLR.
25. ‘Umoja Wetu’ was a joint military operation by FARDC, MONUC and the Rwandan Defence forces to oust illegally armed groups from the eastern DRC.
26. Typically, these are companies who are listed on one of the US stock exchanges, or (in other words) entities that raise funds on the public markets. Privately held companies have no SEC reporting obligation.
27. Kabila subsequently rescinded the suspension with Decree 34, six months later on 1 March 2011
28. Centre de Negoce are being organised and built near major mining areas and should serve as secure trading centres for minerals to which registered traders will be admitted. The system of centres is being built with UN support and will be protected by MONUSCO and Congolese Security Forces.
29. S/2011/738, Report of the Group of Experts on the DRC, Security Council
30. The administrative division of the DRC is uneven across the country. For example, North and South Kivu plus Maniema (which all used to be part of Kivu Province) have no districts. The order from top to bottom is: province (mairies which applies only in urban zones), cities (commune

or incorporated grouping which applies only in urban zones), territoriale (which applies for rural areas), district (territoire), cité, chefferie or collectivité chefferie or secteur, groupement, village.

31. In this region, this is the highest ranked administrative officer.

32. La petite corruption is a term used in the DRC to describe corruption that is mostly motivated by the lack of income to low-level government employees. This widely tolerated practice has now reached levels where Congolese are often paying a small fee to a government agent without even being asked for money. "Petite corruption" is contrasted to "grande corruption" by senior government officials extracting substantial payoffs for favours.

33. Wikileaks Cable Ref. <http://wikileaks.org/cable/2009/05/09KINSHASA462.html> Cable by US Ambassador William J. Garvelink - Subject: Mining issues in North Kivu and Rwandaphonie

34. South Kivu based Tutsis who are distinct from the Tutsi groups from North Kivu. Banyamulenge migration to South Kivu began over 200 years ago and led to a distinct ethnic and linguistic identity. Increasingly the Banyamulenge have involved themselves deeply in the ethnic, economic and policy disputes that have triggered repeated rounds of violence and wars.

35. L'Economie du Sud-Kivu 1990-2000 : Mutations Profondes Cachees par une Panne, Didier De Faily, Bukavu April 2000 ; L'Afrique des Grands Lacs, Annuaire 1999-2000

36. UN Group of Experts on the DRC Report S/2009/603, paragraphs 231-239

37. S/2009/603, Report of the Group of Experts on the DRC, Annex 124 states that Colonel Samy Matumo is responsible for "Direct and command responsibility for child recruitment and maintaining children within the ranks of the 85th Brigade under his command [and] Forced labour, including in connection with illegal exploitation of natural resources at Bisiye mine."

38. Tola is a weight measure that originated in Southeast Asia but is used widely across Asia and Africa. It is the equivalent to 11.663 8038 grams, although in practice the precise value is often manipulated.

39. The Curse of Gold, Human Rights Watch, May 2005

40. SARW will revise this estimate as its researchers continue to work in the area and obtain more detailed data. However, if the initial estimate of 2000 FPJC holds true it would imply a significant expansion of the group over the most recent estimate of 80-120 (UNDOC, Organized Crime and Instability in Central Africa, October 2011).

41. Mongbwalu Project, Stakeholder Engagement Plan, by SRK Consulting, August 2011.

42. A children's court was installed in Bunia on April 2011

43. Estimates for the actual gold content found in these open-pit mining operations vary between less than 1 g/t up to 2 g/t. This means that a 100kg bag can contain between one-tenth and one-fifth of a gram of gold.

44. Democratic Republic of Congo - Growth with Governance in the Mining Sector; Report No. 43402-ZR, World Bank, Oil/Gas, Mining and Chemicals Department, AFCC2, Africa Region; May 2008

45. The complexity of resource governance in a context of state fragility:

An analysis of the mining sector in the Kivu hinterlands, page 14; by IPIS / International Alert; November 2010

46. In 2008, CNDP, FDLR, PARECO, and various Mayi Mayi groups occupied large areas of the Kivus and many mining regions. Gold production did not cease, but the populations of gold mining sites were frequently displaced.

47. Artisanal Mining in the Democratic Republic of Congo; Promines Study by Pact Inc. June 2010

48. In 2008 the value of 1 US \$ was 500 Franc Congolais; today it is 950 Franc Congolais. In addition to this significant loss, the US dollar has decreased around 30-50 percent in the world market, causing significant shifts in commodity and food prices.

49. Artisanal Mining in the Democratic Republic of Congo; Executive Summary page 5; Promines Study by Pact Inc. June 2010.



The mission of the Southern Africa Resource Watch (SARW) is to ensure that extraction of natural resources in southern Africa contributes to sustainable development, which meets the needs of the present without compromising the ability of future generations to meet their needs.

SARW aims to monitor corporate and state conduct in the extraction and beneficiation of natural resources in the region; consolidate research and advocacy on natural resources extraction issues; shine a spotlight on the specific dynamics of natural resources in the region and building a distinctive understanding of the regional geo-political dynamics of resource economics; provide a platform of action, coordination and organization for researchers, policy makers and social justice activists to help oversee and strengthen corporate and state accountability in natural resources extraction; and, highlight the relationship between resource extraction activities and human rights and advocate for improved environmental and social responsibility practices.

SARW focuses on 10 southern Africa countries but is also working to build a strong research and advocacy network with research institutions, think tanks, universities, civil society organizations, lawyers and communities in southern Africa, the African continent and beyond that are interested in the extractive industries as it relates to revenue transparency, corporate social responsibility, human rights and poverty eradication.

www.gold.sarwatch.org

