



## RESEARCH REPORT

### IMPLEMENTATION OF THE VOLUNTARY PRINCIPLES IN THE DEMOCRATIC REPUBLIC OF CONGO

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## Rapid response to support the adoption of the Voluntary Principles on Security and Human Rights

Haut Katanga, South Kivu and Kongo Central provinces

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## Disclaimer

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## Acronyms

ASM	Artisanal and small-scale mining
CLS	Comité local de suivi (Local Monitoring Committee)
CM	Code Minier de 2018 (2018 Mining Code)
CNDH	Conseil National de Droits Humains (National Human Rights Commission)
CPS	Comité Provincial de Suivi (Provincial Monitoring Committee)
CSOs	Civil society organizations
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
FARDC	Armed Forces of the Democratic Republic of Congo
OGP	Observatoire Gouvernance et Paix
OPJ	Officer de police judiciaire (Judicial Police Officer)
PMH	Police des Mines et des Hydrocarbures (Mining and Hydrocarbons Police)
SAEMAPE	Service d'Assistance et d'Encadrement de l'Exploitation Minière Artisanale et à Petite Échelle (Support and supervision service for small-scale artisanal mining)
SARW	Southern Africa Resource Watch
Search	Search for Common Ground
USAID	United States Agency for International Development
VPs	Voluntary Principles

## Executive summary

The extractive sector in the Democratic Republic of Congo (DRC) is an important source of revenue for the national economy, but it faces many challenges, including human rights and environmental violations, social conflicts and tensions between local communities and mining companies.

The Voluntary Principles on Security and Human Rights (VPs) have been put in place to address these challenges, but there are still significant hurdles to be overcome in terms of their application by stakeholders.

Search for Common Ground (Search), funded by USAID, is working with civil society organizations active in the extractive sector (JUSTICIA ASBL, Observatoire Gouvernance et Paix (OGP) and Southern Africa Resource Watch / SARW) to support the DRC government's adherence to the Voluntary Principles in the extractive sector.

Search conducted a study in the provinces of Haut Katanga, South Kivu, and Kongo Central - key in the mining and hydrocarbon sectors in the DRC - to identify best practices and appropriate policies for successful implementation of the Voluntary Principles. More specifically:

- in the Haut Katanga province around the mine of an international mining group;
- in South Kivu province around a gold mining company;
- and in the province of Kongo Central, around a group of oil companies.

The study highlighted good practices and challenges in implementing the Voluntary Principles in the DRC, and put forward recommendations for improvement:

1. **Recruitment of Local Manpower Among Private Security Guards:** One key idea from the report is the recruitment of local manpower among private security guards for providing security services in mining areas. This approach has several benefits. Firstly, it fosters a sense of ownership and responsibility among the local population as they are directly involved in safeguarding their own community and resources. Secondly, local security personnel have a better understanding of the area's dynamics, culture, and potential security threats, which can lead to more effective security operations. Additionally, employing local security guards can contribute to the economic development of the region by creating job opportunities and supporting the local economy.
2. **Voluntary and Proactive Capacity-Building on Human Rights and Security Issues:** Another important concept is the voluntary and proactive capacity-building among stakeholders on human rights and security issues. This approach aims to educate and empower various actors, including mining companies, security personnel, civil society organizations, and local communities, to promote a better understanding of human rights principles and security measures. By fostering a culture of respect for human rights and security standards, this capacity-building initiative can help prevent human rights violations and ensure that all stakeholders are actively engaged in maintaining a safe and ethical mining environment.
3. **Staggered Deployment of Security Services During Demonstrations and Major Incidents:** The report suggests a staggered deployment of security services in the event of demonstrations against an extractive company or major incidents in mining areas. This approach involves a strategic and measured response to potentially tense situations, aiming to avoid unnecessary escalation of conflicts. By deploying security forces in a controlled and phased manner, the risk of violence and human rights abuses can be reduced, promoting a more peaceful resolution to conflicts.

Overall, these three key ideas highlight the importance of local involvement, human rights education, and careful security planning in the context of extractive industries like mining. Implementing these

concepts can lead to more sustainable and responsible mining practices that prioritize the welfare of local communities, respect human rights and minimize negative environmental impacts.

One of the main obstacles is the lack of stakeholder involvement in the implementation of the Voluntary Principles. Non-state actors, such as civil society organizations and local communities, are not sufficiently involved in decision-making processes, which undermines the effectiveness of the initiatives put in place.

The study has enabled us to draw up recommendations for the implementation of and compliance with the Voluntary Principles, as well as for reducing tensions around the extractive sector.

Recommendations proposed by Search for Common Ground to improve the situation include:

- community involvement in all stages of the corporate supply chain, to reduce the risk of suspicion and gratuitous allegations;
- setting up a multi-stakeholder discussion framework involving the state, companies and local communities to regularly discuss different perspectives on human rights, insecurity and social issues around mining activities;
- facilitating the certification of new artisanal mining zones in favor of local communities by setting up a community consultation and participation mechanism;
- the establishment of a coherent, transparent and accessible complaints mechanism for communities, to ensure that they can assert their rights in the event of violation.

## Introduction

Since June 2022, Search for Common Ground (Search), with funding from USAID, has been implementing a project entitled "Support for the Government of the Democratic Republic of Congo's (DRC) adherence to the Voluntary Principles on Security and Human Rights<sup>1</sup>". This project strengthens Search's involvement in extractive sector governance in collaboration with Congolese civil society organizations (CSOs) working in the extractive sector, through advocacy activities at national and international levels, as well as the organization of several mobilization activities for compliance with the Voluntary Principles by the private sector, the government and CSOs. Search contributed substantially to the acceptance of the DRC's candidacy as a country committed to the Voluntary Principles Initiative. At the end of the implementation of the above-mentioned project, Search noted efforts on the part of Voluntary Principles (VPs) stakeholders in the DRC (government, private sector and civil society), but also challenges, and tried to provide answers to the following questions:

- What are the best practices in implementing the voluntary principles in the extractive sector in the DRC, and which should be capitalized on?
- From the point of view of security and human rights, what lessons can be drawn from the challenges/blockages and risks to shape future improvements?

Beyond political will and the availability of legal instruments to regulate the Voluntary Principles, it is important to put in place local strategies to make the implementation of these Principles effective. To contribute to the emergence of a framework that fosters responsible collaboration and commitment on the part of stakeholders, Search proposes a study that identifies good practices, bottlenecks and a description of appropriate policies, likely to contribute effectively to the successful implementation of the Voluntary Principles in the extractive sector in the DRC.

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<sup>1</sup> The Voluntary Principles on Security and Human Rights, drawn up in December 2000, are a multi-stakeholder initiative and a set of standards which commit extractive companies to take measures to safeguard the security of their operations in a responsible manner, while guaranteeing respect for human rights and humanitarian law.

The survey targeted government departments, extractive companies and their dependents, communities and civil society organizations/trade unions. A total of **197 people** were reached, including **31 people by interview and 166 people by 18 focus group discussions**. In order to highlight the good practices and challenges facing the sector as a whole, the specific names of individuals and companies are redacted from this report.

This research was led by Search, in close collaboration with DRC civil society organizations active in the extractive sector and in the Voluntary Principles Initiative: JUSTICIA ASBL (based in Haut Katanga and Lualaba), Observatoire Gouvernance et Paix (OGP) (Grand Kivu), and Southern Africa Resource Watch /SARW (Kinshasa and Kongo Central).

This research involved the aforementioned CSOs in data collection and analysis, and targeted state services, extractive companies and their dependents, communities and civil society organizations/trade unions. Following data collection, the three civil society organizations (OGP, JUSTICIA Asbl and SARW) pre-analyzed the data and subsequently produced preliminary reports by zone where extractive industries are present, notably in Haut Katanga, Kongo Central and South Kivu.

These various analyses and reports by region, designed by CSOs, were then compiled and analyzed by the Search team to answer the research questions: good practices and challenges in the extractive sector in the DRC, due diligence mechanisms put in place by stakeholders and appropriate policies to be adopted for successful implementation of the Voluntary Principles.

The results of this study will be shared with the tripartite players (government - private sector - civil society) involved in the Voluntary Principles, so as to contribute significantly to improving the policies framing the Initiative and the successful implementation of VPs in the DRC.

## Research geographical area

As the aim of this research was to gather information on practices relating to the application of the Voluntary Principles, data was collected in localities in provinces where mining and oil and gas companies operate.

**Haut Katanga province**, Lubumbashi city, Kilongo and Poteau 93 (Kifita) villages.

**Province of South Kivu**, city of Bukavu, Luhwindja chiefdom (Mwenga territory)

**Province of Central Kongo**, Matadi and the city of Muanda (and its 5 districts). According to the geological map of the DRC, in the sedimentary basins of the Atlantic coast<sup>2</sup>, whose limits are at the heart of the problem of delimiting the borders between the DRC and Angola.

Search has decided to anonymize the specific names of the companies surveyed. The aim of this research, which is intended to inform good practice and highlight general dynamics, is not to point the finger at specific companies, but rather to harness the experiences and lessons learned by these companies, for the benefit of the sector as a whole.

The justifications for these three targeted companies:

- **the target gold company in South Kivu** is perceived as a company with good experience of constructive dialogue between communities and political, administrative, police and military authorities.

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<sup>2</sup> PILIPILI MAWEZI J., Le pétrole de la République Démocratique du Congo, Johannesburg, SARW/OSISA, 2010, p. 46.

- **the targeted multinational group in Haut Katanga** was chosen because it is at the heart of good practices in implementing the Voluntary Principles, and will serve as a model site for other companies in Haut Katanga whose practices still demonstrate certain delays and limitations in benefiting from the recommendations.
- **the oil company in Central Kongo** works in the hydrocarbons sector, but demonstrates that the Voluntary Principles are not just for the mining sector.

## Research limitations

The research team faced limitations:

- **Access to certain villages around mining sites:** particularly in Haut Katanga, in certain villages around the mining sites of the company visited;
- **Scope of collection :**
  - In South Kivu, apart from the town of Bukavu, where provincial government departments and managers from the target company were involved, the other working sessions were held in the Luhindja community in the Mwenga territory.
  - In Central Kongo, Matadi and the city of Muanda (and its 5 districts), although there are 3 formal businesses, the collection focused on just one;
- **Access to certain representatives of mining and hydrocarbon companies,** in particular oil company managers in Kongo Central, despite the support of the SARW manager.

## 1. PRACTICES IN THE IMPLEMENTATION OF THE VOLUNTARY PRINCIPLES IN THE EXTRACTIVE SECTOR IN THE DRC

### 1.1. The mining sector

#### ❖ *Local recruitment of private security guards, respect for the "local content" principle*<sup>3</sup>

In the Haut Katanga region, and in Lubumbashi in particular, the mining company surveyed has adopted a community-based approach by recruiting<sup>4</sup> inhabitants of villages impacted by the mining project to contribute to mine security. This approach involves local chiefs appointing local people who meet the criteria to join the private security company, on the basis of an exclusive clause inserted in the contract between the mining company and the private security company.

According to the communities, civil society organizations and company officials interviewed, this strategy has enabled the mining company to build good relations with the community and reduce security incidents and human rights abuses. Indeed, by providing direct employment, it strengthens economic development and reduces poverty within the community. In addition, it promotes acceptance of the mining company's presence in the area, due to the positive impact on their socio-economic potential, as well as easing potential tensions between the company and communities impacted by the mine.

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<sup>3</sup> For a multinational company, the concept of "**local content**" refers to the integration into its production processes of local businesses and workforces in the foreign countries in which it operates. *Local content* can be measured in terms of the percentage of materials, personnel, financing, goods and services produced that are integrated into the company's local activity.

<sup>4</sup> Currently, over 200 agents are recruited and operate as private security guards.



Furthermore, according to those interviewed this local recruitment strategy has helped to reduce incursions by illegal diggers into the mine<sup>5</sup>. This shows that local labor recruitment can have positive impacts on security and human rights in mining areas.

❖ *Voluntary and proactive" capacity-building among stakeholders on human rights and security issues*

As part of the implementation of the Voluntary Principles on Security and Human Rights in the extractive sector, civil society organizations (CSOs) are being asked by mining companies to enhance their staff's knowledge of the Voluntary Principles. In Haut Katanga, the CSO JUSTICIA Asbl provided training on the Voluntary Principles to the staff of two companies, while in South Kivu, the organization Observatoire Gouvernance et Paix (OGP) organized training for the Congolese National Police and the military of the Force Armée de la République Démocratique du Congo (FARDC) at the request of their respective authorities. Likewise, officials from the 22nd military region have also been raising awareness of the Voluntary Principles among rank-and-file soldiers.

This collaboration between CSOs and mining companies helps strengthen relations between the various players and enables CSOs to play their part in the socialization of the Voluntary Principles. In addition, the "peer-to-peer capacity-building" approach used by military officers facilitates the appropriation of human rights fundamentals by security forces and strengthens relations between military personnel.

These opportunities for collaboration also bring security authorities and CSOs closer together so that community complaints are easily dealt with within the tripartite. In short, these initiatives contribute to the effective implementation of the Voluntary Principles on Security and Human Rights in the extractive sector in the DRC, and help to improve relations between the various actors involved in this sector. By involving CSOs in the training of mining company personnel and security forces, companies can benefit from their expertise in human rights and conflict management, which can help strengthen community relations and prevent human rights violations. In addition, CSOs can play a mediating role between communities and security authorities to facilitate the handling of complaints and conflicts.

Security authorities, CSOs and companies are encouraged to work together to address security and human rights issues in mining areas. This shows that collaboration between these different stakeholders is seen as an effective approach to improving the situation in these areas and addressing community concerns. We therefore note the importance of collaboration between security authorities, CSOs and companies to ensure security and respect for human rights in mining zones, as well as to address community concerns.

❖ *Staggered intervention by security services in the event of protests against an extractive company or major incidents in a mining area*

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<sup>5</sup> Article 109 of Law n°18/001 of March 09, 2018 - amending and supplementing Law n° 007/2002 of July 11, 2002 on the Mining Code, "a mining or quarrying perimeter that is the subject of a valid mining or quarrying title cannot be transformed into an artisanal exploitation zone. Such perimeters are expressly excluded from artisanal mining zones established in accordance with the provisions of this chapter".



The above visual depicts the various stages in the intervention of security services in the event of demonstrations or major incidents in mining areas. Private security services are the first to intervene to maintain contact with the demonstrators and prevent the situation from escalating. If necessary, the Mines Police can intervene with non-lethal weapons to maintain order.

However, in the event of violence, the armed forces (FARDC) may be called upon to intervene on an exceptional basis. This intervention is generally linked to the presence of armed groups in the mining zone. The analysis thus highlights the complexity of security in mining areas in the Democratic Republic of Congo, where mining companies are often faced with both internal and external threats.

It is important to note that FARDC intervention must be used in a measured and proportionate manner to avoid human rights violations and loss of life. The security services must also ensure the protection of civilians and the prevention of all violence, while respecting international laws and standards on human rights and international humanitarian law.

### The Luhwindja mining town

In 2007, the mining town of Luhwindja continued to record incursions by unknown armed groups. In one attack on a mining company site, Mai-Mai militiamen who very often came from the Ruzizi plain, accompanied by a few local residents, attempted to attack the company's concessions. Three people lost their lives in this attack, including a mining policeman, but also militiamen who were intent on kidnapping some of the company's agents to demand ransoms. In this case, the FARDC intervened.

On Friday February 17, 2023, some 60 Congolese and Burundian militiamen spent the night in the Burhinyi chiefdom, and the following morning moved into the center of Luhwindja. Informed of this, the FARDC command sent a reinforcement of 80 armed men to the area to supplement their numbers in the event of an attack. On seeing this FARDC presence, the militiamen quickly left the area. These examples are sufficient to explain the recurrent presence of armed groups at mining sites in the east of the country requiring an exceptional FARDC presence.

#### ❖ *VPs multi-stakeholder working groups set up for constructive dialogue between stakeholders*

A tripartite consultation framework called the "**Groupe de Travail Multipartite**", bringing together 3 stakeholders<sup>6</sup> to the Voluntary Principles initiative is up and running in South Kivu and Haut Katanga. This multi-stakeholder initiative provides a forum for constructive dialogue between stakeholders to ensure that mining operations do not violate human rights and security.

<sup>6</sup> Civil society organizations, government departments and communities. The purpose of these working groups is threefold: to bring together the stakeholders involved in implementing the Voluntary Principles, to ensure that the policies put in place on VPs are properly applied, and to monitor incidents and other disparities in the implementation of the Voluntary Principles.

The CSOs JUSTICIA Asbl (for Haut Katanga) and OGP (for South Kivu) lead and facilitate this working group. The CSOs, government departments, certain members of the community and the managers of two mining companies we met welcomed this initiative, in which they participate, and consider the contribution of this working group to progress in the respect of human rights in the extractive sector.

According to the members of South Kivu civil society, artisanal workers and certain South Kivu government departments (SAEMAPE, Mines and CEEC), the main outcome of this working group is the revitalization of community forums and the committee for the resettlement of displaced people.

The establishment of a consultation framework bringing together CSOs, state services and certain members of the community has helped ensure that mining operations respect human rights and security. This working group is led and facilitated by the CSOs JUSTICIA Asbl and OGP for Haut Katanga and South Kivu respectively.

The community members, government departments and managers of two mining companies we met welcomed the initiative and considered the working group's contribution to respect for human rights in the extractive sector to be positive. The analysis also underlines that the working group has contributed to the revitalization of community forums and the committee for the resettlement of displaced people, according to the members of South Kivu civil society, artisanal miners and certain government departments we met. In sum, our analysis highlights the importance of tripartite collaboration to ensure that mining operations do not violate human rights and security.

#### ❖ *Systematic and safe removal of pregnant women and children from mining sites*

Despite the mining code prohibiting their presence, pregnant women and children are sometimes present on the sites for a number of reasons, the most plausible of which are: poor implementation of the company's corporate social responsibility component with neighboring communities, weak application of the local content principle by many companies, and poor management of the dividends from the social package given by the companies (usually through local structures).

There are initiatives to systematically remove pregnant women and children from mining sites and refer them to community reintegration and resocialization mechanisms. This practice is being implemented in South Kivu in response to legal provisions that do not allow miners and non-Congolese to hold artisanal miners' or traders' cards. These initiatives aim to protect pregnant women and children from the risks associated with mining operations, particularly health and safety risks. The fact that this practice is secure and systematic helps to reassure pregnant women and children, offering them a viable alternative that respects their rights. However, the protection of women and children at mining sites must not be limited to simple removal, but should rather be part of a more comprehensive approach to human rights protection, social and environmental responsibility, and sustainable development in the mining sector.

According to articles 26 and 27 of the DRC Mining Code revised in March 2018, only adults of Congolese nationality can acquire and hold artisanal miner's cards and negotiators' cards. This practice secures pregnant women and children despite their temporary ineligibility to mine sites. Officials from a mining company and state services in South Kivu confirmed that this practice had been put in place. Stakeholders claimed that this practice had helped raise awareness of the dangers of mining for pregnant women and children, and had reduced the number of women and children on mining sites. However, questions remain as to the sustainability of these measures and their effective application in the field.

Indeed, the systematic and safe removal of pregnant women and children from mining sites is an important measure to ensure the safety and protection of these vulnerable groups in the context of mining operations. It also demonstrates the importance of taking human rights into account in mining activities, and the need to involve all stakeholders in promoting responsible practices. However, the question of the effective application of these measures in the field remains a concern, as does the question of the sustainability of these practices over time. While these initiatives are positive actions, they remain limited to a few sites, potentially because the stakeholders involved in mining have divergent interests in the implementation of this initiative. For example, workers and contractors may perceive the removal of pregnant women and children as an obstacle to the profitability and productivity of mining, while CSOs and state authorities may see it as a necessary measure to protect the rights and safety of women and children.

Beyond the divergence of interests, logistical or operational constraints are hampering the implementation of this withdrawal initiative, notably: insufficient resources for community reintegration and resocialization mechanisms, or difficulties in identifying pregnant women and children on mining sites.

In South Kivu, state services and the managers of one mining company systematically removed pregnant women and children from mining sites, and referred them to community reintegration (for children) and resocialization (for women) mechanisms. This safe practice gives these 2 categories confidence, despite their temporary ineligibility from mining sites. The interviewees did not give details of the number of women and children removed systematically and safely, but they did say that, at the start, it averaged at least 4 children and 1 woman a week, and that these waves subsequently became clearer in view of the awareness-raising carried out beforehand.

## 1.2. The hydrocarbons sector

### ❖ *Laboratory analysis of water samples carried out by civil society*

The Muanda civil society initiative to collect water and vegetation samples around oil company sites for analysis is an important action to ensure environmental protection and public health in the province of Central Kongo. However, failure to cooperate with the oil company during sample collection can be a major obstacle to the company's acceptance of the analysis results and, by extension, to the implementation of measures to reduce the risks of environmental pollution.

Despite this, the initiative is seen by CSOs as a first step towards framing company practices and minimizing the risks of environmental pollution. It can also strengthen the local population's trust in CSOs and efforts to protect the environment and public health. It is important that CSOs continue to work to strengthen collaboration with companies and local authorities to improve the effectiveness of their environmental and public health protection initiatives.

This civil society initiative is an important step towards protecting the environment and promoting more responsible exploitation of natural resources. However, the potential contestation of the results by the oil company underlines the importance of constructive dialogue between stakeholders, and of transparent and open collaboration. Companies have an important role to play in protecting the environment and promoting responsible use of natural resources, but this cannot be achieved without the active participation of civil society and local communities.

It is therefore essential that mining and oil companies work closely with civil society and local communities to understand each other's concerns and needs, and to develop sustainable solutions for managing environmental impacts. This can be achieved through the establishment of mechanisms for

dialogue and collaboration, such as the multi-stakeholder working groups mentioned above, which can foster constructive dialogue and problem-solving.

❖ ***Monitoring human rights violations by the oil company***

Muanda civil society plays an important role in monitoring incidents involving extractive companies. Whenever a particular situation arises in connection with oil exploitation and merits clarification, Muanda civil society meets to analyze the points that violate human rights, then calls on CSOs from other provinces for technical support. Once this support has been granted, it drafts its ToRs, then collects data (interviews and focus group discussions) from targets deemed to have reliable information. This information is then triangulated and cross-checked to ensure that only the most reliable information is retained, based on testimonies and evidence in the field. The results of these analyses are discussed with the company and government departments with a view to making improvements.

Although relations with the oil company under investigation are difficult and distrustful, civil society organizations are committed to regularly documenting human rights incidents in order to feed their advocacy notes at local, provincial and national levels. However, such monitoring is not systematic, but rather a response to problems arising within the community. This monitoring by civil society is crucial to peace-building and promoting extractive companies' responsibility towards local communities, as it provides an opportunity for dialogue between stakeholders.

❖ ***Community compensation for environmental damage***

Communities impacted by Muanda's oil operations acknowledge that the company compensates them whenever there are claims and complaints relating to pollution and other damage. Although opinions are divided as to their level of satisfaction, several testimonies emphasized that this compensation without procrastination is an undeniable good practice on the part of the company. However, it is important to stress that compensation should not be seen as a long-term solution to environmental concerns and community impacts. Preventive practices and measures must be put in place to avoid environmental damage and human rights violations.

However, it is important to emphasize that compensation is a crucial element in the reconciliation between communities impacted by oil operations and the company. It shows that the company is prepared to take into account the concerns of communities and respond to their needs in the event of damage caused by its activities.

**Summary table of good practices in terms of implementation of the voluntary principles with community perceptions according to the level of realization of the principles**

The table below presents the eight best practices identified in terms of implementation of the Voluntary Principles (VPs) in the research areas. The levels of achievement of these practices vary, with some rated as high (recruitment of local labor, capacity building, multi-stakeholder working groups, removal of pregnant women and children from mine sites, monitoring of human rights violations), some rated as medium (phased interventions by security services and community compensation) and one rated as low (laboratory analysis of water samples).

It is interesting to note that the practices rated as high correspond to preventive measures, such as the recruitment of local labor, capacity building and the establishment of multi-stakeholder working groups. However, some practices, such as phased intervention by security services and community compensation, are rated as medium, suggesting scope for improvement in these areas.

Finally, the practice of monitoring human rights violations by the extractive oil company and whistle-blowing is rated as very high, underlining the importance of civil society's role in monitoring and denouncing human rights violations by extractive companies.

	<b>BEST PRACTICES IDENTIFIED</b>	<b>LEVEL OF ACHIEVEMENT</b>	<b>SEARCH ZONES</b>
1	Recruitment of local manpower among private security guards, respect for the principle of local content	High	Lubumbashi , Bukavu
2	Voluntary and proactive capacity-building among stakeholders on human rights and security issues	High	Lubumbashi, Bukavu
3	Staggered deployment of security services in the event of a demonstration against an extractive company or a major incident in a mining area.	Medium	Lubumbashi, Bukavu
4	Establishment of VPs multi-stakeholder working groups for constructive dialogue between stakeholders	High	Lubumbashi, Bukavu
5	Systematic and safe removal of pregnant women and children from mining sites	High	Lubumbashi, Bukavu
6	Laboratory analysis of water samples carried out by civil society	Low	Muanda
7	Monitoring and reporting human rights violations by the oil company	Very high	Lubumbashi, Bukavu and Muanda
8	Community compensation for environmental damage	Medium	Lubumbashi, Bukavu and Muanda

## **2. CHALLENGES IN IMPLEMENTING THE VOLUNTARY PRINCIPLES IN THE DRC**

### **2.1 Bottlenecks in administrative and political governance**

❖ *Weak governance of state services*

During the various focus groups conducted in the 3 provinces it became apparent that certain state services were operating inefficiently, thus fostering corruption. However, civil society organizations were unable to provide tangible evidence of this corruption when questioned during the focus groups.

Trade unionists also reported violations of agreements by employers, as well as the government's failure to enforce legal texts and the weakness of the Congolese state in its dealings with oil operators. Some respondents stated that the labor inspectorate is sometimes powerless to deal with certain companies. This situation creates latent conflicts between communities and companies, giving rise to



permanent mistrust between stakeholders. The refrain heard in Muanda is that "most of the company's agents are covered by Kinshasa".

Weak governance of state services encourages corruption. This assertion is frequently made in many regions where public services are often considered inefficient and corrupt. In the DRC, the governance of state services has been criticized for its weakness, particularly with regard to the implementation of laws and regulations. Trade unionists described situations where conventional texts are not respected, and where the labor inspectorate lacks force in front of certain companies. This can lead to conflict between communities and companies, as well as widespread mistrust.

Weak governance of state services can be a factor in corruption, creating an environment conducive to misconduct. When public services are inefficient and rules are not enforced, opportunities abound for ill-intentioned actors to exploit loopholes in the system.

However, it is important to note that corruption cannot be entirely attributed to weak governance of state services. Other factors, such as organizational culture, financial incentives, social pressure and poor education on ethics and transparency can also play a role in promoting corruption.

Consequently, to combat corruption, it is essential to consider all these factors and put in place effective preventive and repressive measures. This can include setting up systems of transparency, accountability and internal control, as well as dissuasive sanctions and the promotion of ethical values and good practice.

#### ❖ *Controversial relocation conflicts and mining square invasions*

At some mining sites in South Kivu and Haut Katanga, land-related violence and conflict are commonplace. In Haut Katanga, for example, company officials and civil society acknowledged that the company's mining site is often invaded by illegal diggers. Some members of the communities interviewed believe that controversial relocations during the granting of mining titles to holders of mining rights could explain these endless invasions by artisanal diggers on sites regularly acquired by the company.

Conflicts linked to controversial relocations and invasions of mining squares in the provinces of South Kivu and Haut Katanga are often linked to land issues and the claims of local communities who feel aggrieved by the process of granting mining titles and the resulting relocations.

The communities interviewed believe that the invasions of artisanal miners into the mining sites acquired by the companies are due to controversial relocations when mining titles were granted to the holders of the mining rights. Indeed, some communities feel robbed of their land and livelihoods, as mining companies have acquired mining titles without taking into account the traditional occupation of the land by local populations. As a result, local communities feel entitled to continue exploiting mining sites, even after they have been acquired by mining companies.

These conflicts are exacerbated by the absence of clear regulations on compensation for displaced populations when mining sites are relocated. Communities relocated following the occupation of mining sites by mining companies are still claiming compensation in proportion to the areas they occupied. Although such compensation is provided for in the specifications, its implementation is often problematic.

Finally, it is important to note that these conflicts are also linked to the absence of Artisanal and small-scale mining (ASM)<sup>7</sup> which could contain the flow of artisanal miners. Indeed, the mining industry cannot employ everyone, and not everyone is destined to work for the mining industry. Local communities therefore need artisanal mining zones to continue exploiting mining resources in the traditional way and maintain their livelihoods.

In short, the conflicts linked to the controversial relocation and invasion of mining squares in the Democratic Republic of Congo are complex and multifactorial. They are due in part to the absence of clear regulations on compensation for displaced populations, the traditional occupation of land by local communities, the reduction in artisanal mining areas and the lack of employment prospects for local populations. Clear policies and regulations are therefore needed to regulate the mining industry and protect the rights of local populations, while enabling the region's economic development.

#### ❖ *The problem of compliance with specification clauses*

According to article 2 of the DRC's mining regulations, the cahier des charges is the set of periodic commitments negotiated and entered into between the holder of the mining exploitation rights or permanent quarry exploitation authorization and the local communities affected by the mining project, for the realization of sustainable community development projects.<sup>8</sup>

The issue of compliance with the clauses of the cahiers des charges is a crucial one in the mining context of the DRC. The cahiers des charges are commitments negotiated between the holders of mining rights and the local communities affected by mining projects for the implementation of sustainable community development projects. However, compliance with these commitments varies from region to region. It should be noted that the process of drawing up specifications is normally supposed to be participatory, involving local communities as well as stakeholders such as civil society and local authorities. This ensures that community concerns are taken into account when planning mining operations and defining the company's social responsibility commitments.

However, in some cases, the development process may not be participatory, or agreed commitments may not be respected. In such cases, communities and civil society may feel excluded or marginalized, leading to conflict between the company and affected communities. It is therefore important that the process of drawing up specifications is transparent and inclusive, and that the commitments made are respected. Companies must also be transparent in the implementation of their corporate social responsibility programs, and be willing to engage in dialogue with communities and stakeholders to resolve emerging issues.

In Haut Katanga, respondents reported significant progress in the implementation of cahiers des charges, demonstrating a certain level of respect and collaboration between mining companies and local communities. In South Kivu, on the other hand, the communities interviewed and some members of civil society stated that non-compliance with cahiers des charges remains a major problem facing mining companies.

Under the DRC Mining Regulations, every holder of a mining or quarrying right must, within six months of the issue of his mining title, organize consultations with the communities to negotiate and

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<sup>7</sup> At present, there are many more operators in the craft sector than in the industrial sector, and the latter (the industrial sector) cannot absorb the demand for workers, firstly because the supply of jobs in the industrial sector is too limited in terms of means (wages) and subject to several contractual obligations on the part of the companies, secondly, the DRC's current policy is to promote the industrial sector and small-scale mining by encouraging artisanal miners to group together within SMEs, to the detriment of simple artisanal mining (mining code, preamble, point 10: "the restriction of access to artisanal mining to natural persons of legal age who are Congolese nationals and members of an approved cooperative"). And finally, the DRC government says it does not expect any dividends from artisanal mining. Hence a strong inclination towards the industrial sector, and a tendency to create fewer artisanal mining zones.

<sup>8</sup> Article 2 of the DRC Mining Code.



draw up the specifications.<sup>9</sup> Once approved by the Mining Cadastre, the specifications are drawn up in six original copies and sent to the mining operator, local community representatives, the Chef de Secteur/Chefferie, the Agence Congolaise de l'Environnement, the Direction de Protection de l'Environnement, the Administrateur de Territoire or the Maire de la Ville as the case may be, and the Ministre Provincial ayant les Mines dans ses attributions<sup>10</sup>. Although Article 21 of the Mining Regulations stipulates sanctions for any failure to comply with the undertakings set out in the specifications, it must be acknowledged that there is a gap between the content of the specifications (forecasts) and what has actually been achieved, leading on the one hand to endless claims by communities who feel they have been duped, and on the other to feelings of self-satisfaction on the part of the companies. Generally speaking, these are fine texts with impressive plans to win the sympathy of communities and credibility with state services, but it's the implementation of these intentions that poses the problem. That's why, despite the many development actions implemented within the framework of corporate social responsibility specifications, understanding between communities and companies remains problematic.

Civil society has lobbied companies to respect the clauses of the specifications, but this has not had the desired effect on the ground, and is creating mistrust between stakeholders. Local communities recognize that mining companies have departments in charge of community affairs, but these are almost non-functional in their opinion. This situation poses a major challenge for mining governance in the DRC, as it undermines trust between stakeholders and can potentially lead to social conflict and violence. It is true that compliance with specifications varies considerably from region to region and from company to company, which shows that compliance with specifications is not a guarantee in itself, but a process. There is therefore a need to strengthen participatory monitoring and evaluation mechanisms to ensure that companies meet their contractual commitments to local communities and public authorities.

## 2.2. Safety limits

### ❖ *Insecurity and militarization of certain mining sites in eastern DRC*

The presence of armed forces on mining sites in the DRC is strictly forbidden by law, yet certain testimonies gathered in the province of South Kivu report the presence of certain members of the armed forces or armed groups on mining perimeters. This presence hampers the normal operation of mining activities and creates a climate of insecurity for workers and surrounding communities.

Article 27 of Law no. 18/001 amending and supplementing Law no. 007/2002 of July 11, 2002 on the DRC Mining Code is clear on the fact that State agents and civil servants, magistrates, members of the Armed Forces, the Police and the Security Services, employees of public bodies authorized to carry out mining operations are not eligible to apply for and obtain mining and/or quarrying rights, artisanal miners' and traders' cards, or approval to operate as a *comptoir d'achat et de vente des substances minérales d'exploitation artisanale*.

However, some members of civil society and certain communities believe that, despite their ineligibility to visit mining sites in normal times, some members of the FARDC remain there and set up mining networks in their favor. According to these informants, this situation leads many to conclude that insecurity remains an alibi that justifies the presence of certain military personnel on the sites, beyond the days covered by military operations.

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<sup>9</sup> Article 19 of the DRC Mining Code.

<sup>10</sup> Article 20 idem.

This situation is worrying and raises questions about the government's ability to enforce mining laws in the DRC. The militarization of mining sites can hinder the development of local communities and mining activities, and can also lead to human rights violations and abuses against local populations.

It is important that the Congolese authorities take concrete steps to put an end to the illegal presence of the military on mining sites, and to guarantee the safety of workers and local communities. In addition, mining companies also have a role to play in ensuring due diligence to avoid human rights abuses, and in committing to international human rights and corporate social responsibility standards. Indeed, the insecurity and militarization of mining sites in eastern DRC are major challenges for the implementation of VPs. Furthermore, illegal mining is often associated with armed groups and militias who take advantage of the vulnerability of local communities to seize mining resources and finance their activities.

It is therefore crucial that the Congolese authorities step up security measures at mining sites and enforce mining laws and regulations. This could include building the capacity of security forces to combat illegal mining, and creating a safe and secure environment for workers and local communities. In addition, to ensure the participation of local communities in VPs implementation, it is important to create spaces for dialogue and consultation to understand community concerns and needs. Communities must be involved in all stages of VPs implementation, including monitoring and tracking the impact of mining activities on their environment and well-being.

### **2.3. Violation of environmental safety**

The violation of environmental security is a major challenge in the implementation of the Voluntary Principles on Security and Human Rights. It is important to note that environmental degradation has direct consequences on the health and well-being of local communities, who are often the most vulnerable. In the case of the company we visited in South Kivu, water pollution and the destruction of the ecosystem have disastrous consequences for local populations, particularly in terms of water-borne diseases, infertile land and other negative impacts on their health and safety.

It is important to emphasize that Environmental Impact Assessment is a crucial step in minimizing the environmental impacts of mining activities. However, the assessment should be carried out in a participatory manner with local communities to enable a better understanding of potential impacts and necessary mitigation measures. Unfortunately, in many cases, companies fail to carry out adequate assessments or to include local communities sufficiently in the decision-making process.

It is essential to stress that environmental security is closely linked to human security and peace in local communities. Conflict and violence can often erupt as a result of limited access to environmental resources such as water and fertile land. It is therefore crucial that mining companies respect international environmental standards and work closely with local communities to minimize the negative impacts of their activities. Similarly, local and national authorities must enforce environmental laws and ensure that companies are held accountable for their actions.

It is also important to promote the active participation and consultation of local communities in all stages of mining operations, including the planning, implementation and monitoring of mining projects. This can be achieved by organizing open and inclusive forums where communities can express their concerns and needs.

It is necessary to strengthen the capacity of local and national authorities to enforce environmental laws and hold mining companies accountable for their actions. This can be achieved by providing sufficient training and resources for the relevant authorities to carry out regular inspections and apply sanctions in the event of non-compliance with environmental standards.

Finally, transparency and accountability in the mining sector need to be strengthened by encouraging proactive disclosure of information on mining activities, environmental and social impacts, and

payments made to local and national governments. This can be achieved by setting up mandatory disclosure mechanisms and encouraging companies to adopt international standards such as the Extractive Industries Transparency Initiative (EITI).

**Summary table of challenges for VPs implementation**

Weak governance of state services is a major challenge and can lead to poor regulation of the mining industry, abuse of power and corruption, all of which can contribute to conflict and human rights abuses.

Conflicts linked to controversial relocations and invasions of mining squares are also a major challenge and can lead to violence, insecurity and human rights violations, particularly when local communities are forcibly displaced from their ancestral lands.

The problem of complying with specifications can lead to tensions and conflicts with local communities. As for the presence of armed groups and military forces, this can create tension and violence in mining areas, which can contribute to human rights violations.

In short, these challenges can all contribute to human rights violations, conflict and insecurity in the DRC's mining areas. Local and national authorities, as well as mining companies, need to work closely with local communities to promote a sustainable development approach and protect human rights in the mining industry.

	<b>CHALLENGES AHEAD</b>	<b>PREVALENCE LEVEL</b>	<b>SEARCH AREA</b>
1	Weak governance of state services	High	Lubumbashi, Bukavu and Muanda
2	Controversial relocation conflicts and mining square invasions	High	Lubumbashi and Bukavu
3	The problem of compliance with specification clauses	High	Lubumbashi and Bukavu
4	Insecurity and militarization of certain mining sites in eastern DRC	Medium	Bukavu
5	Violation of environmental safety	Medium	Bukavu and Muanda
6	Operational delays for private security companies	Medium	Lubumbashi and Bukavu

**3. DUE DILIGENCE MECHANISMS PUT IN PLACE BY STAKEHOLDERS**

**3.1 Case study of the company visited in Haut Katanga**

- ❖ *Setting up a legal and social department within the company*

Creating a dedicated legal and social department within the company offers several advantages. Firstly, it helps to focus on human rights and safety upstream, which can help avoid conflicts and negative incidents. In addition, it extends awareness to other departments involved in the mining sector, which can help make the protection of human rights a reality. In addition, this department provides a space for communities to raise their issues and feel close to the company, without fear of discrimination. Finally, the company has signed a contract with a law firm to act in the event of a dispute, but the local community feels that dialogue should be favored before resorting to legal action. In response, the company has set up "human rights committees"<sup>11</sup> in each of its departments.

❖ ***Sharing information on protection incidents between the company and civil society organizations***

Following training on the implementation of the Voluntary Principles provided by the civil society organization JUSTICIA Asbl to the staff of two mining companies in Haut Katanga, recommendations were made, notably on information sharing between the company and CSOs. To comply with these recommendations and demonstrate their commitment to the Voluntary Principles, the company and civil society organizations in Lubumbashi set up a bipartite framework for exchanging information on protection incidents. This information sharing enabled JUSTICIA Asbl to be invited in June 2022 by the Kinshasa Chamber of Mines to an exchange session on this good practice, in collaboration with the VPs working group.

❖ ***Presence of a judicial police officer at each mine site***

In response to growing allegations of human rights violations and other abuses attributed to the company visited in Haut Katanga, the company has agreed to the presence of a judicial police officer (OPJ) with general jurisdiction at each of its mining sites. This OPJ is responsible for investigating all incidents that occur on site and reporting the judicial situation to the Kipushi secondary prosecutor's office, which oversees the company's mining sites. Although some concerns may be raised about the independence of these OPJs, given that they are paid for by the company, the Kipushi Secondary Public Prosecutor's Office has stated that its magistrates often carry out itinerant missions to the sites where the OPJs are assigned in order to limit some of the blunders committed by agents and monitor the risks of human rights violations.

❖ ***"Amicable settlement" to compensate victims of damage or acts of blunder***

Out-of-court settlements are often used to compensate victims of relocation, pollution, injury or death caused by public security forces on company premises. However, despite these arrangements, the residents concerned are often not satisfied with the company's proposals. They are often forced to accept these arrangements, lacking the means to take legal action.

**Lessons learned**

The case study presents several key points requiring improvement to ensure the protection of human rights in the mining activities of the company visited in Haut Katanga. Firstly, setting up a legal and social department within the company is a good practice for working upstream on human rights and security issues, raising awareness among other departments involved in the mining sector and avoiding conflicts. Similarly, the sharing of information on protection incidents between the company and civil society organizations is an important practice that can help strengthen the company's transparency and accountability.

However, there are also negative points raised in the case study. For example, the use of out-of-court settlements to compensate victims of relocation, pollution, injury or death caused by public security

<sup>11</sup> The Human Rights Committee's mandate is to document human rights violations at mining sites, and to make recommendations to the persons, entities and institutions concerned.

force blunders is often ineffective in meeting victims' needs and can contribute to impunity. Similarly, the presence of an OPJ with general jurisdiction at each mining site can raise concerns about their independence from the company.

In conclusion, the case study highlights the importance of a comprehensive approach to the protection of human rights in the company's mining activities. It is necessary to involve external stakeholders, such as civil society organizations, to strengthen the company's transparency and accountability, and to adopt effective redress mechanisms for victims of human rights violations. Similarly, it is important to guarantee the independence of the OPJs responsible for investigating protection incidents at mining sites.

### 3.2. Case study of the company visited in South Kivu

#### ❖ *Use of surveillance cameras to monitor the mine site for "any incident".*

Civil society organizations and community members report that the mining sites of the company visited in South Kivu use surveillance cameras to detect any incidents on the mining concessions. Although this system is effective according to CSOs, it has limitations, such as reduced image quality of the cameras during bad weather (fog or heavy rain), which allows some diggers to enter the site clandestinely and operate undetected.

Moreover, some observers question the neutrality and transparency of access to images in cases where the company is incriminated. They wonder whether camera images can retain their integrity. For the community, surveillance cameras only secure the company's internal infrastructures and personnel, and do little to benefit the community. It calls the system a "greedy mechanism".

Communities suggest the creation of intra-community early warning groups, as a mechanism to trigger a rapid response whenever there is a violation within the community. Furthermore, in addition to surveillance cameras, several stakeholders in the area suggested strengthening the work of the mining police by providing them with mobility gear and installing lamps to light up mining sites at night.

#### ❖ *Complaints management by the community relations department*

The company has set up a community relations department and a dedicated human rights unit to report and investigate human rights violations. These departments work with the community to document cases of human rights violations attributable to the company. However, according to some interviewees, including artisans, community members and civil society organizations, this department limits the management of complaints and fails to contain community demands, which often turn violent. These same people also feel that this department does not effectively manage issues relating to specifications, which should be followed by the company to avoid recurring incidents linked to community demands.

Nevertheless, to demonstrate the effectiveness of the due diligence put in place, the two company managers interviewed reported that their company has provided a simplified template<sup>12</sup> for keeping a record of safety and human rights incidents. The company also has departments responsible for carrying out safety inductions with visitors to inform them of the various risks within the plant.

#### ❖ *Participation in meetings of local monitoring committees (CLS) or provincial monitoring committees (CPS)*

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<sup>12</sup> Used since 2017, according to officials.

To reduce the various risks associated with mineral exploitation, local and provincial monitoring committees (CLS/CPS) have been set up to reduce the risks associated with mining, particularly in areas where artisanal mines are present.

The CLS, chaired by the territory administrator, meets monthly in the Mwenga territory to foster constructive dialogue between stakeholders, including state services, companies, cooperatives and civil society organizations (CSOs) as well as traders. CSOs in South Kivu see their participation in these two initiatives as essential for reporting information about the sites to the authorities and other stakeholders, in order to alert them to incidents or obtain redress for any damage caused.

On the other hand, members of civil society, artisanal miners, state services and company officials point to the existence of a broader discussion framework, the "extended local security council", where miners are occasionally involved to establish a dialogue with security forces, local executives and the company on all security and development issues in the area. However, stakeholders stress the need to improve CLS/CPS participation to avoid human rights violations and prevent acts of violence that may arise during conflict resolution.

**Lessons learned**

The case study of the company visited in South Kivu shows that the use of surveillance cameras to monitor the mining site is not entirely effective, as bad weather can reduce the quality of camera images, and some diggers may operate clandestinely on the site. The communities suggest setting up community early-warning groups and strengthening the work of the mining police by providing them with equipment to move around and light up mining sites at night.

The company's community relations and sustainable development department is supposed to handle complaints, but is seen as limiting and failing to contain community demands. Community members feel that the department doesn't handle specification issues very well.

Participation in meetings of local monitoring committees (CLS) or provincial monitoring committees (CPS) is seen as an effective way of escalating information from the site to the authorities and other stakeholders, in order to alert them to certain incidents and/or achieve redress for cases where damage has been caused.

There is a discussion forum where miners are involved, albeit occasionally, to establish a dialogue to ensure that mining operations do not violate human rights. This is the "extended local security council", where the security forces, local cadres or chiefs and the company meet and discuss.

These initiatives demonstrate the importance of collaboration and dialogue in preventing human rights violations and promoting sustainable development in the mining sector. However, it is important to note that some stakeholders feel that these initiatives are not always effective, and that the management of complaints by the community relations department fails to contain community demands, which can lead to acts of violence.

In conclusion, it is essential to continue encouraging the active participation of stakeholders in these monitoring and dialogue initiatives, while ensuring that complaints management mechanisms are effective and meet the needs of local communities. This will reinforce corporate social responsibility and ensure that mining is carried out with respect for human rights and the environment.

**Summary table of case study mechanisms and how they are perceived by the communities surveyed**



The table summarizes the actions taken as part of due diligence mechanisms at two of the three extractive operations studied. Overall, it can be seen that companies have put in place due diligence mechanisms to prevent human and environmental rights abuses. However, the level of implementation varies from one mechanism to another, and from one site to another. Some mechanisms are very well implemented, such as the establishment of a legal and social department, and out-of-court settlements to compensate victims of damage or blunders, at the three mining sites studied. Other mechanisms, such as the presence of a judicial police officer at each mining site, are only marginally implemented at one of the sites studied.

It is recommended that companies strengthen their implementation of all due diligence mechanisms to ensure better protection of human and environmental rights in all areas of operation. In addition, it is crucial that companies continue to share information on protection incidents with civil society organizations to strengthen transparency and accountability. Finally, it is advisable to strengthen the involvement of local monitoring committees (CLS) and provincial monitoring committees (CPS) to ensure active community participation in managing the impacts of mining activities.

	<b>DUE DILIGENCE MECHANISMS</b>	<b>LEVEL OF ACHIEVEMENT</b>	<b>SITES OR ZONES</b>
1	Setting up a legal and social department within the company	Very high	Lubumbashi, Bukavu
2	Sharing information on protection incidents between the company and civil society organizations	Medium	Lubumbashi
3	Presence of a judicial police officer at each mine site	Low	Lubumbashi
4	Out-of-court settlement to compensate victims of damage or blunders	High	Lubumbashi, Bukavu
5	Use of surveillance cameras to monitor the mine site for incidents	Medium	Bukavu
6	Complaints management by the community relations department	Medium	Lubumbashi, Bukavu
7	Participation in meetings of local monitoring committees (CLS) or provincial monitoring committees (CPS)	High	Bukavu

## 4. APPROPRIATE POLICIES FOR SUCCESSFUL IMPLEMENTATION OF THE VOLUNTARY PRINCIPLES IN THE DRC: PROSPECTS AND RECOMMENDATIONS

The recommendations made in this report are based on the challenges encountered in implementing the Voluntary Principles, and are framed around the 3 pillars of these principles: risk assessment, relations between extractive companies and public security, and relations between companies and private security providers. A fourth pillar of recommendations has been added (reducing the risk of conflict at extractive resource sites) to highlight what Search can do beyond and collateral to the promotion of the Voluntary Principles.

### ON REDUCING THE RISK OF CONFLICT AT MINING SITES

#### 4.1. IN RELATION TO RISK ASSESSMENT

- ❖ **Involve communities in all stages of the corporate supply chain to reduce the risk of suspicion and gratuitous allegations.**

The Congolese government and companies must involve communities in discussions on the governance of the mining sector in the DRC. Communities, through their representatives (church leaders, civil society, school principals, etc.), must be involved in the entire process linked to the **signing of the specifications**.

It would also be useful **to organize public consultations with communities** in a given area. This would enable a better understanding of the communities' needs and concerns, as well as their expectations regarding the company's social and environmental impacts. Communities could also be involved in the negotiation of mining contracts and the drafting of specifications to ensure that their interests are well represented.

In addition, **mining companies should establish mechanisms for regular communication and consultation with local communities throughout the mining process**, including during the exploration and exploitation phases. Companies should also commit to providing clear and accessible information to communities on the impacts of their activities, including potential health and environmental risks.

By proactively involving communities on an ongoing basis, mining companies can reduce the risk of conflicts and gratuitous allegations. This involvement will also help build mutual trust between companies and communities, which is essential to promote effective collaboration in implementing the Voluntary Principles.

- ❖ **Setting up a multi-stakeholder discussion framework**

Each extractive company must establish a multi-stakeholder dialogue mechanism, involving the state, the company and local communities in a regular and structured discussion process. This mechanism should be designed as **a platform for discussing the different perspectives on human rights, insecurity and social issues surrounding mining activities, as well as for assessing the implementation of the Voluntary Principles** on Security and Human Rights.

The multi-stakeholder discussion framework must be organized on a **regular and permanent basis**, with meetings scheduled in advance, clear agendas and the participation of all relevant stakeholders.



Discussions should focus on concrete issues related to extractive activities, such as environmental impacts, waste management, workers' rights, compensation for victims and relations with local communities.

Finally, the company must ensure the transparency and accountability of this **dialogue mechanism, by reporting publicly on the discussions and results obtained.** This mechanism is a key tool for improving communication and mutual understanding between stakeholders, **building trust and commitment to the Voluntary Principles, and preventing conflict and human rights violations in the mining sector.**

❖ **Facilitate the certification of new artisanal and small-scale minings (ASM) for the benefit of local communities**

A **community consultation and participation mechanism should be put in place to enable local communities to actively contribute to the identification of these zones.** In addition, effective monitoring and evaluation mechanisms should be put in place to ensure that AEZs are operated in a responsible and sustainable manner, in line with the Voluntary Principles.

It is important to put in place a regulatory and certification system for AEZs to ensure that mined minerals are traded legally and responsibly. Mining companies and mineral buyers must be encouraged to purchase minerals from certified ASMs, ensuring that workers' rights are respected and that sustainable environmental practices are followed. In short, the creation of **certified ASMs in collaboration with local communities can help prevent violence and conflict in mining areas** and improve the safety and working conditions of artisanal miners. It can also help strengthen the transparency and sustainability of the mining industry as a whole, in line with the Voluntary Principles.

❖ **Establish a consistent, transparent and accessible complaints mechanism for communities**

Extractive companies **should work with communities to develop effective complaints mechanisms** that are adapted to local contexts and meet the specific needs of each community. Companies should also **ensure the transparency and accessibility of these mechanisms,** in particular by providing clear information on the process for lodging complaints and on the follow-up given to them.

It is important that complaints mechanisms are **consistent so that communities know exactly who to contact to lodge a complaint.** Transparent mechanisms will also boost community confidence in the complaints process. Finally, **the accessibility of mechanisms** is essential to ensure that all local communities, including the most vulnerable and marginalized, can easily access them and assert their rights.

❖ **Ongoing, regular checks by labor inspectors on the use of labor by extractive companies**

Establishing a mechanism for permanent and regular monitoring of labor use by labor inspectors in extractive companies is an important measure for ensuring respect for workers' rights and preventing disputes between workers and employers. **Labor inspectors must have sufficient integrity and independence** to carry out impartial checks and verify that companies comply with labor regulations, such as standards relating to working conditions, health and safety, fair remuneration and working hours.

#### **4.2. IN RELATION TO COMPANIES' RELATIONS WITH PUBLIC SAFETY**

- ❖ **Regularly and permanently strengthen the capabilities of the defense and security forces on the Voluntary Principles**, so that they can effectively secure mining and hydrocarbon sites, while respecting human rights. The State must assume its responsibilities by organizing a coherent program to achieve this.
- ❖ **Train magistrates and judicial police officers who are competent and sensitive to issues relating to the exploitation of extractive resources**. As with other specific sectors, the creation of a specialized corps of magistrates and OPJs specialized in the extractive sector would be beneficial. These trained officers could effectively document human rights violations and raise stakeholder awareness of the risks of possible infractions in the sector. This mechanism would make it possible to better document human rights violations in the extractive sector and reduce the flow of infractions.

#### **4.3. COMPANIES' RELATIONS WITH PRIVATE SECURITY PROVIDERS**

- ❖ **Enact a specific law on private security companies**: to provide an effective framework for this new profession and avoid any cacophony in their internal workings and in their interaction with the defense and security forces, it would be advisable to enact a specific law on private security companies.
- ❖ **Requiring direct contracts between extractive companies and provincial police stations**: to avoid subcontracting of the police by private security companies, and to clarify responsibilities in the event of an incident, the State should ensure that companies contract directly with provincial police stations.

#### **4.4. IN RELATION TO CONFLICT RISK REDUCTION AT EXTRACTIVE RESOURCES OPERATIONS (Search leadership)**

- **Strengthening the involvement of non-state actors**: The Voluntary Principles are supposed to be a multi-stakeholder initiative, but in practice, states and companies are often the only actors involved. For effective implementation, non-state actors such as companies, civil society organizations and local communities need to be involved at all levels.
- **Strengthen monitoring and accountability**: The Voluntary Principles must be accompanied by clear monitoring and accountability mechanisms for the stakeholders involved in their implementation. States and companies should be held accountable for their actions, including violations of human rights or the environment.
- **Strengthen training and awareness-raising**: Stakeholders should be trained in the Voluntary Principles, international human rights and environmental standards, and monitoring and accountability mechanisms. Awareness should also be raised among local communities, so that they are better informed about their rights.
- **Strengthen coordination and cooperation**: Stakeholders need to strengthen their coordination and cooperation at all levels for effective implementation of the Voluntary Principles. States should coordinate with business and civil society organizations to facilitate implementation. Businesses should also coordinate with local communities to better understand their needs and concerns.

- **Strengthen dispute resolution mechanisms:** The Voluntary Principles should be accompanied by clear and accessible dispute resolution mechanisms. Stakeholders should be informed of existing dispute resolution mechanisms, including mediation and arbitration.

## CONCLUSION

In the DRC context, the extractive industry is an important source of revenue for the national economy, but it is also associated with numerous challenges, including human rights and environmental violations, social conflicts and tensions between local communities and extractive companies.

To address these challenges, various initiatives have been put in place, including the Voluntary Principles on Safety and Human Rights, which aim to improve safety at operating sites while respecting human rights and fundamental freedoms.

However, despite these efforts, there are still major challenges ahead. One of the main obstacles is the low level of stakeholder involvement in the implementation of the Voluntary Principles. Non-state actors, such as civil society organizations and local communities, are not sufficiently involved in decision-making processes, which undermines the effectiveness of the initiatives put in place.

In addition, there are challenges associated with establishing clear monitoring and accountability mechanisms for stakeholders involved in implementing the Voluntary Principles. The state and companies must be held accountable for their actions, including violations of human rights and the environment, but the implementation of these mechanisms remains insufficient.

Finally, it is important to note that the DRC has put in place policies aimed at improving governance in the extractive sector, by revising its relevant legal texts, notably the Mining Code. However, the implementation of these policies remains a major challenge due to insufficient resources and institutional capacities.

In conclusion, the implementation of the Voluntary Principles on Security and Human Rights in the DRC's extractive sector is an important step towards improving working conditions and protecting human rights and the environment. However, significant challenges remain to ensure that these initiatives are effective, notably by further involving stakeholders, strengthening monitoring and accountability mechanisms, and putting in place clear and effective policies to improve governance in the extractive sector.

## APPENDICES

### APPENDIX 1: Interviews

Key Informant Interviews	Lubumbashi		Bukavu		Muanda		Total	
	H	F	H	F	H	F	H	F
Provincial mining ministers	1		1				2	-
Environment department					1	1	1	1

Congolese Environment Agency						1		1
Minister of the Interior	1						1	
Provincial Minister of Hydrocarbons			1				1	
Provincial human rights ministers			1				1	
Mining Division Managers	1			1	-	-	1	1
Head of Human Rights Division			1				1	
Provincial Manager SAEMAPE			1				1	
Police Mines	1						1	
Heads of FARDC military regions	1						1	
Land manager	1					1	1	1
Corporate Sales and Operations Manager	1		1				02	
Corporate public relations officers	1			1			1	1
Responsible for impacted communities						1		1
Subcontractor safety service manager	1			1	1		2	1
Leaders of religious denominations at riverside sites				1	1		1	1
Civil Society Manager		1				1		2
Parquet	1						1	
National Human Rights Commission (CNDH)	1						1	
Village chief	1						1	
	12	01	05	04	03	06	20	11
TOTAL	31 interviewees people							

APPENDIX 2: Focus group table

18 Focus Group Discussions	Lubumbashi		Bukavu		Muanda /Matadi		TOTAL		
	H	F	H	F	H	F	H	F	TOTAL
Company unions	4	0	8	2	5	4	17	06	23
Impacted riverside communities	7	4	5	4	5	4	17	12	29
Civil Society WG	7	0	5	4	4	5	18	9	25
Comité artisanaux miniers/Chef de terre	--	--	5	4	--	--	5	4	9
Cocus chef de terres	7	3	--	--	--	--	7	3	10
Cocus femmes sect. extractif	--	11	--	9	--	9	--	29	29
Beneficiaries supported by companies after incidents	3	8	-	-	-	--	3	8	11
Community youth	7	5	0	9	7	2	14	16	30
TOTAL	35	31	23	32	21	24	79	87	166

APPENDIX 3: Table summarizing focus groups and interviews

SITES	FOCUS GROUPS DISCUSSIONS			INTERVIEWS			TOTAL		
	H	F	TOTAL	H	F	TOTAL	H	F	T
LUBUMBASHI	35	31	66	12	01	13	47	32	79
BUKAVU	23	32	55	05	04	09	28	36	64
MUANDA/MATADI	21	24	45	03	06	09	24	30	54

<b>TOTAL</b>	<b>79</b>	<b>87</b>	<b>166</b>	<b>20</b>	<b>11</b>	<b>31</b>	<b>99</b>	<b>98</b>	<b>197</b>
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APPENDIX 4: Table of Local Monitoring Committees, Extended Local Safety Council and Provincial Monitoring Committee

	Level	Members	Roles and responsibilities
<b>Local Monitoring Committee (CLS)</b>	City/Territory	<b>Article 14 Mining regulations</b> 1) Territory administrator or city mayor 2) Area chief physicians 3) Mining operator delegates in the area 4) At least four designated representatives of local communities.	<b>Article 15 RM</b> Controlling and monitoring the completion of economic infrastructure and services in accordance with the timetable set out in the specifications. This control is carried out every six months, at the invitation of the Territory Administrator or the Mayor, as the case may be.
<b>Extended local safety council</b>	Territory	Territorial administrator, mining operators' delegate (social department), local civil society delegate, local community representatives, artisanal miners' delegates	Follow-up on specific recommendations concerning incidents at mining sites
<b>Provincial Monitoring Committee (CPS)</b>	Province	1) <b>Institutions and public services</b> (Délégué Ministre Mines, intérieur, travail, intérieur, Division provinciale de Mines-Justice, droits de l'homme, divisions Mines Transport-Santé, SAEMAPE, CEEC, CAMI, FARDC, PMH, Justice militaire, CGEA, BCC, etc.). 2) <b>Government partners</b> (One delegate for each of	Carry out regular reviews of the mining sector's operations in light of recommendations, resolutions and commitments made, the regional initiative to combat illegal exploitation and trade in natural resources in the eastern DRC, and international requirements, notably the Due Diligence Guide for a Responsible Supply Chain of Minerals from Conflict-Affected and

		<p>the Congolese government's technical and financial partners in the mining sector and one delegate for each structure providing traceability services)</p> <p><b>3) Mining sector operators</b></p> <p>(One delegate per processing entity, per comptoir and per mining company. One delegate per traders' association. One delegate per mining cooperative per territorial axis and per cooperative grouping)</p> <p><b>4) Civil Society Mining Working Group (GT Santé Mines, GT Principes Volontaires, GT délocalisation et relocalisation des communautés affectées)<sup>13</sup></b></p>	<p>High-Risk Areas, and compliance with the requirements of the Protocol to Combat Illegal Exploitation of Natural Resources in the Great Lakes Region.</p> <p>Centralize the reports produced by the CTS and CLS on mining governance in their entities.</p> <p>Monitor compliance with the ban on mining activities by military officials, police officers, security guards and magistrates<sup>14</sup>.</p>
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<sup>13</sup> Cf. Article 4 of Provincial Order N°20/002/GP/SK of January 22, 2020 amending and supplementing Provincial Order N°18/035/GP/SK of 03/09/2018 establishing the South Kivu Provincial Monitoring Committee.

<sup>14</sup> Cf. Article 2, idem..