

# Improving Security and Human Rights through Multistakeholder Action



**Lessons Learned from the Voluntary Principles  
Working Group in South Kivu, DRC**

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# ACRONYMS AND ABBREVIATIONS

<b>BSP</b>	Better Sourcing Program (now known as “Better Mining” run by RCS Global)
<b>CLS</b>	Comité Local de Suivi (Local Monitoring Committees)
<b>CPS/S-K</b>	Comité Provincial de Suivi du Sud-Kivu (Provincial Monitoring Committee of South Kivu)
<b>CSO</b>	Civil Society Organisation
<b>DCAF</b>	Geneva Centre for Security Sector Governance
<b>DRC</b>	Democratic Republic of the Congo
<b>FARDC</b>	Forces Armées de la République démocratique du Congo (Armed Forces of the Democratic Republic of the Congo)
<b>IOM</b>	International Organisation for Migration
<b>IPIS</b>	International Peace Information Service
<b>ITSCI</b>	The International Tin Initiative Supply Chain Initiative
<b>NGO</b>	Non-Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OGP</b>	Observatoire Gouvernance Paix
<b>PMH</b>	Police des Mines et Hydrocarbures (Mining and Petroleum Police)
<b>PNC</b>	National Congolese Police
<b>SAEMAPE</b>	Service d’assistance et d’encadrement de l’exploitation minières et à petite échelle (The government service devoted to supporting artisanal and small-scale miners)
<b>SECAS</b>	Service d’Education Civique, Patriotique et d’Actions Sociales (Department of Civic and Patriotic Education and Social Action)
<b>VPs</b>	Voluntary Principles on Security and Human Rights
<b>VPI</b>	Voluntary Principles Initiative on Security and Human Rights

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## Images

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# EXECUTIVE SUMMARY

Poorly supervised public and private security actors and ad hoc security arrangements undermine the good governance of natural resources and local development in Eastern DRC, contributing to conflicts and human rights violations. To respond to these challenges, a multistakeholder Working Group was established in October 2018 to promote and reinforce the local implementation of the Voluntary Principles on Security and Human Rights in South Kivu, DRC. Voluntary Principles Working Groups gather stakeholders in the extractive sector to promote dialogue and find targeted solutions to security and human rights challenges.

How has the South Kivu Working Group contributed to the prevention and mitigation of security and human rights incidents on the ground? This study identifies and shares lessons learned and good practices from the South Kivu Working Group's experience to date, reflecting on the Working Group's strengths, its impact, and the ways in which it has built up local capacity to address challenges. It also provides insights for governments, local and international civil society organisations, as well as private companies operating in similarly challenging environments on how they can learn from tested multistakeholder approaches and apply a coherent, effective approach to Voluntary Principles implementation alongside other human rights and responsible supply chain initiatives.

The Working Group has been led by a well-respected South Kivu NGO, the Observatoire Gouvernance et Paix (OGP), in partnership and with technical assistance from the Geneva Centre for Security Sector Governance (DCAF). The initiative to establish the South Kivu Working Group came from the Dutch Embassy in the DRC, which provided core support to the Working Group's activities through December 2020. As a result of the programmatic approach applied by DCAF's Security and Human Rights Implementation Mechanism (the SHRIM), the original project received additional support from the United Kingdom, Switzerland, and Norway.

This study identifies the important local leadership of OGP, the technical advice and international policy connections generated by DCAF and the coordinated multidonor approach as key factors contributing to the South Kivu's Working Group success. Furthermore, this study concludes that the South Kivu Working Group has successfully achieved key milestones in three of the four phases of the lifecycle of such multistakeholder Working Groups. With respect to the first two phases – namely conducting an analysis of the context and obtaining multistakeholder buy-in to achieve swift set-up of the Working Group – the study outlines the steps undertaken to map stakeholders, build trust and establish a shared vision and objectives for the Working Group.

Among the key factors behind the Working Group's successful context analysis and set-up, was the decision based on collaboration between OGP, DCAF, and the OECD to establish the Working Group as a complement to the Congolese multistakeholder platform that monitors OECD responsible mineral supply chains due

diligence in South Kivu. The Working Group was therefore integrated as a technical cell of the provincial monitoring committee, the Comité Provincial de Suivi of South Kivu (CPS/S-K), with the endorsement of the provincial Ministry of Mines. The opportunity for the Working Group to coordinate with the CPS/S-K and associated local branches (CLS) meant that provincial and local stakeholders contributed to the monitoring and resolution of security and human rights incidents, thereby further strengthening the Working Group's legitimacy and effectiveness.

With respect to the third lifecycle phase of demonstrating relevance and effectiveness of the Working Group's interventions, the study describes concrete case studies and provides firsthand testimony from community beneficiaries who confirm the positive impact of the Working Group in preventing of human rights violations and improving the security environment. A key factor behind the Working Group's success was its commitment to issuing recommendations to resolve security and human rights incidents and then following up on these recommendations with multistakeholder field visits to facilitate local dialogue and solutions as well as ongoing monitoring to ensure sustainable and positive results. These case studies include incidents where the Working Group facilitated the demobilisation of an armed group, negotiated the withdrawal of illegal armed forces units and resolved community concession disputes. It also facilitated access to remedy and improved security at a large-scale mining site, and mediated community security disputes that allowed for the lifting of a suspension of artisanal mining, helping local miners pursue their livelihoods and economic activities.

Numerous stakeholders confirmed the importance of the Working Group's emphasis on providing human rights training to strengthen the capacities of the mining police, a specialised unit of the national police force that has jurisdiction to provide security to mining sites but is in need of capacity building. DCAF and OGP developed and delivered a human rights training module through a pilot training and as a result of the Working Group's outreach, a human rights module is now part of the core training curriculum for the mining police at the national level.

With respect to the fourth phase of achieving sustainability, the study highlights the Working Group's positive achievement of garnering local buy-in and active engagement from member stakeholders. However, despite its strong connections and embeddedness in local institutions, the Working Group has yet to achieve financial independence to support the range of their work, including their important field missions.

While containing numerous insights on good practices developed by the Working Group that can serve as inspiration for other multistakeholder groups, the study concludes with some recommendations to strengthen the impact of the Working Group's next phase of work. Notably, it suggests that the Working Group should set clear objectives and outcome targets based on a renewed context analysis, with periodic evaluations on impact. Furthermore, the Working Group should consider innovative ways to improve trust amongst distant community members finding themselves in protracted security and human rights stalemates with semi-industrial and industrial mining actors.

With respect to international donors, the study confirms that the Working Group's proven track record of continued positive impact merits further project-based support as new opportunities for achieving Working

Group sustainability are explored. The study also recommends that the Congolese government builds on its commitment made in January 2020 to become a government member of the Voluntary Principles Initiative and to formalize support for the South Kivu Working Group and similar multistakeholder groups in other provinces. The government should solicit and consider multistakeholder views, including local community-based views channeled through platforms such as the South Kivu Working Group on security sector reform needs and priorities identified on the ground. This is essential to ensure improved and more effective security sector governance surrounding the extraction of the natural resources that are so critical to Congolese citizens' livelihoods and long-term development.



# 1. INTRODUCTION

This study identifies lessons learned from the experiences of the Working Group on the Voluntary Principles on Security and Human Rights in South Kivu in the Democratic Republic of Congo (DRC). The Working Group was established in 2018 as part of a project implemented by the Geneva Centre for Security Sector Governance (DCAF) in partnership with a Congolese organisation, l'Observatoire Gouvernance et Paix (OGP), with the support of the Dutch Embassy in the DRC. The pilot project supported the core of the Working Group's activities for two and a half years from July 2018 through December 2020.

Adopted in 2000, the Voluntary Principles on Security and Human Rights (VPs) set best practice standards for extractive companies to establish security arrangements that respect human rights in complex environments. The VPs also encourage multistakeholder engagement so that companies prevent and mitigate the security and human rights risks of their activities on stakeholders including local communities. This multistakeholder approach convenes actors from the three pillars of government, the private sector, and civil society.

At the international level, the Voluntary Principles Initiative (VPI) is led by a Steering Committee with four representative members of each pillar and a rotating chair. At the national and regional level in complex environments, members adopt a range of strategic and operational measures to promote, implement and report on implementation. In some contexts, "In-Country Working Groups" convene members of the three pillars to establish a platform for dialogue to exchange and respond to concrete security and human rights concerns that arise on the ground. Such groups exist in formal and informal capacities in various countries. Successive VPI strategies have reaffirmed the essential role of in-country implementation in strengthening local capacities and creating an enabling environment to protect human rights. In the DRC, two In-Country Working Groups promoting the Voluntary Principles have been operating for over a decade: one in Kinshasa and another in Lubumbashi in the heart of Congo's industrial cobalt and copper mining province.

The South Kivu Voluntary Principles Working Group (Working Group) was established following an in-country mission led by the government of the Netherlands in 2017 during its tenure as chair of the VPI. In this role, the Netherlands sought to identify concrete ways to support the strategic goal of increasing in-country

implementation of the VPs through multistakeholder working groups. In the DRC, the objective of establishing a South Kivu Working Group was to respond to needs expressed on the ground to increase the collaboration between the private sector, civil society organisations, security forces and government authorities in order to jointly identify and address security and human rights risks in the extractives sector.

A key objective of establishing a Working Group in South Kivu was to increase the application of the Voluntary Principles in a context where mining is predominantly artisanal and small-scale but co-exists with a few semi-industrial and industrial mining sites. South Kivu, like other provinces, had already established a range of multistakeholder initiatives to oversee application of the OECD guidance on responsible mineral supply chains from conflict-affected and high-risk areas. These initiatives, however, lacked technical expertise and dedicated resources to address security and human rights concerns that are at the foundation of responsible mining. The South Kivu Working Group expressly sought to fill this gap by promoting the Voluntary Principles and multistakeholder dialogue to prevent security and human rights incidents and improve multistakeholder security sector governance.

In January 2020, after a high-level visit to the DRC from the Swiss Ministry of Foreign Affairs in November 2019 accompanied by DCAF during Switzerland's tenure as chair of the VPI, the Congolese Council of Ministers adopted a decision declaring the Congolese government's intention of becoming a government member of the Voluntary Principles. This move by the Congolese government underscores the important role that multistakeholder groups can play in resolving security and human rights incidents in challenging contexts like the DRC.

This study addresses lessons learned from the Working Group's experience at two levels. At one level, it examines a distinct period, including the Working Group's setting itself up as a multistakeholder platform and the first years of its operation to address security and human rights concerns from July 2018 through December 2020. From this perspective, it highlights important results and achievements, as well as a few challenges, from the pilot project implementation period. These findings can help inform the continuation of the South Kivu Working Group, as well as other VPs initiatives in the DRC.

At another level, the study also analyses the experiences of the Working Group as a case study of the development of an operational Voluntary Principles in-country working group along the lines of the good practices identified and expanded upon in the DCAF-Fund for Peace study "***From Commitment to Impact: Experiences from Local Working Groups on Business, Security and Human Rights***." Given the positive impact the South Kivu Working Group has achieved in its short two-year pilot project phase, the experience merits highlighting and awareness-raising as a model to inspire multistakeholder efforts to promote security and human rights protections in similar – if unique – challenging environments.

## 2. METHODOLOGY

### 2.1 DATA COLLECTION

This study was carried out by an independent consultant with expertise in the DRC conflict history and political context, as well as in programme evaluation. First, the consultant conducted a literature review of reports and documents on the implementation of the project by DCAF and OGP. Second, the consultant conducted semi-directive key informant interviews with stakeholders representing the three pillars involved in the South Kivu Working Group (see the semi-directive interview guide in the appendix). In addition, the consultant interviewed other actors deemed relevant in the specific context of South Kivu, such as direct beneficiaries of the Working Group's interventions or further potential partners of the project. These included representatives of the government's technical and financial partners, local communities, and informal and private security forces.

Ethical research principles were an integral part of this study's data collection, processing and analysis methodology. To this end, in addition to the basic principle of do no harm, the research process took into account the continuous evaluation and limitation of risks to informants; the free and informed consent of the informants; and the strict observance of confidentiality requirements in the analysis and publication of the results of the study.<sup>1</sup>

### 2.2 ANALYTICAL FRAMEWORK

To report on the impact of the South Kivu Working Group and the challenges it faced, this study employed the SWOT approach as the analytical framework (Strengths, Weaknesses, Opportunities, and Threats).<sup>2</sup> The study applied this analytical approach to the four key stages of a Working Group's life cycle that were identified in the DCAF-Fund For Peace study, namely: context, setup, growth and sustainability. As for the interpretation of the results, the conclusions of the study were based on indicators developed in consultation with DCAF to measure each phase of the Working Group's lifecycle. The draft study was then reviewed and commented on by DCAF and OGP to ensure triangulation of the findings.

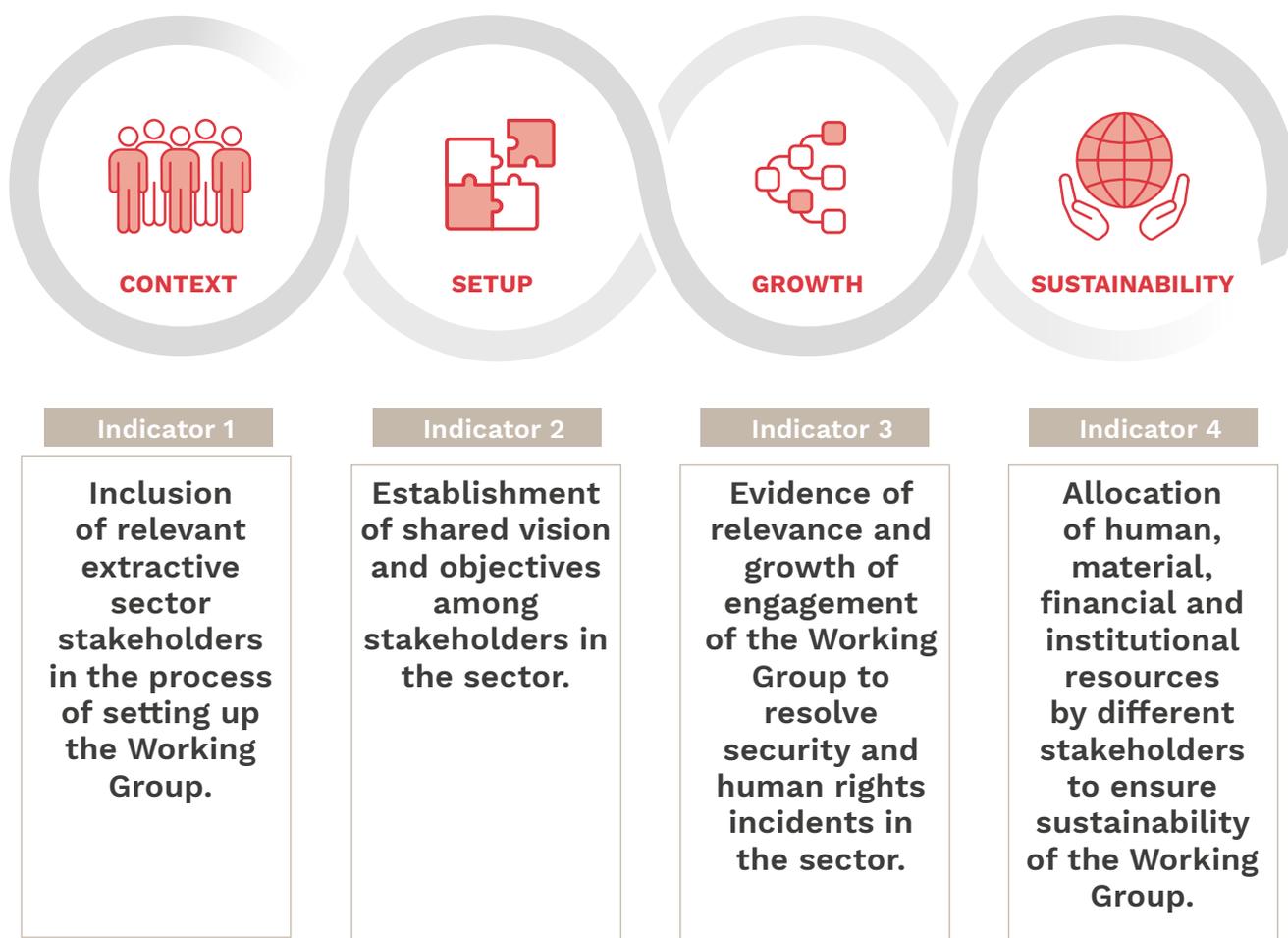


Figure 1: Indicators for sustainability of Working Groups

Through this approach, the study highlights several concrete areas where the Working Group has had a positive impact in preventing and mitigating security and human rights risks, identifying factors contributing to this success as well as some challenges. The study concludes with recommendations relevant to the continuation and reinforcement of this important work in South Kivu. The study also identifies lessons that can be extrapolated to different provinces of the DRC as well as other global contexts.

## 3. CONTEXT

### 3.1 SECURITY AND HUMAN RIGHTS IN THE SOUTH KIVU EXTRACTIVES SECTOR

South Kivu is one of the twenty-six provinces of the Democratic Republic of Congo (DRC). It is bordered to the east by three states (Rwanda, Burundi and Tanzania); to the west by the province of Maniema, to the north by the province of North Kivu and to the south by the province of Tanganyika. South Kivu is rich in mining sites, particularly for cassiterite, wolframite, coltan and gold. Exploited largely on an artisanal and small-scale basis, these minerals make up the four mining resources often referred to as conflict minerals<sup>3</sup> because of their role in the armed conflicts that have engulfed the DRC since the 1990s.<sup>4</sup>

The conflicts and human rights violations surrounding the extraction of these minerals in the DRC played an important role and trigger for the adoption of various international standards and initiatives to counter the role of mining revenues fuelling conflict. For example, the U.S. Dodd-Frank Act, enacted in 2010, requires U.S. listed companies to disclose whether they use conflict minerals from the DRC. For its part, the Organisation for Economic Co-operation and Development (OECD) was spurred by the context of conflict minerals from the DRC to build on the OECD Guidelines for Multinational Enterprises to develop the OECD Due Diligence Guidance for Responsible Mineral Supply Chains from Conflict-affected and High-Risk Areas (the "OECD Guidance") in 2011.<sup>5</sup> The OECD Guidance complements the Dodd-Frank Act to assist and ensure that non-US listed companies conduct due diligence on the origin of their minerals to identify and mitigate human rights risks related to their extraction.

The extractives sector in the DRC, and especially in South Kivu, continues to be undermined by recurring threats to security and human rights by various actors including public security forces, as well as a range of private and informal security actors. These threats gravely affect the safety of artisanal miners and local communities and stunt economic development in the region. According to data collected by IPIS, an estimated 117000 artisanal miners are active across 710 mining sites.<sup>6</sup> The artisanal miners interact with many other actors in and around the sector such as public security forces, armed non-state actors, artisanal miners' cooperatives, as well as national and multinational mining companies.<sup>7</sup>

Despite the prevalence of artisanal and small-scale mining (ASM) in South Kivu, the province also hosts one industrial large-scale mining (LSM) site. This mining site has been run primarily in the last decade by the Canadian multinational mining company Banro, in partnership with Congolese owners. In 2020, however, Banro sold off various assets and mining rights, including the Twangiza and Lugushwa extraction sites to Chinese-owned companies operating in partnership with Congolese entities.<sup>8</sup>

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The tense context of ongoing conflict and human rights abuses surrounding the extractives sector in the DRC combined with the presence of both artisanal and industrial mining sites has led to the creation of various multistakeholder initiatives to contribute to the positive prevention and resolution of social tensions and human rights violations.

Map of artisanal mining in eastern DRC

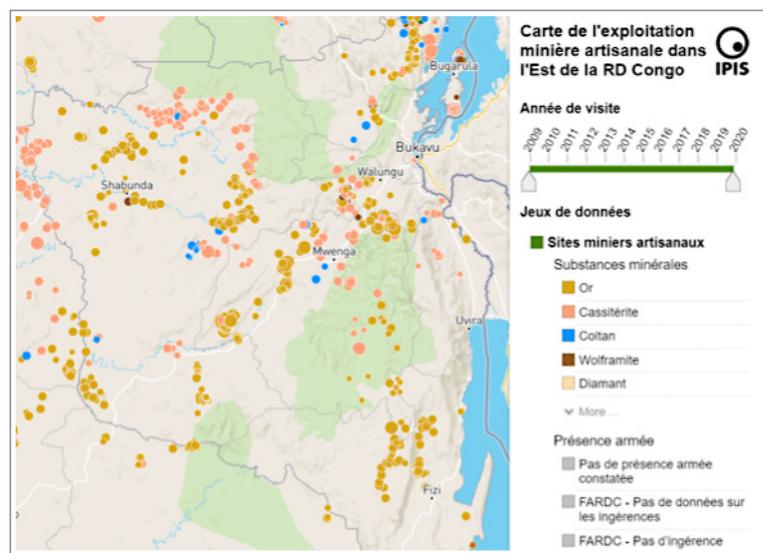


Figure 2: Map of artisanal mining in South Kivu

Map of the Territories of the South Kivu Province



Figure 3: Map of the territories in South Kivu

## 3.2 FILLING A GAP IN RESPONSIBLE SUPPLY CHAIN INITIATIVES IN THE DRC

Following the 2011 issuance of the OECD Guidance, countries within the International Conference on the Great Lakes Region in Central Africa, including the DRC, made explicit commitments to adhere to this international standard, as well as others promoted at the sub-regional level.<sup>9</sup> To this end, the DRC adopted reforms of its mining sector by 2011 to bring it in line with the OECD Guidance and related regional standards to ensure that minerals exported from its territory (particularly from its eastern region) were not linked to the illicit financing of armed conflict.

In March 2011, the DRC Mining Ministry adopted a decree that called for the creation of monitoring committees at the provincial and local levels to implement recommendations, resolutions and commitments made by mining sector stakeholders at the end of the consultation held in Kinshasa in March 2011 to ensure Congolese

compliance with the OECD Guidance.<sup>10</sup> The Provincial Monitoring Committee in South Kivu (CPS/S-K) was therefore established in 2012, followed by the creation at the provincial level in South Kivu in 2013 of the Community Development Fund around mining sites.<sup>11</sup> Furthermore, local monitoring committees (CLS) have been created to support the CPS at the provincial level.

Although the CPS/S-K had established itself as a well-connected and effective multistakeholder platform for mineral supply chain due diligence, none of the stakeholders involved in the CPS/S-K structure had technical expertise or dedicated resources to focus on identifying and resolving security and human rights concerns that perpetuate human rights violations on mining sites. From the outset of the contextual analysis, the South Kivu Voluntary Principles Working Group project partners made a conscious decision to capitalise on the existing CPS/S-K structure and to fill the gap of the lack of expertise on security and human rights.

A recent study by DCAF, the ICRC, and OECD identifies that a more joined-up and coherent implementation of the OECD Guidance and the Voluntary Principles would contribute to improve security and human rights protections and therefore enhance responsible mineral supply chain due diligence.<sup>12</sup> The creation of the South Kivu Working Group and its experiences to date, as described in this study, provide evidence for the effectiveness of such a joined-up approach.

## **3.3 THE VOLUNTARY PRINCIPLES IN THE DRC**

The creation of the South Kivu Working Group in 2018 was the culmination of a collaborative process involving multiple actors: civil society organisations, state institutions, private companies, Voluntary Principles government members (providing political impetus as well as donor funds) as well as technical and financial partners. The complementary and coordinated contributions of this broad range of actors played a decisive role in the success of the Working Group.

The first Voluntary Principles Working Group in the DRC was established in Lubumbashi in 2006 driven by the presence of a number of industrial LSM companies operating in the region who wanted to reach out to the government and international actors to create a space for dialogue. Later, a Voluntary Principles Working Group was established in the capital to address the strong interest of a number of Voluntary Principles government members (many who are home states to multinational extractives companies) to determine how to promote the VP standards in the DRC.

## Multistakeholder platforms promoting the Voluntary Principles in DRC

<b>D.R. Congo Kinshasa</b>	<ul style="list-style-type: none"> <li>• Alphamin</li> <li>• AngloGold Ashanti</li> </ul>	<ul style="list-style-type: none"> <li>• D.R. Congo (<i>Ministry of Mines</i>)</li> <li>• Canada (<i>Embassy</i>)</li> <li>• Netherlands (<i>Embassy</i>)</li> <li>• Norway (<i>Government</i>)</li> <li>• Switzerland (<i>Embassy</i>)</li> <li>• United Kingdom (<i>Embassy</i>)</li> <li>• United States (<i>Embassy, USAID</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• International Alert</li> <li>• Search for Common Ground</li> <li>• Pact</li> </ul>	<ul style="list-style-type: none"> <li>• DCAF</li> <li>• ICRC</li> </ul>
<b>Provincial working group (Lubumbashi)</b>	<ul style="list-style-type: none"> <li>• Anvil Mining</li> <li>• Bazano</li> <li>• CMSK Forestry</li> <li>• Freeport-McMoRan</li> <li>• Gecamines</li> <li>• Huashi Mining</li> <li>• Katanga Copper Cobalt</li> <li>• MUMI</li> <li>• Sicominex</li> <li>• UTE Elecnor</li> <li>• Vale</li> </ul>	<ul style="list-style-type: none"> <li>• D.R. Congo (<i>Ministry of Mining and technical divisions, National Police, Mining Police, Public Prosecutor</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Pact</li> </ul>	<ul style="list-style-type: none"> <li>• MONUSCO</li> </ul>

Figure 4: Voluntary Principles Working Groups in DRC, source: DCAF FFP Study, 2020.

Since 2014, the Swiss Embassy in the DRC has taken the initiative to serve as the informal Secretariat of the Kinshasa Working Group, bringing together actors from the three pillars. The Kinshasa Working Group undertook an assessment of the risks of conflict and human rights violations in the extractives sector resulting from the weaknesses and inadequacies contained in the law then governing the mining sector. This provided a basis to find ways of promoting the implementation of the Voluntary Principles standards and encouraging multistakeholder dialogue on the ground.

In November 2017, the Kinshasa Working Group organised two workshops successively in Goma and Lubumbashi under the joint initiative of the Embassies of Switzerland, the Netherlands and Canada. Bringing together around 100 actors from the three pillars, the objective of these workshops was to initiate a reflection on how to meet the challenge of human security and human rights to further promote on-the-ground implementation and monitoring of the Voluntary Principles. The workshops also benefitted from inputs by three international organisations who were members of the Voluntary Principles: International Alert and Pact, which have field operations in the DRC focused on conflict prevention and development issues related to mining, and DCAF, which has technical expertise on security and human rights and security sector governance.

The workshops took place in Lubumbashi, already host to a Voluntary Principles Working Group with engagement by many industrial mining companies, and Goma, the capital of North Kivu in conflict-affected eastern DRC, which along with South Kivu is the hub of predominantly ASM activities in eastern DRC. At the time, the mining landscape in North Kivu also included one industrial mining company, Alphamin, already a member of the VPI.

## 3.4 THE OGP – DCAF SOUTH KIVU PROJECT PARTNERSHIP

### How the project developed

Through the 2017 workshops in Goma and Lubumbashi, the Dutch Embassy in the DRC identified the opportunity that the VP multistakeholder dialogue model would bring to generate practical impact on the ground in South Kivu in improving security and human rights standards. South Kivu had been chosen as a result of the confluence of contextual factors mentioned above: the prevalence of ASM alongside one industrial mining site, the presence of a strong and trusted local partner to lead local implementation of the project (OGP), the presence in South Kivu of an existing multistakeholder group addressing the OECD Guidance that did not yet take business, security and human rights concerns into consideration, and the ongoing security tensions in the region surrounding extractives that necessitated a more holistic approach.

DCAF has been an official observer within the Voluntary Principles on Security and Human Rights since 2012. In 2016, DCAF established the Security and Human Rights Implementation Mechanism (SHRIM), which aims to promote coordinated support from the international community for the national implementation of international standards and good practices in the field of security and human rights, including the VPs. In 2019, DCAF signed a Memorandum of Understanding with the VPI Secretariat, which acknowledges DCAF as a preferred partner of the VPI for in-country implementation of the VPs. DCAF contributed to the November 2017 workshops in the DRC given its prominent work promoting the VPs and its technical expertise promoting implementation of the business and human rights principles contained therein.

Following the November 2017 workshops, the Dutch Embassy introduced DCAF to OGP. DCAF and OGP then jointly designed the two-year pilot project entitled "Improving the field implementation of the Voluntary Principles on Security and Human Rights in South Kivu – DRC." Throughout the project DCAF and OGP have both played critical and complementary roles that contributed to the success of the project.

### The leadership role of OGP

OGP is a reputable non-profit, non-governmental organisation based in Bukavu, South Kivu Province (DRC) that has operated since 2003. Its mission is to contribute to sustainable peace by establishing equitable means for the population to benefit from natural resource exploitation. Furthermore, OGP seeks to improve economic development and strengthen local mechanisms for fighting poverty.

Operating on the principles of dialogue, neutrality and transparency, OGP is well-respected as an honest broker between stakeholders interested in addressing the relationship between conflict and the extractive sector in South Kivu and the DRC. A staunch advocate of the principle that the needs of local communities must be placed at the centre, OGP has been at the forefront of monitoring and engagement to ensure that mineral extraction in the DRC is free of human rights abuses, corruption and conflict. It is also committed

to the promotion of good practice by security services in the extractive sector. Interventions by OGP include support for local communities; capacity building for actors in the supply chain; action-research; advocacy; and promotion of constructive dialogue between different actors (civil society, public and private sector).<sup>13</sup> OGP's reputation and experience in the peacebuilding and extractives sector in South Kivu proved to be a crucial factor that facilitated the successful establishment of the Working Group.

### **The complementary role of DCAF**

For its part, DCAF has played a critical complementary role to OGP in the project and in OGP's steering of the South Kivu VP Working Group at varied levels. First, DCAF has provided technical expertise on the Voluntary Principles and other international best practice standards in relation to business, security and human rights. This expertise covers not only international soft law and regulatory standards on business and security, but also expertise in the methodologies of promoting multistakeholder dialogue to prevent and resolve security and human rights incidents. DCAF has channelled this technical support through candid and ongoing dialogue with OGP throughout the project, as well as through active participation and contributions to the monthly convenings of the South Kivu VP Working Group. An important aspect of this support has been DCAF's brainstorming and guidance with respect to how OGP has responded to concrete incidents of security and human rights abuse that OGP has investigated and intervened on through field missions to mining sites as explained further in Sections 5 and 6 below.

DCAF has also played an important role in connecting the Working Group to international policy discussions on the VPs, as well as making linkages at an international level between the VPs and other responsible business initiatives – such as those surrounding the OECD Guidance. On the one hand, OGP had been involved in deliberations convened by the International Conference on the Great Lakes Region and the OECD on developing the OECD Guidance to address responsible mineral supply chains in conflict-affected and high-risk areas. On the other, DCAF's ongoing relationship with the OECD's Responsible Business Conduct Unit to support ways to promote security and human rights best practice in relation to the OECD Guidance meant that when DCAF connected with OGP to develop the Working Group pilot project, it also made the connection to the OECD. Together all three parties identified the important existing structure of the CPS/S-K local monitoring committee and the lack of technical expertise on security and human rights as an opportunity for the Working Group pilot to fill. As will be further elaborated below, this complementarity between initiatives has been a crucial factor behind the Working Group's success. The experience with the South Kivu VP Working Group features as an important case study in the DCAF – ICRC – OECD Study on Policy Coherence between the VPs and the OECD Guidance and a model to be replicated elsewhere.

Beyond facilitating linkages between OGP and the OECD, DCAF has also been instrumental in bringing the lessons learned from the South Kivu Working Group to numerous international policy forums, such as the United Nations annual Business and Human Rights Forum, the Voluntary Principles Initiative exchanges on in-country multistakeholder working group experiences promoting security and human rights, as well as the World Bank Fragility Forum.<sup>14</sup>

Finally, DCAF played the lead project management and coordination role with the project's donor, the Dutch Embassy to the DRC. This donor support was channelled through DCAF's Security and Human Rights Mechanism (SHRIM). The SHRIM is a multi-donor trust fund committed to supporting on-the-ground implementation of security and human rights good practice in a coherent, sustainable and cost-effective way. As a result of the South Kivu Working Group project being funded through the SHRIM, DCAF was able to co-design and implement with OGP shorter-term complementary projects that benefitted from financial support from other international donors to promote improved security sector governance and good practices to prevent and respond to security and human rights incidents.



## 4. SETUP: BUILDING TRUST AND A SHARED VISION

Once the South Kivu Working Group decided to establish itself as a technical working group to complement the CPS/S-K OECD due diligence monitoring committee, OGP embarked on a detailed stakeholder and issue mapping exercise and succeeded in establishing a shared consensus / vision of its objectives among stakeholders. This is demonstrated by the involvement of local communities, mining cooperatives and other partners.

This section analyses the range of factors that contributed to the successful setting up of the Working Group. These factors include: shared incentives that led to buy-in by a wide range of stakeholders; trust-building through engagement with stakeholders at multiple levels and across pillars; the thematic focus on business, security and human rights and accompanying emphasis on complementarity with other initiatives; close monitoring in the field (rather than just issuing recommendations) leading to concrete facilitation and resolution of security and human rights tensions; and direct dialogue as a means of resolving disputes through cooperation rather than confrontation.

### 4.1 INCENTIVES FOR ENGAGING WITH THE SOUTH KIVU WORKING GROUP

Interviews with Working Group members revealed the following three issues that served as the key incentives raising stakeholder interest in joining and engaging with the Working Group:

- Lack of respect for human rights around extractive sites in South Kivu by all public and private security actors in the region, including non-state armed groups and other private or informal security services.
- Ongoing illegal presence of public security services and uncontrolled elements of the Congolese Defence and Security Services (FDS) encompassing elements of the Congolese army and police.
- Lack of a framework for dialogue and exchange focused on business, security and human rights concerns related to the mining sector – both ASM and LSM despite the existence of multistakeholder structures addressing supply chain due diligence and traceability issues.<sup>15</sup>

The shared need to overcome the above challenges combined with OGP's leadership and reputation in the extractives context of South Kivu were crucial in obtaining the buy-in of key relevant actors during the consultations conducted under its leadership. Indeed, OGP's outreach to join the Working Group focused on existing collaborators, including the following categories of actors:

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**Main actors consulted by OGP in setting up the Working Group (non-exhaustive list):**

<b>Category</b>	<b>Targeted actor</b>
Congolese Defence and Security Forces (FDS)	Police (Mining Police and Police Academy); Army (FARDC units in charge of the demilitarisation of mining sites and specialising in civil-military relations)
Governmental Institutions	Four services attached to the Ministry of Mines of the Province of South Kivu (Divimines, SAEMAPE, CAMI, CPS)
Private sector	Mining cooperatives; private companies (BANRO and SAKIMA); traders
Civil Society	Organisations working on mining issues; especially those working at the community level (advantage: easy access to information from the field)
Technical and diplomatic partners	Embassies of VP Member States, DCAF, IPIS, IOM, BSP, iTSCI

Figure 5: Source: Semi-directive interviews with ten representatives of the project's stakeholders in South Kivu, October-November 2020.

## 4.2 THE PROCESS OF TRUST BUILDING

Under the leadership of OGP, the Working Group worked skilfully and successfully built trust among a wide range of stakeholders, an exercise that was not without challenges as described here.

### At the provincial level

At the beginning, the major challenge facing the Working Group was the mistrust displayed by private companies and mining cooperatives, who feared they would come under attack from members of civil society within this initiative. One member described how the Working Group overcame this challenge in gaining the trust of Banro Corporation, the Canadian multinational mining company operating in South Kivu province in 2018–2019 at the time of the setting-up of the South Kivu Working Group:

*The big challenge was to directly involve Banro in the activities of the working group for the first three months. The company's reluctance was due to its initial concerns about the neutrality of the Working Group. To overcome this challenge [OGP], together with a member of civil society and another [provincial government] representative organised several meetings with the company's community relations department to explain the functioning of the Working Group, its objective and its terms of reference. This approach enabled us to include the Assistant to the Community Relations Officer and later the Banro Security Manager into the Group.<sup>16</sup>*

There were also several cases of civil society organisations (CSOs) that were reluctant to join the Working Group and were questioning OGP's leadership role. OGP took its time through skilful outreach. It then invited

and included these CSOs in the monthly Working Group meetings, and more importantly, in the field missions. This inclusive approach helped overcome the CSOs concerns and resulted in their active and ongoing engagement in the Working Group.

While OGP initially envisaged a thirty-member Group, it eventually opted for a twenty-member group to facilitate discussions while ensuring the representativeness of the relevant actors. Based on the Group members' recommendations, OGP adopted strategies to ensure multistakeholder inclusion and engagement. First, the Working Group created thematic sub-committees and assigned each Working Group member with an active role in these sub-committees. Second, the Working Group decided to rotate the persons in charge of field missions according to their competences (the most appropriate), so that a large proportion of the members would have the opportunity to carry out and contribute to the field missions.<sup>17</sup>

### At the local level

At the local community level throughout South Kivu, there is a general distrust of outsiders, not only towards Congolese national or international actors, but also of anyone coming from the provincial capital Bukavu. This is due to various factors, including the diverse ethnic composition of the South Kivu province and inter-ethnic tensions, as well as the general lack of infrastructure and isolation of local communities. In the areas surrounding the large-scale mining sites, communities have been disappointed by the promises made to them in agreements signed with the mining company (for example, regarding employment or access to artisanal mining rights), which have remained unfulfilled. As such, communities suspect that organisations intervening from Bukavu or elsewhere are partial to the companies' interests rather than acting as neutral parties that can facilitate between competing interests. Despite this deep-seated distrust, the Working Group gradually won the confidence of local stakeholders at several mining sites in South Kivu, generating local – and constructive – participation in the Group's activities by some mining communities or mining cooperatives.



Figure 6: Members attending the South Kivu VP Working Group

## Trust-building milestones

The following activities of the Working Group were cited in interviews as successful steps taken to build trust among stakeholders:

### 1. The December 2018 Bukavu workshop to launch the project in South Kivu:



Private sector representative presents results during capacity-building workshop, Bukavu, 2018.

This workshop held in December 2018 marked the kick-off of the activities of the South Kivu Working Group and brought together the newly identified Working Group members from the three pillars. The workshop combined elements of training to raise awareness of the Voluntary Principles with a participatory approach inviting contributions and feedback from the participants. The stakeholders interviewed for this study were unanimous on the important role that this workshop played in consolidating their confidence in the Working Group. The workshop benefited from technical support from DCAF, who helped develop the Working Group's workplan elaborated at this meeting by identifying the themes to be discussed in future meetings. During the workshop, a variety of actors were given speaking roles, sharing their experiences and solidifying their buy-in. The workshop also benefited from the support and active participation of the provincial Minister of Mines.

### 2. Successful collaboration between the Working Group, Congolese armed forces, and the Maheshe rebel group leading to the Maheshe's group surrender:

At the time of the creation of the Working Group, OGP had not reached out to involve any actors from the Congolese army unit in charge of civil and community relations in South Kivu and Maniema (the SECAS 33rd Military Region). This region is marked by activity of non-state armed groups, such as the Maheshe group,

that created tensions around extractive sites. The Maheshe group approached the Working Group to seek its mediation with the army with a view to its surrender and demobilisation, given that negotiations between the army and rebels were at a stalemate. Given its contacts with the armed forces, the Working Group brought the army SECAS unit to discuss the surrender of the Maheshe armed group in October 2019. The result of the collaboration concluded with the demobilisation of the Maheshe armed group formalised by acts of commitment signed and countersigned by national and international authorities.

After the surrender of this armed group, civil-military rapprochement improved in the Luntukulu area and cases of military harassment had significantly decreased,<sup>18</sup> thereby strengthening the confidence of the local population in the Working Group. This case was cited by stakeholders as one of the first successful interventions of the Working Group that further established it as an effective player, leading to other stakeholders bringing their concerns to the Working Group to resolve conflict and security and human rights concerns.

### **3. The December 2019 pilot training of mining police agents:**

This pilot police training was also praised by many actors interviewed for this report as a key milestone in anchoring trust and building the reputation of the Working Group. The workshop was organised to respond to the need for concrete training on the Voluntary Principles for the mining police. After the training and throughout 2020, OGP pursued a work plan to monitor the effects of the training. Field monitoring missions revealed numerous security and human rights tensions that needed resolution. Seen as one of the best ways to ensure sustainability of implementing the Voluntary Principles, the Working Group has planned to follow this course with a train-the-trainer workshop with the view that more mining police will be able to impart the knowledge from the training to other officers. DCAF identified financial support from the United Kingdom, Switzerland, and Norway for the train-the-trainer add-on project.

Despite delays due to the COVID 19 pandemic, the train-the-trainer was delivered in April 2021. Furthermore, OGP and DCAF were successful in advocating that the Congolese National Police incorporate a human rights and security module based on the November 2019 pilot training. DCAF and OGP organised to promote the security and human rights standards contained in the Voluntary Principles. In September 2020 the National Congolese Police Commissioner approved a standard mining police curriculum that incorporates a one-day human rights training module, acknowledging DCAF as a resource for support (alongside the United Nations Joint Human Rights Office in the DRC) for rollout of this human rights module. After the successful completion of the initial train-the-trainer project, DCAF and OGP continue to explore ways to further expand and support human rights training of mining police deployed to mining sites to build on the foundation and experience achieved to date.



*New mining police trainers pose with their certificates at the Jules Moke police school after attending a training on security and human right, Bukavu, April 2021.*

## 4.3 COMPLEMENTARITY WITH SIMILAR INITIATIVES

The Working Group's emphasis on complementarity reassured most partners that the Group's sincere intention was not to replace or conflict with pre-existing initiatives, especially the CPS/S-K, but rather to build on synergies and create a specialised forum to address security and human rights issues in the extractive sector in South Kivu.

To facilitate the establishment of the Working Group, OGP made sure to emphasise the Working Group's complementarity to existing initiatives by highlighting its unique value adds as the following:

- Promotion of the Voluntary Principles, which bring a clear focus on security and human rights that is lacking in the OECD or other supply chain traceability or due diligence schemes and therefore were not being addressed by any of the existing initiatives;
- Inclusion of greater civil society, community, and mining cooperative representatives than other existing initiatives;
- A cross-sectoral view of security and human rights concerns in both large-scale and artisanal mining sites – the industrial extraction of minerals had also been excluded from other existing initiatives.

One partner confirmed the complementarity between the OGP-led technical Working Group on the VPs and the multistakeholder CPS/S-K Kivu as follows:

*We have built on our credibility in this area over many years and on the networks of local partners with whom we have worked on other projects; for example, the OECD Multi-Stakeholder Steering Group on due diligence for responsible mineral supply chains, and the organisation of community forums with local communities. The Working Group was therefore a continuation of the work achieved so far on other projects.*

To be sure, by early 2020 the South Kivu Working Group had achieved formal recognition as a technical working group of the CPS/S-K. In January 2020, the provincial government adopted provincial decree n° 20/002/GP/SK of 22 January 2020 modifying and completing the decree n°18/035/GP/SK of 3 September 2018 setting up the CPS/S-K that included a clause recognising and endorsing the work of the South Kivu Working Group as a technical working group to the committee.

## 4.4 INCIDENT MONITORING AND FOLLOW-UP

Interviews revealed that the Working Group's action-oriented approach to resolving security and human rights incidents contributed significantly to strengthening the adherence of stakeholders. DCAF and OGP decided to include a particular focus on field monitoring missions drawing on lessons learned from the experiences of the veteran Voluntary Principles Working Group in Katanga. There, the Working Group had focused to date on convening multistakeholder roundtables and issuing recommendations but leaving implementation and follow-up on the recommendations to the relevant actors.

Adapting to the needs of South Kivu, OGP decided to take on-the-ground action through monitoring missions, repeated visits, and on integrating local actors in the Working Group. Such field missions in the DRC are costly and the successful missions in South Kivu were a result not only of funding included in the original project grant funded by the Dutch Embassy in the DRC, but also supplemental funding provided by Switzerland to promote field missions, as well as the inclusion of providing travel assistance for local community members to come to Bukavu to participate in the Working Group meetings. There are factors related to road infrastructure conditions which, according to Working Group members interviewed, have limited the access of the Working Group to the more remote regions which are often in need of assistance.<sup>19</sup> That said, where the Working Group has been able to undertake repeated field missions, it has been most often been able to achieve positive impact in improving security and human rights protections at the mining sites. In sum, the monitoring and follow-up missions have proved to be one of the most critical elements contributing to the South Kivu Working Group's success stories and concrete impact on the ground.



## 4.5 DIRECT DIALOGUE, FACILITATION, AND MEDIATION

One of the key elements of OGP's successful trust-building within the Working Group was its emphasis on direct dialogue as a means of facilitating the resolution of security and human rights conflicts and tensions that arose in the field. Based on the principle of "cooperation rather than confrontation" with various target partners with often conflicting interests, OGP has operationalised this strategy as follows:

- Organisation of direct consultative meetings with different stakeholders to explain the rationale for the Working Group and the collaborative approach (provincial Ministry of Mines; different security forces; private sector companies).
- Organisation of community forums with local communities following the dialogue model that OGP had developed in previous peacebuilding projects.
- Organisation of meetings at the premises of the various stakeholders on a rotating basis among Working Group members: meetings were held alternately at the army premises, then at the police station, then at Banro; and so on. This strategy proved to be effective in giving a sense of co-ownership and belonging among the Group members, building trust between stakeholders beyond their often-diverging interests.<sup>20</sup>

# 5. GROWTH

The South Kivu Working Group has gradually increased its frequency and scope of interventions based on a positive domino effect whereby news of the Working Group's success in resolving security and human rights tensions in one area leads stakeholders in other areas to turn to OGP and the Working Group to intervene. The Working Group accepts cases for intervention in the following manner. First, various stakeholders bring security and human rights issues to the attention of the Working Group at the monthly meetings. Working Group members then decide whether to take up a case for resolution and assign follow-up actions, including in some instances assigning follow-up tasks to specific Working Group members. The informal taskforces designated to follow up on incidents report back to the Working Group on actions taken at the next monthly meeting, and so on. Although the Working Group has not maintained a master database of all cases brought to its attention, it has kept a record of the cases it has accepted for follow-up interventions. The growth in the Working Group's engagement has therefore been confirmed through interviews based on the diversity of stakeholders requesting interventions and the nature of the requests addressed to the Working Group as set out below.

## 5.1 INCREASING AND DIVERSIFIED REQUESTS TO THE WORKING GROUP

As noted above, the South Kivu Working Group was intended to intervene both in response to security and human rights incidents arising in industrial mining sites as well as in areas of artisanal and small-scale exploitation with a view to implement the VPs. The Working Group has experienced a progressive increase of requests for facilitation and mediation from various stakeholders to resolve disputes between various actors involved in artisanal and small-scale exploitation, namely mining cooperatives, local communities, private sector companies, security forces (PMH, FARDC), and local state authorities.

This has been due in part to the fact that the establishment of the Working Group coincided with the adoption in March 2018 of a new legal framework governing the mining sector in the DRC, amending and complementing the one in place since 2002.<sup>21</sup> The changes brought by the new laws and regulations have had substantial implications for the rights and duties of actors in the mining sector. In particular, the 2018 law sets out new procedures for the formalisation of mining cooperatives. The new requirements have upset informal arrangements on mining access between communities, leading to a rise in security and human rights incidents in some instances.

Further details on the various types of stakeholders and their concerns and requests to the Working Group for assistance with finding solutions to security and human rights concerns are set forth below.

### Local communities

As the main victims of security and human rights abuses at mining sites, local communities have been the predominant actors requesting the Working Group's intervention in the implementation of the VPs. Their requests concern most often:

- Conflicts linked to the non-respect of the community relations agreements signed with industrial miners;
- Conflicts over expropriation of land for mining purposes;
- Abuse of power or partiality by state authorities defending the interests of mining companies or mining cooperatives, with possible negative consequences: rising tensions, conflict and other human rights violations; and
- Human rights abuses sometimes committed by security forces hired by mining companies or abuses linked directly to the mining companies' own operations.

### Mining cooperatives

Requests mainly concern recurrent disputes with other cooperatives over the extraction rights and management of mining sites. Mining cooperatives often resort to using security actors in these conflicts. Depending on the case, the mining cooperatives become either victims or sponsors of human rights abuse, thus leading to requests for the intervention of the Working Group.

### Public security forces

The most recurrent request from public security forces to the Working Group is for assistance in organising capacity building trainings on the VPs for the mining police. In fact, in 2020, the National Congolese Police has recognised the role and expertise that DCAF has to offer by including DCAF's security and human rights training in the national baseline curriculum for the mining police (PMH).

Other requests have been made for the Working Group to mediate between public security forces and with armed groups operating in mining areas with a view to their demobilisation.

### Local government entities

Local government agents have made requests to the Working Group to establish field presence or representation at the local level close to mining sites to enable a more nimble and spontaneous ability to intervene in security and human rights incidents.



South Kivu Working Group monthly meeting held at the ministry of mines, Bukavu, April 2021.

## 5.2 SUCCESS STORIES ILLUSTRATING THE WORKING GROUP'S IMPACT

Based on its track record of interventions since its establishment, the Working Group in South Kivu is to a large extent considered successful by many stakeholders regarding its interventions. Some of its most emblematic interventions are the peaceful resolution of disputes at mining sites in the Kalehe Territory, particularly at the Bitale and Nyabibwe mining sites.

One partner in the study summarised the success of the Working Group in the following terms:

*The mediation sessions conducted by the Working Group in the conflicts between mining cooperatives over mining at the [Kalehe] sites were undeniable successes. They have led to the signing of a Memorandum of Understanding and a Deed of Commitment in the case of Nyabibwe, and a Deed of Conciliation in the case of the other Kalehe site. The neutrality of the members of the working group in these mediations was the key element that made the success possible.<sup>22</sup>*

DCAF and OGP have developed standalone in-depth case studies on successful interventions and the positive impact of the South Kivu Working Group with respect to security and human rights incidents that occurred around mining sites in Bitale,<sup>23</sup> Nyabibwe,<sup>24</sup> and Twangiza.<sup>25</sup> For further details on these case studies, readers are encouraged to consult the more detailed case studies available online. For ease of reference for the purpose of this study, however, salient points from these case studies are included in this study below.

### **The case of a mining site in Bitale, Kalehe Territory**

Two mining cooperatives were vying for control of the Bitale mining area in the Kalehe Territory of South Kivu, failing to recognise the other's extractive rights to the sites in light of the new procedures to formalise cooperatives into officially-recognised artisanal mining areas pursuant to the new 2018 Mining Code. To protect their mining interests, one cooperative hired elements of the Congolese army while the other cooperative engaged elements of the Mai-Mai armed rebel group. According to Congolese law, Congolese armed forces are not allowed to secure mining sites. Rather Mining Police units within the Congolese National Police have the jurisdiction to provide security to mining sites.

In its early days, the security and human rights tensions of the Bitale mining area were brought to the attention of the Working Group. The Working Group took on the case and successfully carried out several missions to resolve the security and human rights incidents that arose on these sites contested by these two cooperatives.

The Working Group interventions in Bitale included the following steps:

- Mediation to help cooperatives reach an agreement for coexistence on the site without resorting to the involvement of the irregular and illegal security forces;

- Negotiation with the Congolese army (FARDC) command in Bukavu to remove troops on the mining site and monitoring that ensured that the illegal elements respected this withdrawal;
- Advocacy with the mining police to deploy to the mining site to improve security provided by legal forces;
- Facilitation of a mutual agreement that one of the competing cooperatives would have extraction rights to the mining site and would provide the other cooperative with compensation;
- Awareness-raising among members of the cooperatives and the security forces on the ground to make the provisions of the agreement broadly understandable and applicable.
- OGP's follow-up monitoring on the Bitale mining site has shown a reduction in security and human rights incidents since the Working Group's resolution of the conflict as described above.

### **The case of mining conflicts in the Kalimbi mining site, near Nyabibwe, Kalehe Territory**

On the Kalimbi mining site near Nyabibwe in Kalehe Territory, a conflict emerged between three competing mining cooperatives over extraction rights. These three cooperatives had peacefully coexisted in the past, but tensions arose due to several factors. These included regulations brought about by the new mining code of 2018 and either lack of awareness or competing interpretations of those regulations amongst the various cooperatives. The key change was that the 2018 code stipulates that a cooperative must hold at least two mining squares to qualify as a legally recognised cooperative with extraction rights.

As a result of this provision, two of the cooperatives that had been working in Kalimbi for many years found themselves unable to honour their financial obligations to the mining concession holders. Thus, a third – and larger – neighbouring cooperative qualified for legal status and took advantage of the new rule to claim ownership of this area. This situation led to clashes between the two camps, including serious incidents of insecurity and human rights violations.

Of note, the Kalimbi mining area had been chosen as the first mining site to implement a traceability scheme in accordance with the OECD Due Diligence Guidance. The outburst of violence led the Ministry of Mines to suspend production on this site, threatening the communities' livelihoods and implementation of the OECD standards.

The Working Group successfully intervened to facilitate a solution between the two parties. It conducted a mediation by inviting the different stakeholders around a negotiation table which resulted in an agreement on the joint use of the mining concession between the three cooperatives. The implementation of this agreement is continuously and successfully monitored by the Working Group, although the emergence of new cooperatives on the spot sometimes compromises the effort to establish a fruitful collaboration between the signatories of the agreement. In addition, the Working Group has been heavily involved in advocacy for the demarcation of the mining squares between the three mining cooperatives concerned by the agreement.

This testimony from a representative of one of the mining cooperatives concerned summarizes the sense of satisfaction with the role played by the Working Group in resolving the situation in Kalimbi:

*We had a debt to the concession-holders, and we hadn't been able to pay it because of the major problems we had. This created a lot of tension. The Working Group had intervened to bring us together in a dialogue to find a compromise between the two indebted cooperatives and the concession holders with a view to a payment in instalments according to available means. As the newly arrived [cooperative] had the support of the concession holders to exploit the mining areas under our control, the South Kivu Working Group intervened so that the three of us could work together peacefully, even if this third newly arrived cooperative did not have its own mining area. Since the intervention of OGP, the conflicts have diminished significantly. But it is important to continue with the actions so as not to lose what has been achieved.<sup>26</sup>*

Stakeholders interviewed for this study provide first-hand confirmation of how the interventions of the South Kivu Working Group positively contributed to the resolution of conflicts and reduction and prevention of reoccurrence of security and human rights abuses. Furthermore, the resolution of the conflict by OGP allowed for lifting of the suspension and resumption of mining. This is an important case study that confirms the nexus between security, human rights and supply chain due diligence standards and the significant role that the Working Group has played to supplement the efforts of the CPS/S-K committees monitoring the implementation of the OECD Due Diligence Guidance.

### **The case of conflicts surrounding the Twangiza industrial mining site**

DCAF and OGP have documented another successful case study involving the industrial gold mining site in Twangiza, South Kivu. In short, security and human rights incidents arose due to the mining company's failure



*A PMH commander in Twangiza speaks to his company. Units that have been introduced to the VP good practices and monitored by the Working Group tend to show better behavior.*

to respect the community agreement it had signed with the local community. Although many families had relocated to make way for the mining site, they had not yet been compensated in accordance with the terms of the agreement. There were also repeated incidents of the use of force against community members from trespassing on the company's mining site. The industrial mining company had an agreement for the deployment of Congolese Mining Police to protect the site. The Working Group learned that in one instance, the Mining Police shot one community member and allegedly tortured another around the site.

The Working Group intervened, calling on its relationships and engagement of the Mining Police hierarchy at the provincial level within the Working Group. Concrete action was taken including the removal of the commanding officer and the arrest and transfer of two additional police officers involved in the alleged abuse. Furthermore, the Working Group mediated a new security arrangement between the community and the industrial mining company. The new arrangement provides the communities with a space to peacefully protest without the police intervening provided that the protesters respect certain conditions.

## 5.3 SUCCESS FACTORS

The successful interventions of the Working Group are the result of the successful follow-through of the Group's intervention strategy as described in the previous chapter. A few elements merit highlighting.

### **Synergies with permanent local multistakeholder initiatives**

An important factor of success of the Working Group's interventions is that it has created synergies with the pre-existing multistakeholder initiatives promoting the OECD Guidance in the province. At the time of creation of the South Kivu Voluntary Principles Working Group, existing multistakeholder structures in the form of the provincial monitoring committee (CPS/S-K) and local monitoring committees (CLS) existed. In the Kalehe territory of South Kivu, where the three above-mentioned case studies took place, four CLS and four sub-CLS were operable. The South Kivu Working Group was able to capitalise on the local presence and buy-in that the CLS and sub-CLS maintained because of their permanent local presence close to mining sites and the respective communities.

The organisation and function of the CLS includes several stakeholders, including private actors, state services attached to the Mining Division, religious denominations, local authorities, the PMH, the local police, the FEC, etc. It meets once a month to assess the risks linked to exploitation and human rights, but also to identify conflicts and facilitate mediation. The Working Group has relied on this pre-existing network monitoring the requirements of the OECD Guidance to successfully implement its own interventions on the ground in Kalehe and beyond. As one stakeholder at the local CLS level expressed:

*Personally, I find the Working Group's initiative to work with the CLS commendable. [The Working Group] goes further in addressing human rights and security issues in a specific way, which complements the work of the CLS. The favourable opinion is widely shared by the CLS member actors.<sup>27</sup>*

### **Example of local adaptation: integration of the informal "gardes-creuseurs" in the Working Group**

The low number of trained Mining Police elements means that there are not enough Mining Police to be deployed to provide security in the full range of mining sites in South Kivu, as elsewhere in the DRC. This creates a real challenge in many mining areas, which often leaves room for anarchy in the management of security and human rights situations. To compensate for this deficiency, the miners' cooperatives often

take responsibility by initiating ad hoc groups of “*gardes-creuseurs*” (artisanal miners' guards) to manage incidents related to insecurity and human rights on the sites. These guards represent an informal model of community policing, or “people-centred” security that can arise in contexts of weak state security provision. Given their importance and links to the communities, the Working Group invited the representatives of the *gardes-creuseurs* of the Kalehe and Nyabibwe mining sites to participate in the Working Group meetings and deliberations on resolving the security and human rights incidents in those sites. This acknowledged the important role these guards play in the management of security and human rights issues as a substitute or complement to the Mining Police, contributing to the sustainability of the solutions found by the Working Group.

Indeed, although operating informally, the group of guards pursues the following stated objectives:

- Ensuring an early warning system of security incidents on sites
- Combatting human rights violations in the sector
- Preventing the involvement of armed groups in the sites
- Preventing child labour and pregnant women from working on the sites
- Ensuring that only persons who meet the legal requirements can work on the sites.<sup>28</sup>

On a functional level, the *gardes-creuseurs* work in collaboration with the PMH to ensure that they can act as a substitute and/or complement each other. Thus, in the event of difficulties, the *gardes-creuseurs* channel sensitive cases to the Mining Police. This is for example in the case of fights between miners (especially with injuries or cases deemed serious); in the event of failure to reconcile the parties; in the case of disputed credits between miners; or in the event that the pits of two miners cross; or in the case of trafficking in untraced (unlabelled) minerals. In these types of cases, the guards refer the case to the Mining Police and the competent administrative authority. To this end, the *gardes-creuseurs* system has been of great help in managing conflicts and incidents between miners and cooperatives at mining sites, for example by alerting the authorities to denounce substandard shaft construction systems and ensure that shafts do not put miners at risk.

Although informal, the *gardes-creuseurs* are faced with difficulties that need to be addressed. These relate, among other things, to the lack of in-depth training during recruitment, which remains a real need to increase their effectiveness in the field in terms of proximity control in support of the Mining Police. In addition, the police-guards cooperation model could be studied in greater depth and shared if its contribution to the effectiveness of the implementation of the VPs is proven.

## 5.4 CHALLENGES

Two years after its creation, the Working Group has established a successful track record of solution-oriented interventions in a series of security and human rights incidents. That said, the Working Group is operating in a complex post-conflict security environment that must be considered when evaluating the Working Group's track record. Furthermore, the second year of this pilot project's implementation period coincided with the global COVID 19 pandemic. This section briefly notes some challenges the Working Group has faced, from the impact of COVID 19 to the case study of an entrenched situation in Mwenga Territory, South Kivu, that underscores that importance of persistent mediation, continued Working group action, and holistic security sector governance and reform advocacy.

### Impact of COVID 19

In South Kivu, the COVID 19 global pandemic resulted in restrictions on gatherings, travel, and curfews that impacted the pace of the Working Group's activities in 2020. Those interviewed noted two disappointments in this regard.

First, there was a palpable decrease in the Working Group's field missions in 2020 due to the pandemic restrictions. Despite this decrease, the Working Group continued to pursue its follow-up monitoring where feasible. Ultimately the lament underscores just how important a role the Working Group has assumed for some stakeholders. By late 2020 and early 2021, the Working Group was able to undertake important follow-up field missions as in the past with complementary funding from Switzerland.

Second, stakeholders were disappointed with the delay of the train-the-trainers project focusing on the mining police that was originally planned for early 2020 but was postponed due to the pandemic. Again, the observation underscores how important stakeholders viewed the Working Group's role in building the capacity of public security forces to improve security around mining sites.

### Entrenched conflict between industrial miners and local communities in Lugushwa, Mwenga Territory

The extractive sector of Mwenga Territory is characterised by persistent tensions between local communities, private mining companies and cooperatives, and by the involvement of irregular security forces.<sup>29</sup> Since the establishment of the Working Group in 2018, the Canadian mining multinational Banro has sold off several of its exploration and operational assets, creating security tensions where community expectations have not been met. In late 2019 - early 2020, the Chinese company Lugushwa Mining, a subsidiary of Banro Congo Mining, arrived with the rights to operate the Mwenga mining sites, in partnership with a mining cooperative called "Mungu ni Jibu." The arrival of Lugushwa Mining quickly rekindled tensions with local communities over old disputes.<sup>30</sup>

The local communities formulated specific demands that would render Lugushwa Mining's operations conditional on the implementation of several local development projects.<sup>31</sup> Lugushwa Mining has yet to meet these demands. This resulted in November and December 2020 in public protests by the local communities. The protests were met by allegations of repression by public security forces including uncontrolled elements of the national police called JKK and serious human rights violations.

The Working Group tried several times to bring together the chieftainship of Wamuzimu, the MUNGU NI JIBU cooperative and the community of Lugushwa. According to the local community members interviewed for this study, there were frustrations about OGP's inability to compel Lugushwa Mining to comply with their demands, as indicated in the following quote:

*In other parts of the province, the OGP is doing good work. Even we have evidence that OGP is doing good work elsewhere. It's a powerful organization. In Kaziba, for example, they have done good work, for example, in getting the 'Mungu ni Jibu' co-operative, which had problems with local communities, to leave. Except for us ... we don't understand why they can't impose compliance with our specifications on the companies and communities that operate in our area!*<sup>32</sup>

For its part, OGP has noted that some Lugushwa community leaders have refused dialogue or compromise with its demand that the MUNGU NI JIBU cooperative stops operating and withdraws from the mining sites in its territory.<sup>33</sup> The Working Group has taken the Lugushwa Mining situation seriously and despite the entrenched positions has reached out to local communities in follow-up field missions through 2021. The Working Group continues to reflect on ways that it might have greater impact in such environments that are further removed from Bukavu and where strong mistrust exists. This case study serves to underscore the need for persistent intervention by the Working Group and continued innovation to continue to resolve security and human rights incidents in the province.

The case study of Lugushwa, Mwenga Territory underscores several structural challenges in the complex post-conflict environment of eastern DRC. For one, the continued illegal presence on mining sites of informal units of the police and army exemplify the need for stronger security sector governance. The continued presence of non-state armed groups also highlights the incomplete security sector reform and disarmament, demobilisation, and reintegration (DDR) efforts in the east.<sup>34</sup> The Working Group has increasingly identified that the illegal presence of army companies and battalions around mining sites might be connected to political and economic interests of powerful army commanders or politicians with links to the national government. Although the Working Group has established strong and constructive working relationships to the public security representatives at the provincial capital level in Bukavu, South Kivu, it has identified the need to increase coordinated outreach and advocacy for improved security sector governance and reform at the national level as an area for increased efforts going forward.



**Organisational factors:**

The achievement of several cases of successful resolution of security and human rights incidents within the Working Group’s first two-year pilot project period is clear. That said, there are several areas for organisational improvement for OGP and the Working Group that would enhance the potential for its increased impact in the future. For example, in this pilot phase, the Working Group made decisions on where to intervene and focus its efforts based on the reports of human rights and security incidents that arose in the context of the monthly Working Group meetings where various stakeholder brought their concerns or information to the table. While there are many advantages to the Working Group’s ability to be reactive to realities on the ground, by now the Working Group also has a better sense of a range of thematic or geographic priorities that could proactively guide their work. With respect to incident monitoring, DCAF helped OGP develop for the Working Group a reporting template to gather facts on security and human rights incidents. Their use in the future could be more systematic, for example through a closer tracking of the tabling of issues and the steps taken to address them in a database.

## 6. SUSTAINABILITY

The DCAF-Fund for Peace study has identified that achieving long-term formalisation and sustainability of such multistakeholder groups has continuously been a challenge across numerous in-country groups. This section describes the importance of continued funding and resources for the South Kivu Working Group and potential long-term options to achieve formalisation and sustainability of the Group.

### 6.1 WORKING GROUP FUNDING AND RESOURCES

The field missions, monitoring, and basic secretariat functions of the Working Group require resources and funding, which through December 2020 were covered through the core project funded by the Dutch Embassy in the DRC. Once it had been confirmed that field missions were crucial to the Working Group's effectiveness, DCAF and OGP obtained supplemental funding to bolster the resources available, with additional support from the Swiss government through the SHRIM. Likewise, the pilot training in December 2019 with the Mining Police was one of the most important milestones towards sustainably influencing Mining Police awareness and behaviour for complying with the Voluntary Principles standards. Again, DCAF and OGP obtained supplemental funding to turn this pilot into a train-the-trainer approach with follow-up monitoring, with support from the United Kingdom, Switzerland, and Norway through the SHRIM. While DCAF's ability to garner resources from multiple donors through the SHRIM approach has played an important role in contributing to the range of accomplishments in the pilot phase of the Working Group, further reflection on sustainability considerations is required.

One local partner stressed that OGP had only been involved to date in security and human rights incidents arising in a select set of territories outside Bukavu within South Kivu. According to this stakeholder, one of the major challenges to the sustainability of the Working Group is how to extend its interventions to the several other areas affected by mining and subject to several human rights abuses by security forces. This requires the availability of a substantial budget.<sup>35</sup> This was corroborated by one OGP staff member who said: "Financial dependence on external funding is a serious threat to the sustainability of the Working Group in South Kivu. The day we get no more funding, will the Group be able to continue to function? This is the question we are asking ourselves. Even in the current context, we are already facing a lack of means, we are overstretched. Our work requires a lot of meetings and a lot of field missions that we don't always manage to finance as we should."<sup>36</sup>

The Working Group has been exemplary in mobilising the voluntary engagement of multiple stakeholders to carry out their interventions. Some members, however, would prefer a more professionalised (remunerated) approach to the Working Group: “One factor that can be discouraging is the lack of remuneration, the work of the group is not at all easy. There should be remuneration for the work done in the Group; there must be motivation, we are human beings. You must think about the social side of the people involved in the group. We need to set up a reflection to find a solution to the social side.”<sup>37</sup> It is important to note this perspective of a Working Group stakeholder but there are advantages and disadvantages to both approaches (voluntary contributions versus remunerated engagement of Working Group members) that should be thoroughly thought-through and discussed going forward.

## 6.2 OPTIONS FOR THE INSTITUTIONALISATION OF THE SOUTH KIVU WORKING GROUP

In the 2018 – 2020 pilot project cycle, DCAF and OGP set a target of achieving 30% sustainable contributions to the Working Group’s operational budget from contributions that were to be obtained through the provincial “basket fund” of revenues from mining activities. Due to several reasons, the provincial authorities suspended that basket fund and partial funding from the provincial government was not achieved. This means that in the short-term, to continue to have a positive impact on preventing human rights abuse and improving security around mining sites in South Kivu, the Working Group is in need of continued project-based funding to maintain its activity levels and interventions.

Longer-term, there are two options for institutionalising support to the Working Group in South Kivu (and potentially in other regions of the DRC): first, a more formalised incorporation of the Working Group into the existing CPS/S-K structure; and second, a formalisation process that could emerge from the Congolese government becoming a full member of the Voluntary Principles Initiative.

As for the first option, formalising the integration of the technical Working Group on the Voluntary Principles within the existing CPS/S-K structure, which is currently implemented by the South Kivu provincial government, could be explored. Many stakeholders interviewed for this study have recognised and testified to the complementary role that the Working Group plays in providing technical expertise and attention to security and human rights concerns at the foundation of effective traceability and supply chain due diligence schemes. Efforts could therefore be made to institutionalise the VP Working Group in this structure to benefit from some direct funding from the province.

Below is an overview of how the CPS/S-K benefits from mining revenue to sustain the main functions of the CPS/S-K and its local CLS and sub-CLS structures.

Regarding the second option, the Congolese government announced in January 2020 its intention of becoming a member of the Voluntary Principles Initiative. This was followed by the Human Rights Ministry's issuance in August 2020 of a ministerial ruling calling on the development of an institutional structure, centralised in Kinshasa at the national level for leadership, but with provincial representations to implement the Voluntary Principles on the ground. After a meeting at DCAF's headquarters in Geneva between DCAF and the Congolese Ministers of Human Rights and Mines in October 2020, these two ministries agreed to create an interministerial structure to consider the development of the most appropriate structure for the implementation of the Voluntary Principles in the DRC.

### **FINANCIAL RESOURCES OF CPS/S-K<sup>38</sup>**

#### **The financial resources of the CPS/S-K consist of:**

- Incentive tax for mineral processing paid by mining operators;
- The share of the Provincial Government on the fees for services rendered by the SAEMAPE ASM agency;
- The share of the fees collected as payment for the quarter of the trader, the costs of identification of motor pumps, testers, crushers, dredgers, identification of mining sites, etc.
- Contributions made by the mining companies and/or small mine operators (...) to finance the implementation of basic infrastructure works and the rehabilitation of the environment;
- Donations, legacies, various endowments and possible subsidies from the Province or decentralised administrative entities where artisanal and/or small-scale mining activities are carried out;
- External funding from international organisations;
- Any other contribution agreed between the mining operators and other stakeholders to financially support the operation of the CPS/S-K.

Figure 7: Source: Article 8 of provincial decree n°20/002/GP/SK, 22 January 2020.

Representatives of the existing Working Groups in South Kivu and Lubumbashi, alongside other pillar members of the Kinshasa VP Working Group, called on the Ministers to lead a consultative and inclusive process for formalising a VPs implementation structure, capitalising on the important lessons learned from field experiences to date. In early 2021, progress on these efforts was delayed in anticipation of a change of government, which occurred in April 2021.

Once the political situation stabilises it will be important to continue to advocate for the completion of the process of the DRC becoming a VP government member country and to explore potential options for formalising an implementation structure that would benefit from national – or local – budgetary support. Such support, however, should not come at the cost of Working Groups' ability to be nimble and responsive to contextual needs at the field level.



## 6.3 LOCAL OWNERSHIP, TECHNICAL EXPERTISE AND INTERNATIONAL POLICY CONNECTIONS

The complementary roles of OGP's leadership and DCAF's technical expert support to the South Kivu Working Group since 2018 have both contributed to the success of the pilot project at various levels.

OGP's role as an honest broker and trusted leader has undeniably been the critical element of the Working Group's success to date. This has anchored the local ownership of the Working Group and generated buy-in that has allowed the Working Group to find pragmatic and lasting solutions to prevent and resolve security and human rights incidents on the ground.

For its part, DCAF has provided ongoing technical expertise on a range of international good practices related to the Voluntary Principles and their application in the South Kivu extractives context, brought lessons learned from other Working Group experiences to date in terms of pursuing multistakeholder dialogue and facilitation and resolution of conflicts, made important connections in bringing the experiences and results of the Working Group to various international policy discussions, highlighting the link between the complementarity between the Voluntary Principles and the OECD Due Diligence Guidance, in addition to project management and coordination in collaboration with OGP. The SHRIM has also played an important role in ensuring policy coherence between donors in the DRC and finding ways of supplementing funding in the lifecycle of the core Dutch-funded project.

In the search for sustainable funding for the Working Group, continued collaboration between actors on the ground in the DRC and international partners should be pursued.

# 7. ANALYSIS OF THE SOUTH KIVU WORKING GROUP PHASES

The purpose of this study was to identify lessons learned from the South Kivu Working Group for two purposes: (1) to present lessons learned and good practices on such multistakeholder working groups for other contexts; and (2) to highlight the South Kivu Working Group's successes and challenges as a basis to provide recommendations to guide the Working Group's work going forward.

This section presents an analysis of the attainment of the indicators set out in the study's methodology for reviewing the South Kivu Working Group's progress to date.

## **Indicator 1 on Context: Inclusion of relevant extractive sector stakeholders in the process of setting up the Working Group**

Measuring the inclusion of all relevant actors in the extractive sector depends on the ability of the Working Group to successfully integrate representatives from all three pillars (governments, private companies, and civil society) into the process of its creation. This study confirms that the Working Group successfully included the main relevant extractive sector actors active in the region in its set up phase.

Indeed, the Working Group was able to integrate in the process not only actors from the three pillars mentioned above; but also other informal, but relevant, actors in the security and extractives context of South Kivu, notably local communities and even the informal private security structures (guards) set up ad hoc by some mining cooperatives to make up for the lack of effective coverage of mining sites by the Mining Police.

Several factors have been decisive in achieving this success. Building on the work of VPI members who had been promoting the Voluntary Principles in the DRC for some years, the particularly active role of international diplomatic actors – as a source of policy support on the one hand and a source of financial project support on the other – has been critical. The strong reputation and leadership role of OGP that garners widespread respect throughout South Kivu, at the national level in the DRC and beyond also proved to be a major asset that led to the successful establishment of the Working Group.

Furthermore, DCAF played an important role in providing ongoing technical expertise, international policy amplification and coordination, and project management support that contributed to the set up and success of the Working Group's pilot phase. Finally, the linkages made at the outset between OGP, DCAF, and the OECD, establishing a Voluntary Principles Working Group to fill the gap in technical expertise on security and human rights in the existing CPS/S-K multistakeholder initiative, constituted a critical factor in the successful contextualisation and positioning of the South Kivu Working Group.

### **Indicator 2 on Set-Up: Establishment of shared vision and objectives among stakeholders in the sector**

After its creation, the Working Group was able to successfully establish a strategy for building the confidence of multi-stakeholder (three pillars) and multi-level (national, provincial and local) actors around shared objectives. The measurement of this indicator does not necessarily consist of the achievement of a shared vision (this generally implies a process of collaboration that can only be achieved over a long period of time); but of the establishment of clear and comprehensible methods to achieve it. The South Kivu Working Group has successfully deployed such a strategy.

Indeed, to gain the confidence of the targeted actors in the sector, the Working Group adopted a participatory and inclusive approach; but also, one that was complementary to existing initiatives (notably focusing on the OECD Guidance). This approach helped in securing the buy-in of relevant actors and in fostering a climate of trust among stakeholders. This is evidenced by the fact that the South Kivu Working Group did not encounter any major resistance to its establishment: “We believe that, logically, there was no major reticence against this initiative. The initiative was welcome as complementary to existing initiatives, reinforcing transparent monitoring and management of the mining issue. This is true in relation to national requirements, regional and international security and human rights in general (respect for various rights of local communities, operators, mining cooperatives, traders, processing entities, mining companies, etc.), but also in relation to the various security forces that intervene along the production and supply chain.”<sup>39</sup>

### **Indicator 3 on Growth: Evidence of relevance and growth of engagement of the Working Group to resolve security and human rights incidents in the sector**

This indicator measures variations in the quality and quantity of requests made to the Working Group by stakeholders, as well as the responses made by the Working Group to resolve them within a specific time frame. It considers the number and/or nature of requests by type of stakeholder during a given period, or the level of stakeholder satisfaction after the Working Group’s intervention. The assessment of the trends in the requests made to the Working Group to resolve disputes relating to security and human rights in the mining sector and the responses provided by the Working Group is mixed.

Certainly, the diversity of both the actors requesting the Working Group’s interventions and the types of requests made to it clearly shows that the Working Group has achieved a much-appreciated level of development. This is evidenced by the numbers of actions perceived as a success by various stakeholders in dealing with security and human rights incidents, despite a few stalemates as noted to a smaller degree.

Indeed, while the track record of the Working Group in South Kivu constitutes a real success at this stage, given the generally positive perception it has received from various stakeholders, it should be noted that it is still confronted with various challenges for further growth of the impact of its work.

#### **Indicator 4 on sustainability: Allocation of human, material, financial and institutional resources by different stakeholders to ensure sustainability of the Working Group**

This indicator involves assessing, on an objective and consensual basis, the contributions in human, material and financial resources over a defined period to the sustainability of the Working Group.

The participatory and inclusive approach developed by the Working Group to secure the buy-in and increase the confidence of various stakeholders (as reflected in the organization of periodic and ad hoc meetings of the Working Group on a rotating basis) has also encouraged their contribution to the resources needed for its effective functioning. Despite the contribution of various stakeholders in terms of human, material, financial and even institutional resources, funds to support the Working Group are not yet secure and sustainable. Nevertheless, the channelling of support from the Dutch Embassy in the DRC to the core two-and-a-half year pilot phase of the Working Group through DCAF's SHRIM proved catalytic, reaping knock-on benefits through the supplemental contributions of Switzerland, Norway, and the UK to respond to needs that arose. This has contributed decisively to the Working Group's pilot success.

Sustainability in funding is perhaps the greatest threat to the long-term impact of the Working Group in South Kivu and to the capitalisation of its achievements. In the short to mid-term, follow-up project funding for the Working Group is essential to build on the trust-building and reputational gains achieved in the pilot phase, ensuring continuity of effort on the ground in a context where security and human rights risks to communities remain very real. and capitalisation of. Longer-term means to institutionalise the Working Group must also be considered to achieve sustainability in any next project phase of the Working Group.

## 8. CONCLUSION AND RECOMMENDATIONS

This study has confirmed that the South Kivu Working Group has achieved great success in its two-and-a-half-year pilot project in successfully navigating most of the stages of the lifecycle of multistakeholder initiatives to achieve concrete positive impact in preventing human rights violations and improving security on the ground around the mining sites where it has intervened.

Whereas any effort at establishing a multistakeholder initiative must be adapted to its unique context, this study has presented various positive lessons learned from the South Kivu Working Group's experience to consider in other contexts and validates the key guidance and lessons learned from the DCAF-Fund for Peace study on multistakeholder working groups.

None of the phases of a multistakeholder initiative's lifecycle is static or linear. A constant review and adaptation of the South Kivu Working Group's strategy and work plan can only help maintain and increase its relevance and effectiveness in bringing meaningful positive change to mining communities in South Kivu. With respect to sustainability, that the South Kivu Working Group has achieved important local buy-in and direct engagement by key local stakeholders must be lauded. However, the Working Group will need to obtain further funding to be able to continue its effective working methods of follow-up recommendations with field missions, direct community engagement, and monitoring to achieve results.

This section concludes the study with some recommendations to the South Kivu Working Group, international donors, and the Congolese government that can help inform and guide future efforts of the South Kivu Working Group in the DRC to achieve the goals of the Voluntary Principles on Security and Human Rights to prevent human rights violations and improve multistakeholder security sector governance.

### **To the South Kivu Voluntary Principles Working Group**

- The next phase of the Working Group's activities should establish a work plan that sets planning objectives in line with priority issues that have emerged in its pilot phase. A renewed context analysis is needed to facilitate an outcome-oriented approach. That said, the Working Group should maintain a margin of flexibility as it has done in the past to ensure that it can continue to respond nimbly where security and human rights incidents arise. The goal would be for the Working Group to incorporate a periodic evaluation of its actions and the results achieved against indicators structured around objectives. Evaluation reports could be shared with stakeholders (internal and external) to ensure that the objectives remain commonly shared and to foster dialogue on how to address challenges.

- The Working Group should consider innovative ways of expanding its geographic reach within South Kivu. This could be done by budgeting for additional field missions, the appointment of representatives throughout the province, for example, capitalising further on the CPS/S-K and CLS functions, or a combination of both approaches. The goal would be not only to expand the reach and therefore impact of its interventions to the benefit of additional communities, but also to overcome local community distrust and biases of actors coming from the provincial capital, Bukavu.
- The need to supplement awareness raising and training of public security forces in South Kivu has emerged as a critical factor by numerous stakeholders interviewed. The working group should consider a range of targets for awareness-raising and training, for example with the *garde-creuseurs* or other informal private security services that provide security in practice and are open to engagement and improvement through the Working Group.

### **To international donors**

- Given the South Kivu Working Group's positive track record of impact achieved to date, this group merits continued international support on a renewed multi-year project basis. This will help build on the momentum generated by the Group and capitalise on the reputation and demonstrated successes in contributing to the resolution of conflict and prevention and reduction of security and human rights incidents around extractive sites to date.
- The positive South Kivu Working Group approach also merits to be applied and expanded to Working Groups in other provinces with extractive sectors in the DRC. Currently, there are informal Working Groups in Haut-Katanga and Lualaba. Additional Working Groups could be considered in other provinces such as North Kivu, Maniema, Ituri, and Tanganyika, or others. Networking these groups amongst each other and to interact with national authorities and international actors in Kinshasa will help find sustainable solutions to shared security and human rights issues that arise in different provincial contexts.
- Further support made through the SHRIM can facilitate donor coherence and ensures that resources are available to provide international technical expertise to the Working Group at the local level and to create linkages with the work of Voluntary Principles Working Groups elsewhere, as well as major international policy initiatives.
- Within the DRC and beyond, donors can promote the coherence and complementarity of multistakeholder initiatives such as the OECD Due Diligence Guidance and the Voluntary Principles. Further policy and operational activities should be supported that connect the OECD and Voluntary Principles efforts with complementary initiatives aimed at transparency in the extractive sector such as the Extractives Industry Transparency Initiative or initiatives focusing on combating child labour in the extractives sector.

### To the government of the DRC

- The DRC government is encouraged to realise its stated intention of becoming a full government member of the Voluntary Principles Initiative and finalise the process for doing so. International and national actors should continue to advocate that the Congolese government achieve this objective. To this end, further collaboration should be promoted between the Congolese Ministries of Human Rights, Mining, and Hydrocarbons to ensure human rights are mainstreamed throughout the extractive sector in the DRC.
- Government security forces, in particular the Mining Police of the Congolese National Police should build on existing training modules that have been developed through the South Kivu Working Group project and systematise human rights training for mining police.
- The Congolese government – at the national and provincial levels – should actively support efforts to institutionalise the Working Group and to identify a strategy to secure the sustainable resources (especially material and financial) necessary for its proper functioning.
- Meaningful security sector reforms should be implemented to address the ongoing illegal presence of actors such as armed forces (FARDC) and illegal armed groups surrounding mining sites. Multistakeholder perspectives, such as voices from initiatives like as the South Kivu Working Group, should be included in these processes.

# ENDNOTES

<sup>1</sup> To this end, only the codes assigned to the informants during data processing will be mentioned in the references to their citations in the report so as to preserve their anonymity.

<sup>2</sup> SWOT analysis is a strategic analysis tool that combines the study of the strengths and weaknesses of an organisation or programme with the study of the opportunities and threats in its environment. Considering both internal and external factors, the aim of the analysis is to improve the strategic options of the organisation or programme by maximising the potential of the strengths and opportunities and minimising the effects of weaknesses and threats. The analysis can thus be used in programme planning or evaluation.

<sup>3</sup> These minerals are often labelled as 3TG, after their initials: tin (for cassiterite), tungsten (for wolframite), tantalum (for coltan), as well as gold (for gold).

<sup>4</sup> Morten Bøås, *The Politics of Conflict Economies: Miners, merchants and warriors in the African borderland* (New York: Routledge, 2014); Stephen Jackson, « «Nos richesses sont pillées!» Économies de guerre et rumeurs de crime au Kivu », trad. par Claire Médard, *Politique africaine*, no 84 (2001): 117-35, <https://doi.org/10.3917/polaf.084.0117>; Guilain Mathe, « Conflits locaux, guerre régionale: anatomie des crises politiques au Nord-Kivu », in *Des Conflits locaux à la Guerre régionale en Afrique Centrale: Le Congo-Kinshasa Oriental 1996-2007*, éd. par Alphonse Maindo Monga Ngonga (Paris: L'Harmattan, 2007), 119-43; Gaspard B. Muheme, *Ces guerres imposées au Kivu : intérêts économiques ou management social ?* (Louvain-la-Neuve: L'Harmattan, 2000); Philippe Rekacewicz, « Les richesses convoitées de la République démocratique du Congo », *Le Monde diplomatique*, 1 janvier 2000, <https://www.monde-diplomatique.fr/cartes/congomdv49>; Steven Spittaels et Filip Hilgert, « Cartographie des motivations derrière les conflits: le cas de l'Est de la RDC » (Anvers: International Peace Information Service (IPIS), 11 March 2008). Read also the various reports of the UN Group of Experts established within the framework of the Security Council Sanctions Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, which is responsible for monitoring sanctions relating to the arms embargo and the plundering of natural resources in the DRC.: <https://www.un.org/securitycouncil/fr/sanctions/1533/panel-of-experts/expert-reports>.

<sup>5</sup> OECD (2016), *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition*, OECD Publishing, Paris

<sup>6</sup> IPIS Open Data Dashboard, IPIS, [https://ipisresearch-dashboard.shinyapps.io/open\\_data\\_app/](https://ipisresearch-dashboard.shinyapps.io/open_data_app/), consulted 03.02.2021.

<sup>7</sup> OECD, « Mineral supply chain and conflict links in Eastern Democratic Republic of Congo », 2015, 14, <https://www.oecd.org/corporate/mne/mineral-supply-chain-eastern-drc.htm>; Steven Spittaels et Filip Hilgert, « Analysis of the interactive map of artisanal mining areas in Eastern DR Congo » (Antwerp: IPIS, novembre 2013), 11-12.

<sup>8</sup> See <https://www.mining.com/banro-dangling-congo-gold-mine-to-best-bidder/#:~:text=Banro%20is%20now%20seeking%20to,do%20the%20same%20with%20Namoya>; and <https://www.reuters.com/article/us-congo-mining-idINKBN23U1T9>

<sup>9</sup> Following the adoption of the new edition of the OECD Guidelines and accompanying Guidance on due diligence in supply chains in conflict-affected areas, ICGLR member countries developed the Protocol to Combat Illegal Trade and Illegal Exploitation of Natural Resources in Eastern DRC as a complementary regional initiative.

<sup>10</sup> Provincial Decree n°12/035/GP/SK of 22 October 2012 establishing the Provincial Committee in South Kivu to follow up on the implementation of the recommendations of the resolutions and commitments made by the actors of the mining sector at the end of the consultation held in Kinshasa from 25 February to 1 March 2011. This decree was amended by decree n°18/035/GP/SK of 3 September 2018 further developing the missions of the CPS/S-K; which was in turn supplemented by provincial decree n° 20/002/GP/SK of 22 January 2020 amending and supplementing the above-mentioned decree.

<sup>11</sup> Decree n° 13/038/GP/SK of 19 December 2013 on the creation and operation of the community development fund around mining sites in South Kivu province.

<sup>12</sup> DCAF and OECD, « Promoting Coherence between the OECD Guidance and the Voluntary Principles on Security and Human Rights ».

<sup>13</sup> To know more, visit the OGP blog.: <http://observatoire-securite-privee.org/fr/content/observatoire-gouvernance-et-paix-ogp>, consulted in November 2020.

<sup>14</sup> Webinar, *Multi-stakeholder Approaches to Conflict and Violence in the Extractive Industry in the DRC*, available at: <https://www.securityhumanrightshub.org/node/389>.

<sup>15</sup> Most of the interviews collected point to one or other of these factors as elements that incentivised stakeholder interest in joining the Working Group.

<sup>16</sup> Interview with the partner CSO2, 28 October 2020.

<sup>17</sup> Interview with the partner CSO1, 22 October 2020.

<sup>18</sup> Interview with the partner SI5, 2 November 2020.

<sup>19</sup> Interview with the partner CSO3, 21 October 2020.

<sup>20</sup> Most interviewees agreed on this fact.

<sup>21</sup> This includes Law n° 18/001 of 9 March 2018 modifying and supplementing Law n° 007/2002 of 11 July 2002 on the Mining Code; but also Decree n° 18/024 of 8 June 2018 modifying and supplementing Decree n° 038/2003 of 26 March 2003 on the Mining Regulation.

<sup>22</sup> Interview with the partner CSO 2, 28 October 2020.

<sup>23</sup> [DRC case studies - Bitale | Knowledge Hub \(securityhumanrightshub.org\)](https://www.securityhumanrightshub.org/case-studies/bitale).

<sup>24</sup> [DRC case studies - Nyabibwe | Knowledge Hub \(securityhumanrightshub.org\)](https://www.securityhumanrightshub.org/case-studies/nyabibwe).

<sup>25</sup> [DRC case studies - Twangiza | Knowledge Hub \(securityhumanrightshub.org\)](https://www.securityhumanrightshub.org/).

<sup>26</sup> Interview with the partner ESP6, 3 November 2020.

<sup>27</sup> Interview with the partner LC4, 3 November 2020.

<sup>28</sup> Interview with the partner Private Security Company 1, November 3, 2020. According to the latter, each of the three mining cooperatives working in the Kalimbi MTA has its own group of guards that it remunerates. For example, COOMIKA has 12 guards at the level of the COOMIKA cooperative. Their premium (remuneration) depends on the production achieved, and therefore on the contribution made by members of the cooperative.

<sup>29</sup> The security force involved de facto or de jure in the mining sector include both the FARDC and the PNC (including the PMH). Within these different forces, there are sometimes sub-groups that are outside the formal chain of command and which commit serious human rights violations. These are suspected of being maintained by high-ranking figures in government institutions or in the security forces.

<sup>30</sup> Twangiza Mining is reported to have relocated at least 85 families in 2017 without adequate compensation, which has damaged its reputation among local communities.

<sup>31</sup> These demands include, among others, the construction of National Road No. 2 (Kamituga-Bukavu); the recruitment of local labour to work in the company's mines; but also schools, health centres, bridge over the Elila River, prohibition to collaborate with mining cooperatives that do not respect the 7 legal principles of a cooperative; etc.

<sup>32</sup> Interview with the partner LC2, 20 November 2020.

<sup>33</sup> Interview with the partner CSO3, 25 October 2020.

<sup>34</sup> The connivance between the JKKs and certain mining cooperatives and private companies was confirmed by several members of the Working Group during the interviews.

<sup>35</sup> Interview with the partner PISP 2, 28 October 2020.

<sup>36</sup> Interview with the partner CSO1, 22 October 2020.

<sup>37</sup> Interview with the partner SI2, 21 October 2020.

<sup>38</sup> From Article 8 of provincial decree n° 20/002/GP/SK of 22 January 2020 modifying and supplementing decree n°18/035/GP/SK of 3 September 2018 setting up the Provincial Committee in South Kivu to monitor the implementation of the recommendations of the resolutions and commitments made by actors in the mining sector at the end of the consultation held in Kinshasa from 25 February to 1 March 2011.

<sup>39</sup> Interview with the partner PISP 2, 28 October 2020.

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# ANNEX: INTERVIEW GUIDE

Lessons Learned Studies on the Implementation of the Voluntary Principles on Security and Human Rights in South Kivu, Democratic Republic of Congo (DRC)

In the framework of its project "Improving the Field Implementation of the Voluntary Principles on Security and Human Rights in South Kivu – DRC," the Geneva Centre for Security Sector Governance (DCAF), in collaboration with its Congolese partner organisation, the Observatory for Governance and Peace (OGP), established in 2018 a Working Group on Voluntary Principles on Security and Human Rights (the "Working Group"). The Working Group aims to "increase collaboration between the private sector, civil society organisations, security forces and government authorities in order to jointly identify and address security and human rights risks in the extractive sector." It is within this framework that DCAF's Business and Security Division envisaged this study to identify good practices and lessons learned from the experience of this first Working Group established in South Kivu province.

This interview guide is addressed to you in your capacity as a member: either of the Working Group, of the project stakeholders or of a potential partner organisation of the project. The aim of the interviews is to collect data that can provide information: firstly, on the strengths and opportunities that have facilitated the Working Group's missions to monitor the implementation of the Voluntary Principles on Security and Human Rights (VPS) in the extractive sector in South Kivu; secondly, on the weaknesses and constraints that have rather weakened the effectiveness of the Working Group's actions; and finally, on the recommendations that could help to address the challenges identified with a view to the effectiveness of its mission.

NB: The data will be processed in a strictly anonymous manner to guarantee the confidentiality of the informant and will only be used for the purposes of this study. We would like to thank you for the time you have devoted to this interview and for your trust.

*NB : Les données seront traitées de façon strictement anonyme pour garantir la confidentialité de l'informateur et ne seront utilisées qu'aux fins de cette étude. Nous vous remercions déjà pour votre temps consacré à cet entretien et pour votre confiance.*

- 1) In what context did the initiative to create the Working Group emerge in South Kivu? What triggered the idea of its creation? Can you describe the process that followed the creation of the Group (key events, local, national and international actors involved, nature of their involvement, etc.)? How was the Group structured?
  - 2) When it was set up, by what means/strategies did the Working Group gain the support of the various stakeholders for its initiative (Civil Society Organisations/ State institutions/ International partners/ Enterprises/ Mining Cooperatives/ Local communities)? Was there any reluctance on the part of certain actors? Have these hesitations been overcome? If so, how? If not, why not?
  - 3) What were the main challenges encountered during the creation of the Working Group? What were they of what order (political, economic, security, etc.)? And how were they overcome?
  - 4) Did the establishment of the Working Group receive any support/facilities from the different parties (Civil Society Organisations / State Institutions / Mining Companies & Cooperatives / International Partners; Local Communities)? If so, can you give some examples? If not, why not?
  - 5) Has the Working Group succeeded in establishing a shared vision and common objectives to ensure the sustainability of its impacts? If so, how did the Group reach consensus on these objectives? If not, why not?
  - 6) What are the current challenges to the implementation of the Working Group's vision and objectives? How can they be overcome to make the implementation of this vision/goals more effective? Are there other missions/objectives that you think it would be useful to assign to the Working Group to better address security and human rights issues in the extractive sector in South Kivu? Which ones and why?
  - 7) What types of requests are made to the Working Group as part of its mission? What types of actors request the Working Group's interventions?
  - 8) Are there concrete actions in the field carried out successfully by the Working Group in response to the requests it receives? If so, which ones? And what are the factors that have been decisive in the success achieved by the Working Group for each of the actions?
  - 9) Are there any cases where the Working Group's efforts have failed? If so, which ones? And what were the determining factors in the failure? How can they be overcome?
  - 10) Are the Working Group's current overall vision and objectives commonly shared by different stakeholders? In case of divergence on the Working Group's vision and objectives among different stakeholders, is there a mechanism to (re)negotiate or (re)create a common vision of the shared objectives and build consensus?
  - 11) Do the various stakeholders contribute resources to the activities of the Working Group? If so, what is the nature of their contribution (human, material, financial and institutional resources)
  - 12) Do you think that the contributions in resources allocated by the stakeholders can enable the Working Group to maintain its autonomy and sustainability over time? How can this be achieved? Can you give some examples?
  - 13) Are there any risks/threats to ensure the sustainability of the Working Group's resources? What are these threats/risks? And how can they be avoided or overcome?
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