

Maintaining OECD Responsible Supply Chain Standards through Negotiated Security Arrangements



CASE STUDY: IMPACT OF THE SOUTH KIVU VOLUNTARY PRINCIPLES WORKING GROUP

NYABIBWE

**SOUTH KIVU PROVINCE
EASTERN DR CONGO**

BACKGROUND

Nyabibwe is a mining town in South Kivu Province, whose economy relies on artisanal mining of coltan and cassiterite. Nyabibwe is the first mining site in the DRC to implement a traceability system following the **OECD Due Diligence Guidance** on responsible mineral supply chain standards from high-risk countries. The Nyabibwe site was exploited by two mining cooperatives. In this region, it is common practice for mining communities to hire local and informal private security guards for protection from attacks by non-state armed groups and other entities who threaten the security of mining sites.



**Nyabibwe, Kalehe territory,
South Kivu, DRC.**

THE ISSUE

Nyabibwe's compliance with OECD standards became threatened when a new mining cooperative arrived and asserted mining rights, resulting in inter-communal violence. The new cooperative illegally hired elements of the Mining Police (acting in their personal capacity) to parcel off a section of the mining site for their exclusive use. The two existing cooperatives feared losing their previous investments and livelihoods, protesting the arrival of the new cooperative and their accompanying security forces.

Tensions escalated in 2019 when one cooperative organised the kidnapping of a member of another cooperative, leading to open confrontations between the communities and their respectively hired security forces. Several people sustained injuries from knife wounds, requiring hospitalisation. This violence triggered the intervention of legitimate Mining Police elements, who responded by taking the injured to hospital and liberating the kidnapped miner.

The violence led the Ministry of Mines to suspend mineral production at the site, resulting in the immediate and considerable loss of livelihoods of Nyabibwe's mining communities.

THE WORKING GROUP'S SOLUTION

After investigation of the case in Nyabibwe, the CPS declared that only the new cooperative was in possession of all required documents to be legally entitled to exploit minerals on the site. Concerned that the mining communities would not accept the CPS decision, the South Kivu Voluntary Principles Working Group continued to engage in Nyabibwe to prevent further clashes on the site and ensure peaceful and sustainable resumption of mining. To this end, it undertook the following actions:

- Conducted a security risk assessment as the basis for intervention: The Working Group consulted a wide range of stakeholders, including local community members, security forces, and provincial authorities to assess the security risks in Nyabibwe and consider options to address them. The risk assessment concluded that the cooperatives would resume fighting unless there is a mutually accepted security agreement in place.
- Promoted ongoing dialogue between the cooperatives.
- Facilitated a mutually acceptable security agreement. The Working Group supported the cooperatives in drafting an acceptable agreement outlining the modalities for a peaceful co-existence and shared exploitation of mineral deposits in Nyabibwe by all three cooperatives.
- Facilitated the withdrawal of illegal security presence and arrival of authorised Mining Police, who have the mandate to provide security on mining sites under national law.

POSITIVE IMPACT

CONFLICT RESOLUTION AND PEACEFUL RESUMPTION OF ECONOMIC ACTIVITIES

The Working Group facilitated dialogue that resulted in all three cooperatives signing an agreement to cease violence and resume collaborative exploitation of the mining site. The Ministry of Mines therefore lifted the suspension of the mining site and the communities resumed mining of coltan and cassiterite.

COORDINATED SECURITY SERVICES

The Working Group also negotiated a mutually agreeable security mechanism for the mining site. The three cooperatives agreed to keep their separately funded informal security guards but unite them with the shared objective of providing security to all communities. Despite concerns regarding the use of informal security guards, the negotiation of this solution provided an immediate peaceful solution that prevented the escalation of violence.

ACCESS TO REMEDY

The Working Group helped establish a non-judicial mechanism to address the grievances of the victims of the kidnapping and violent confrontations. The perpetrators agreed to compensate the victims for damages that resulted from their acts of violence.

SECURING LIVELIHOODS

The peaceful resumption of mining by the three communities has secured the delivery of their minerals to international supply chains and the communities' livelihoods.

CONNECTING THE VOLUNTARY PRINCIPLES AND RESPONSIBLE SUPPLY CHAIN INITIATIVES

Responsible security practices are at the core of responsible business practices, yet often remain unaddressed in national and international efforts to establish responsible mineral supply chains. The Congolese Ministry of Mines has created the *Comité Provincial de Suivi (CPS)* – or provincial monitoring committee - to oversee implementation of the OECD Due Diligence Guidance in South Kivu. The CPS comprises key stakeholders from the extractive sector, including representatives from the Voluntary Principles Working Group. DCAF and OGP advocated successfully to establish the Voluntary Principles Working Group as a technical cell of the CPS. Thanks to this complementary set-up, all incidents with a security angle are brought to the VPs Working Group where they are specifically addressed and monitored. For the CPS and the OECD, taking targeted measures to address security issues is integral to the management of risks in supply chains.

GOOD PRACTICES

The South Kivu Voluntary Principles Working Group actions in this case study illustrate a number of good practices identified by DCAF and the Fund For Peace (FFP) in the study **From Commitment to Impact: A Guide for Local Working Groups on Business, Security, and Human Rights**, as well as **DCAF and the ICRC in the Toolkit: Addressing Security and Human Rights Challenges in Complex Environments**.

TRUST-BUILDING AND LOCAL OWNERSHIP

Thanks to its local ownership, multistakeholder composition and time invested in trust-building, the Ministry of Mines tasked the South Kivu Voluntary Principles Working Group to intervene to resolve this case.

IMPORTANCE OF MULTISTAKEHOLDER SECURITY RISK ASSESSMENTS

The DCAF/ICRC Toolkit recommends conducting a joint risk assessment between security forces, community members and other relevant key stakeholders as a first crucial step when resolving security concerns in challenging environments. Therefore, shortly after its creation, the South Kivu Voluntary Principles Working Group and DCAF organized a multistakeholder workshop to assess and mitigate security and human rights risks in the province. When the Ministry of Mines tasked the Working Group with the Nyabibwe case, its first step was to conduct a local risk assessment to identify the intervention logic. DCAF provided further technical assistance to the Working Group to discuss approaches and provide guidance to improve security and human rights situations on the ground.

COLLABORATION BETWEEN COMPLEMENTARY INITIATIVES

The CPS and Voluntary Principles Working Group are separate but complementary initiatives, the first focusing on a range of responsible supply chain issues, the latter focusing on business, security, and human rights. From the outset, the two groups have acknowledged the advantages of close collaboration and have engaged in active communication and coordination. The Ministry of Mines' tasking of the Working Group to intervene to resolve the Nyabibwe situation is testament to the Voluntary Principles unique role in setting business, security, and human rights standards and promoting a multistakeholder approach. This ensures that mining security arrangements comply with human rights standards as the foundation of responsible supply chains.

The South Kivu Voluntary Principles Working Group was established in 2018 with support from a grant from the Dutch Embassy in the Democratic Republic of Congo (DRC) to DCAF's Security and Human Rights Implementation Mechanism (SHRIM). The Working Group is led by the Bukavu-based Congolese organisation: *Observatoire Gouvernance et Paix* (OGP) in collaboration with DCAF.

The SHRIM is a multi-donor trust fund supporting implementation of security and human rights good practices in fragile environments in a coherent, sustainable and cost-effective way. SHRIM Case Studies reinforce the impact of multistakeholder approaches by highlighting the challenges and successes of addressing security and human rights risks in fragile environments.