



# Conflict analysis and stakeholder mapping in South Kivu and Ituri



# EDITORIAL

## **Conflict analysis and stakeholder mapping in South Kivu and Ituri**

Antwerp, April 2021

**Front cover image:** 3T mine in South Kivu (Photo: IPIS)

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## LIST OF ACRONYMS

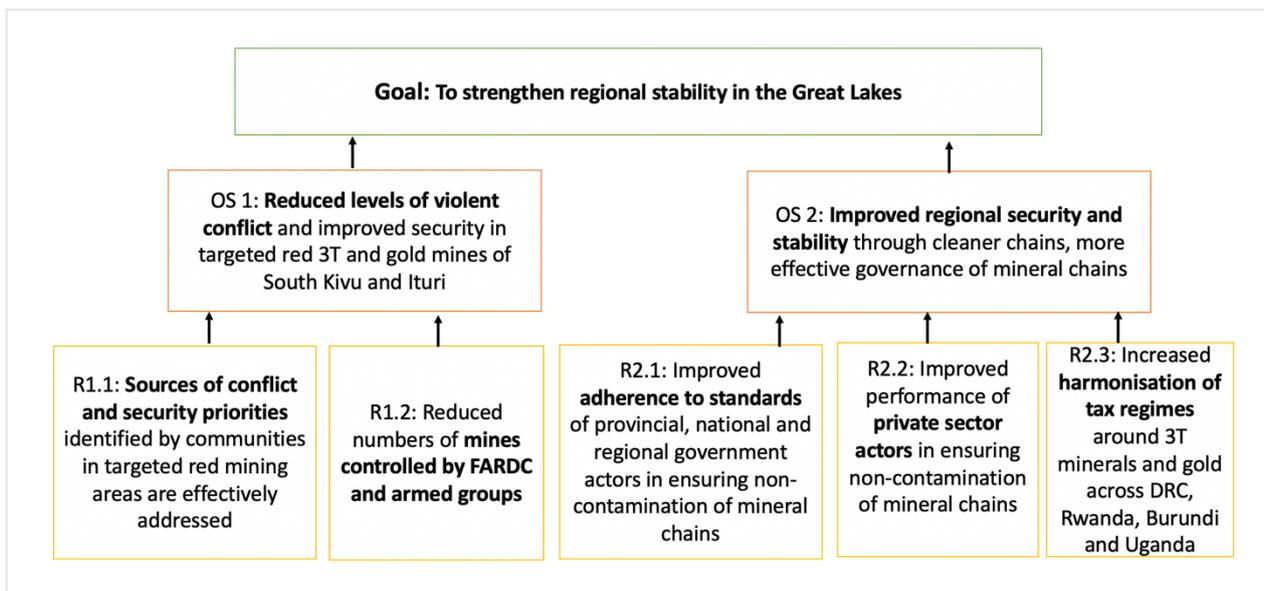
<b>AFM</b>	Administrateur de Foyer Minier
<b>LSC</b>	Local Security Committee
<b>PSC</b>	Provincial Security Committee
<b>ICGLR</b>	International Conference of the Great Lakes Region
<b>DDR (-C)</b>	Demobilisation Disarmament Rehabilitation (- Community)
<b>EPRM</b>	European Partnership for Responsible Minerals
<b>DTE</b>	Decentralised Territorial Entity
<b>FARDC</b>	Armed Forces of the Democratic Republic of Congo
<b>CDF</b>	Congolese Franc
<b>FDLR</b>	Democratic Front for the Liberation of Rwanda
<b>FRPI</b>	Patriotic Resistance Front of Ituri
<b>IPIS</b>	International Peace Information Service
<b>MGM</b>	Mongbwalu Gold Mines
<b>NDC (-R)</b>	Nduma Defence of Congo (- Rénové)
<b>MP</b>	Mining Permit
<b>KBNP</b>	Kahuzi Biega National Park
<b>MHP</b>	Mines and Hydrocarbons Police
<b>CNP</b>	Congolese National Police
<b>DRC</b>	Democratic Republic of Congo
<b>RMI</b>	Responsible Mineral Initiative
<b>UPDF</b>	Ugandan People's Defence Force
<b>AMZ</b>	Artisanal Mining Zone

# 1. INTRODUCTION

## 1.1. Introduction to the Madini Project

Poor governance of the mining sector is one of the main factors contributing to the conflict in eastern DRC today. In South Kivu and Ituri, there are four key minerals, gold and the 3Ts (tin, tungsten, tantalum), which provide a livelihood for hundreds of thousands of Congolese artisanal miners, but whose trade and mining are subject to large-scale corruption and human rights abuses perpetrated by armed groups, including undisciplined elements of the national army, the FARDC. Despite responsible sourcing initiatives, such as the OECD’s Due Diligence Guidance, the International Conference of the Great Lakes Region (ICGLR) and its Regional Certification Mechanism, existing legislation and policies adopted by the DRC Government, the Responsible Mineral Initiative (RMI), the World Gold Council Conflict-Free Gold Standard and the EPRM, minerals mined under unacceptable working conditions are still finding their way into the major global supply chains. While human rights abuses of artisanal miners take place at local level, i.e. in the mines, the issues and stakeholders go all the way up to provincial, national and international levels (see next chapter). Given this interconnection, the main objective of the Madini kwa Amani na Mandeleo (Minerals for Peace and Development) project is to strengthen regional stability in the Great Lakes region by improving security and stability around mining sites in eastern DRC, and by contributing to more responsible mineral chains by reducing levels of smuggling in the Great Lakes region.

Figure 1: Madini project diagram of objectives



The first pillar of work focuses on improving security around mining sites. This involves bringing together communities, artisanal miners, local authorities and security stakeholders (including armed groups, or at least their trusted intermediaries for such communication, and the FARDC and MHP) to develop joint security plans. These plans will form the basis for a series of strategic activities aimed at developing mutual trust to identify, mitigate and resolve conflicts so that mining supply chains no longer provide the resources that currently enable insecurity and human rights abuses. Alongside the plans, the project will provide training to build the capacity of state stakeholders - including security stakeholders and local government – so that they can play their role more effectively and fulfil their responsibilities in securing mining areas, and to work towards the demobilisation of illegal armed militias operating in the targeted sites.

If security in these areas is to be sustainable, it is therefore important to address the economic incentives that encourage illegal and potentially deadly practices at mining sites. These economic incentives cross borders and require a national, regional and international approach. Therefore, the second pillar, which is

complementary to the main objective, seeks to make the mineral supply chains that run through eastern DRC responsible, by identifying the stakeholders and interests that encourage the contamination of the chains and highlighting these practices in order to put pressure on the private sector and government stakeholders to change their behaviour. Lobbying and advocacy will therefore be essential tools to accomplish this change. Within this pillar, the project will include a specific set of activities to determine how national governments can better work together to harmonise tax systems to reduce the economic incentives for smuggling - which is now a major driver of contamination in these chains.

The project has identified five territories spread over two provinces in Eastern Congo. In South Kivu, Madini will be implemented in the territories of Shabunda, Kalehe and Fizi, and in Ituri, it will be present in Djugu and Mambasa.

The Madini project is supported by The Netherlands Ministry of Foreign Affairs and is implemented by a consortium led by International Alert, consisting of the International Peace Service Institute (IPIS), EurAC, the Observatory for Governance and Peace (OGP) and Justice Plus. The project started in December 2019 and will continue for four years.

## 1.2. Research Objectives, Structure and Methodology

The objectives of this context analysis are, firstly, to place the conflict sensitivity of South Kivu and Ituri at the centre of the activities' implementation to ensure that the Madini activities do no harm to existing and functional structures or relationships. Following the conflict sensitivity approach, the conflict analysis and its context aims to give Madini implementers the tools to understand the tensions between different groups, the divisive and potentially conflictual issues, and the forces that contribute to social peace.

Thus, after the introduction and overview of the results of the quantitative data collected in the 182 sites (see below for the methodology), the third part of this report will focus on identifying the structural causes of the conflict in Ituri and South Kivu, its immediate causes, and the stakeholders. In order to identify the origins and causes of the conflict, this part will review the history of eastern DRC since the first Congolese war (1996-1997). Finally, it will assess the value of the production of the 182 sites visited and the losses the war economy inflicts on the Congolese state.

In the fourth part, the immediate causes and stakeholders of the conflict will be identified at territorial level (Shabunda, Kalehe, Fizi, Djugu, Mambasa). As the geographical coverage is more limited, we shall also study the events that triggered the conflict.

The fifth part brings together our recommendations to the different stakeholders, and serves as a conclusion. For the recommendations, we have opted for short paragraphs where we explain once again the problem that the recommendation is supposed to solve.

This conflict analysis and its context is the result of research conducted during the summer of 2020 with the aim of collecting quantitative and qualitative data. This data is the subject of eight quantitative reports (one for each group visited, i.e. three for Shabunda, two for Fizi and one each for Kalehe, Djugu and Mambasa) and two qualitative reports (one for each province) in which more precise (and sensitive) information useful to the Madini project implementers can be found. Finally, an in-depth context analysis has also been written, in which causal and tangential issues that reflect conflict sensitivity, and which may or may not be within the area of control of a project like Madini, are identified. The present report is a compendium of these documents and aims to share the findings of the IPIS teams during their field missions, and to explain the directions that the Madini project will take in the coming years.

For the collection of quantitative data, 16 experienced investigators travelled through the five territories targeted by the project and visited 182 mining sites. The data collected concerns: the security situation (presence/absence of armed groups), types of interference by different stakeholders (types and prices of taxes, forced labour, etc.), coverage of state agents (which agents visit the site, how do they behave, etc.), production (number of miners disaggregated by gender, average production, etc.), trade (price of minerals, number of traders visiting the site, destination of minerals), working conditions (child labour, use of

mercury, number and types of accidents, etc.), type of mining, status of the mine (in an AMZ, validated site, etc.)

Two other IPIS teams travelled through the same areas to collect qualitative data. These teams were composed of a Congolese university professor, an expert in the mining sector and his target province, and an IPIS investigator who knew the terrain and the mines to be surveyed. One team covered South Kivu, the other Ituri. Among the data to be collected, it was a question of understanding the current conflicts, their causes, their origins, the stakeholders and how they related to each other, and the “puppeteers” who should be taken into account in the conceptualisation and implementation of the Madini project. These six-week visits for South Kivu and four-week visits for Ituri took place from September to October, and from October to November 2020 respectively. For interested readers, it is possible to view the mining sites visited by Madini on the IPIS interactive page (select the year 2020 in the timeline to only see the 182 sites),<sup>1</sup> or to obtain the raw results of the data collection on the IPIS dashboard (select 2020 in the timeline)<sup>2</sup>.

To contextualise this data in the recent history of eastern DRC, we also took the time to review the existing literature, drawing in particular on the reports of the UN Group of Experts for the DRC, the Kivu Security Tracker reports, previously collected IPIS data, academic articles and studies, and reports from NGOs and international partners specialising in minerals in Congo (IMPACT, ITSCI, Pact).

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1 Link to the IPIS interactive map: <https://www.ipisresearch.be/mapping/webmapping/drcongo/v6/#-3/28/5/4/1/>

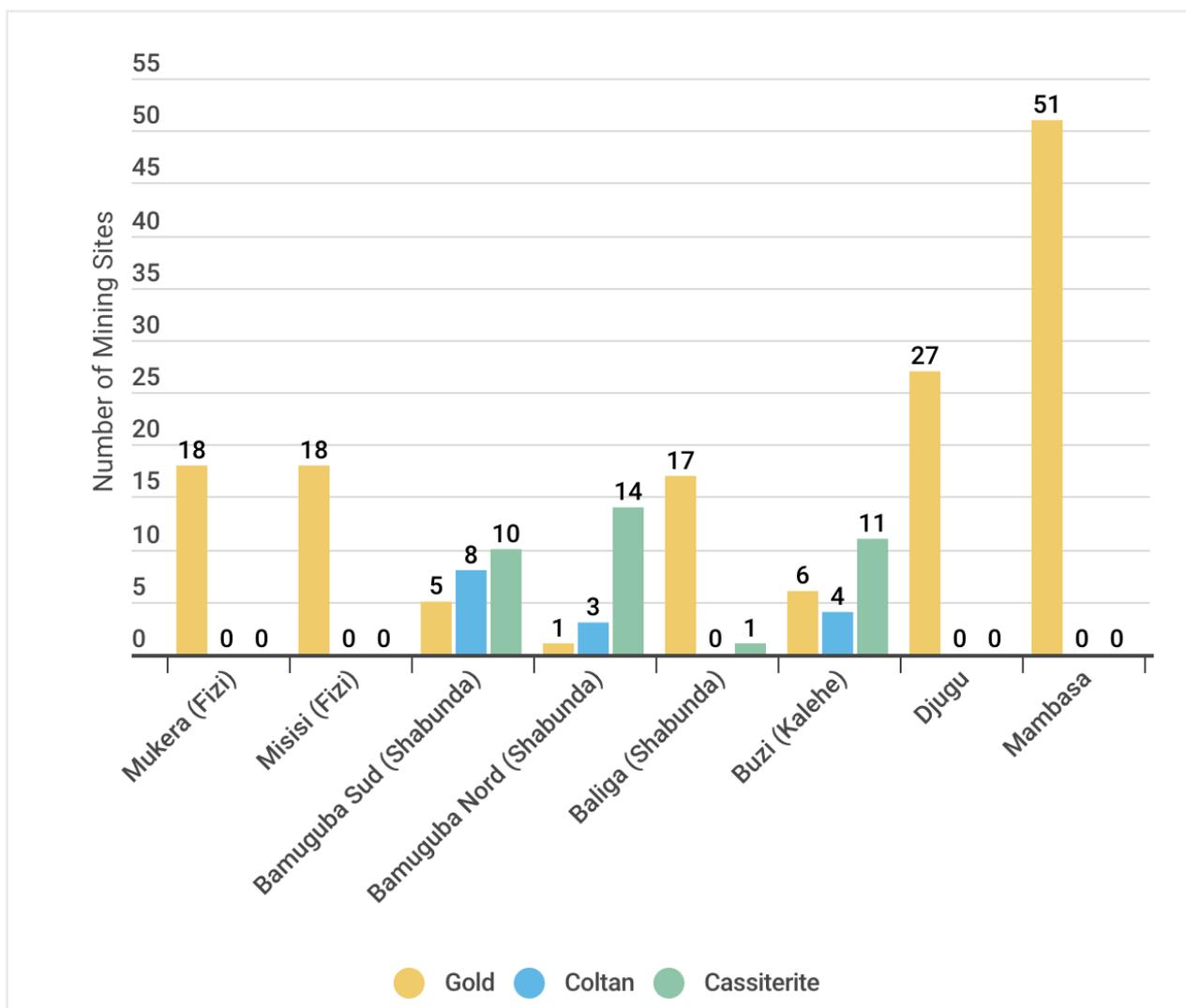
2 Link to the IPIS dashboard with all IPIS data collected on artisanal mining sites in eastern Congo since 2009: [https://ipisresearch-dashboard.shinyapps.io/open\\_data\\_app/](https://ipisresearch-dashboard.shinyapps.io/open_data_app/)

## 2. OVERVIEW OF QUANTITATIVE DATA FROM THE MINING SITES VISITED.

The criteria for selecting target areas for the Madini project were based on: insecurity as evidenced by the interference of armed men, high production of 3T or gold or both, characterised by an abundant labour force and a dynamic trade, whether official or unofficial, and where a majority of the sites had not been certified or validated (see below). Of the 182 mines visited, 144 produced gold (79 %), 36 produced cassiterite (20 %), and 15 produced coltan (8 %). The total number of mines is higher than 182 (100 %) because 14 mines produce two minerals, and one mine produces three.

Firstly, the high proportion of gold sites is logical as they represent the majority of artisanal mining sites, and all of the sites in Ituri. Secondly, for the Madini project, gold is of particular interest because it is mainly this mineral that is the subject of illegal trade, which contributes to the illicit financing of armed groups but also of large-scale smuggling.

Figure 2: Number of sites visited per territory and minerals

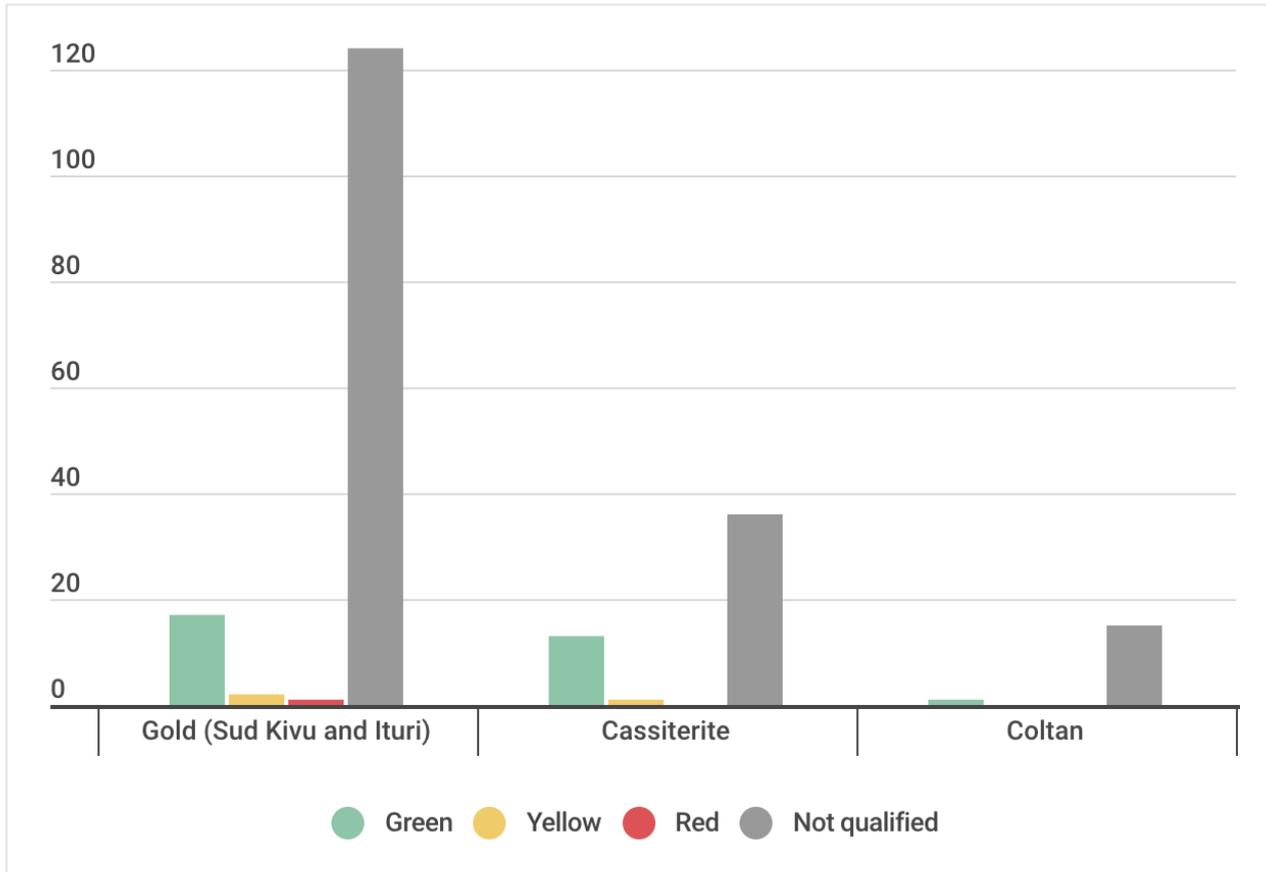


While traceability projects have been created for the 3T (BSP, ITSCI), the gold chains have not yet gone beyond the pilot phase.<sup>3</sup> With the exception of the six gold sites in Mambasa which were part of IMPACT’s

3 To our knowledge, the other gold traceability pilot projects, other than “Just Gold”, are those of BGR in Kampene (Maniema province), and Tetrattech in Nyamurale (South Kivu).

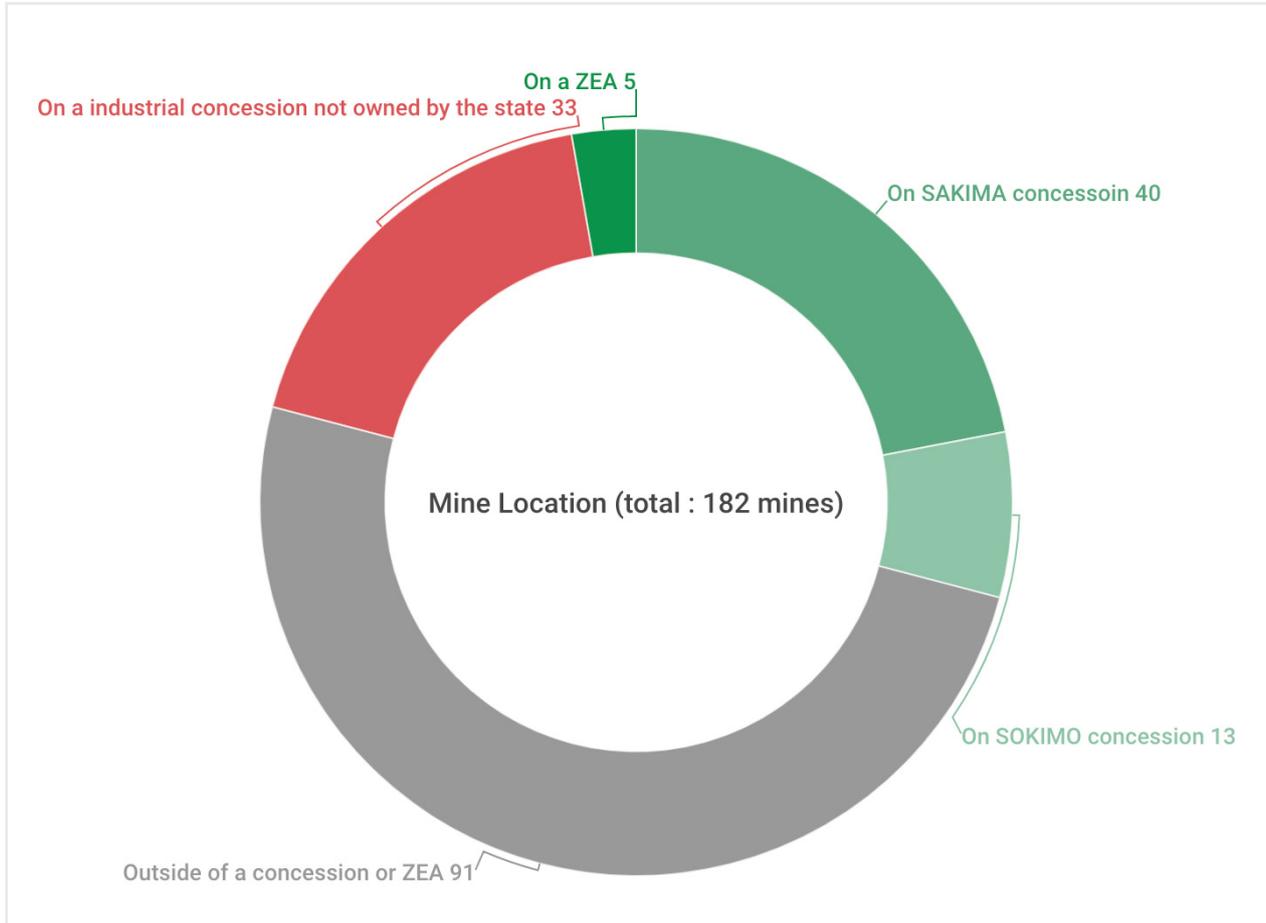
“Just Gold” project, no gold site is part of a legal and formal support project among the Madini sites. For the 3T, 19 of the 36 sites were part of the ITSCI programme: 13 in Kalehe and six in Shabunda. Given the selection criteria for the Madini project’s target sites, it is logical that the number of certified or validated sites (37 green, three yellow and one red) is only a minority. Nevertheless, recommendation 5.1.5 shows how rare these certification and validation missions are.

Figure 3: Number of certified sites per mineral



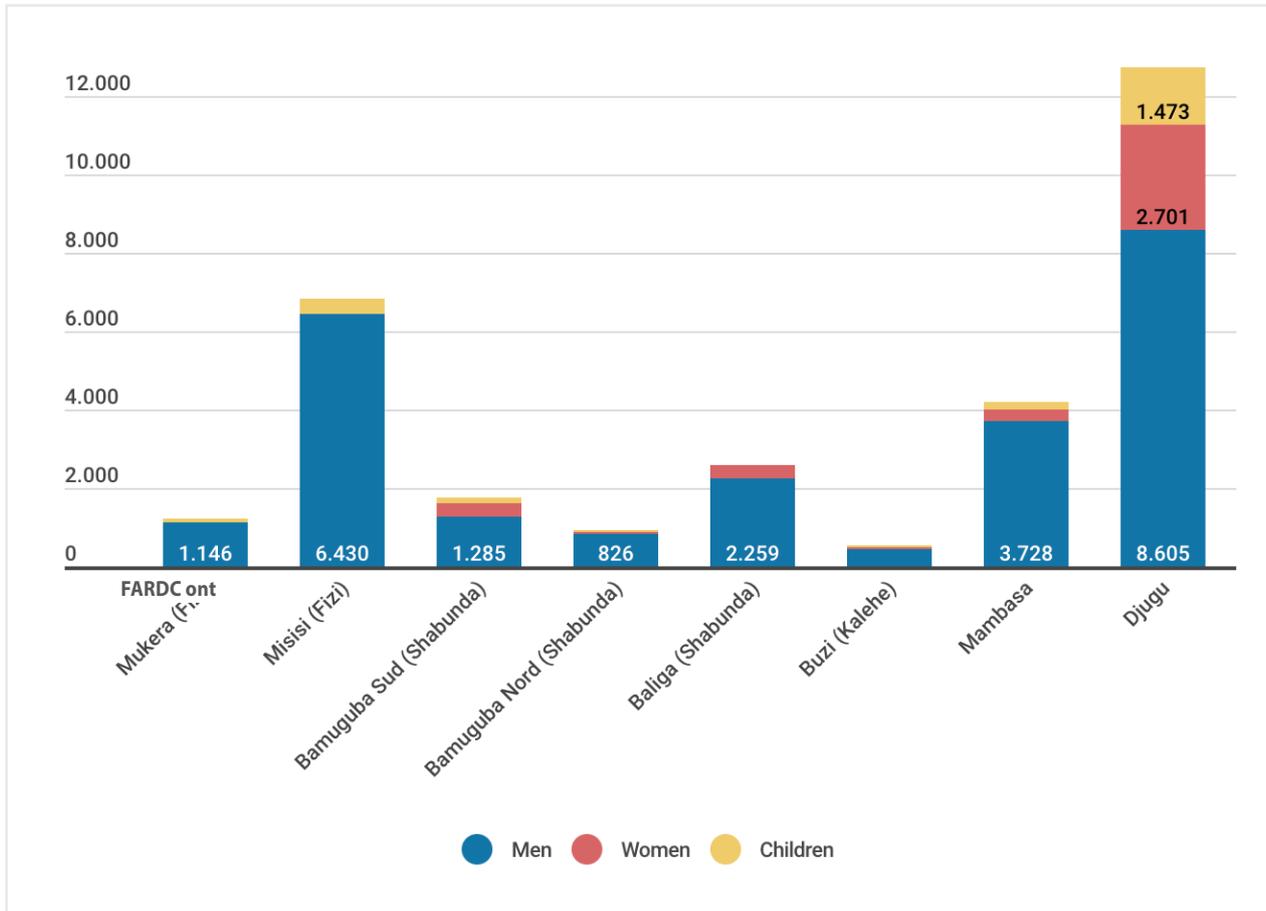
According to the mining code, artisanal mining is only allowed in an Artisanal Mining Zone (AMZ) or on plots covered by a mining permit (MP) or an exploration permit (EP) where the owner of the mining rights and the approved cooperative have signed a Memorandum of Understanding. In practice, miners mine the minerals where they find them. In some cases, the location of their site is not disputed, but in other cases, it is on the concession of an owner of mining rights. SAKIMA and SOKIMO are Congolese companies that allow artisanal miners, but for other mining companies, such as Leda Mining in Fizi or Mongbwalu Gold Mine (MGM) in Djugu, there are cohabitation problems.

Figure 4: Location and status of the mining site



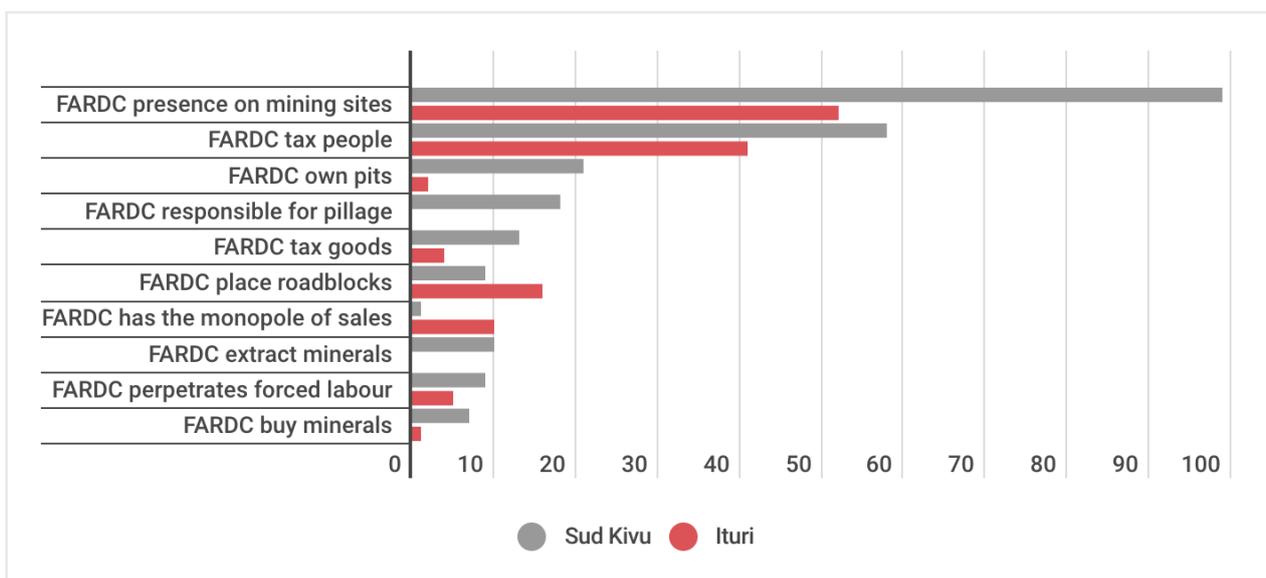
In the 182 sites targeted by the Madini project, over 31,000 workers were counted, with women accounting for 12 % of the workforce and children for 7 %. However, Figure 5 shows that more than a third of the workforce is concentrated in Djugu, while in Kalehe, where 3T (and tourmaline) production predominates, the workforce is significantly smaller.

Figure 5: Number of men, women and children working in artisanal mines



Given the ambition of the Madini project to improve security in mining regions, the mining sites selected for the implementation of the project are particularly prone to interference from the FARDC. As in the rest of eastern DRC, the primary “troublemaker” is undisciplined elements of the FARDC. While the FARDC are present in 95 % (99 out of 104) of the sites in South Kivu and 66 % in Ituri (52 out of 78), this presence is very often accompanied by interference of all kinds, including the tax on people which is the most recurrent (see figure 6).

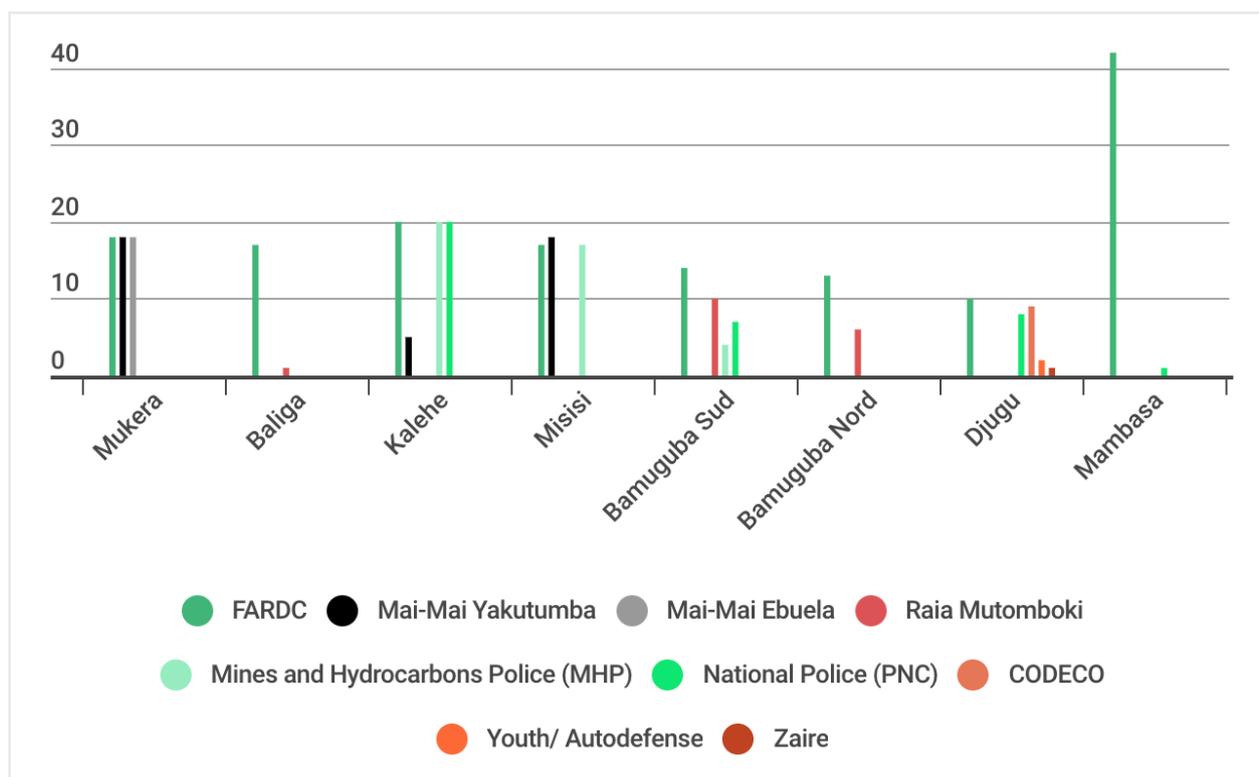
Figure 6: Number of sites where FARDC are present and interfere



There are also non-state armed groups involved in the trade and/or artisanal production of minerals. However, there are significant territorial disparities. In South Kivu, Fizi is particularly affected by the Yakutumba, while a multitude of Raiya Mutomboki groups are active in Shabunda. In Kalehe, the Nyatura come and go with the DDR programmes in place.

In Ituri, the CODECO are the main source of insecurity in Djugu. With a Lendu majority, this group stirs up hatred against the Hema. In contrast, the territory of Mambasa is relatively unaffected by non-state armed groups.<sup>4</sup> The conflict analysis mentions a few incursions by Mai-Mai groups from North Kivu, but these groups do not permanently, or at least regularly, occupy the mining sites. The rest of the report will provide more information on the actions of each of these non-state armed stakeholders.

Figure 7: Number of mining sites where state and non-state armed groups are present



The mining code only recognises the following as having the right to be present on a mining site, and to collect taxes: the mining authority (SAEMAPE and the Division des Mines), and the Mines and Hydrocarbons Police (MHP) to enforce the law. However, the investigators reported 14 different state agencies at the mining sites. Only 32 sites had not been visited by a state agent in the six months prior to the IPIS survey. The third part of the report devotes a significant section to the actions of state agents.

Regarding production, IPIS teams collected data on weekly production estimates for minerals, distinguishing between the dry season (four months) and rainy (eight months) season<sup>5</sup>. Concerning gold, we estimated that miners extracted **an annual production of USD 31 million**, at production prices.<sup>6</sup> For cassiterite (tin) and coltan, we estimated annual values of almost USD 3.5 million and over USD 1 million respectively.<sup>7</sup> In total, the **production value at the 182 sites is estimated at over USD 35.5 million**.

4 For example, the Mai-Mai Alaise and Mai-Mai Simba, present in the Bانداداکا Chiefdom

5 And each month corresponded to 4.348 weeks.

6 I.e., at the selling price per gram of gold at the mining site.

7 At the price of cassiterite at the mining site

Table 1: Estimates of the production value per mineral from the mines visited by Madini

Minerals	Number of active sites	Estimated number of workers	Estimated value of annual production (at-site price, in dollars)
Gold	144	28 646	31 041 000
Cassiterite	36	3 109	3 450 000
Coltan	15	1 174	1 025 000
<b>Total</b>	182	32 929 <sup>8</sup>	35 516 000

This data was collected during the summer of 2020, which gives a fairly objective view of the recent situation of the mining areas covered. The quantitative analysis of the 182 sites shows several things. Firstly, the importance of gold in terms of the number of workers and production value is obvious when compared to other artisanally mined minerals. Secondly, the isolation of the mines must be put into perspective as 82 % of them are visited by state agencies and the FARDC. At local level, we can therefore assume that the state manages to cover its territory. What is lacking is the quality and legality of this coverage, and also the infrastructure between villages and urban centres. The third part will focus on the contextual analysis of the conflict in eastern DRC and will interpret the data shared above.

8 The total number of 32,929 is higher than the figure mentioned above (31,000) because miners from sites where two minerals (15 sites) and three minerals (one) are extracted, are counted twice as we are not able to identify the number of workers per mineral.

### 3. CONTEXT ANALYSIS OF THE CONFLICT IN EASTERN DRC

Analysts agree that eastern DRC, including the provinces of South Kivu and Ituri, reflects war economies, where local armed groups, undisciplined security and public services, and foreign armed groups support their activities, in part or in a significant way, through extortion or racketeering activities. These war economies increase insecurity and are a source of human rights abuses against the general population, among other factors, but they also represent a significant loss of transparent public revenues for private and public stakeholders in the region. Economically, the unregulated artisanal mining of natural mineral resources (both renewable and non-renewable) in eastern DRC represents a significant loss of DRC's natural assets. More sustainable management of these resources could generate greater benefits for all stakeholders, from the miners to the central state, and the local community.

The sustainable management of natural resources on an economic and environmental level has been plagued by constant instability since 1996. In 2019, the Congo Study Group counted 125 non-state armed groups in North and South Kivu alone.<sup>9</sup> This figure alone is an indicator of the complexity of the conflicts in eastern Congo since 1996. The various armed groups can be classified into three categories according to their origin and objectives: 1. **Foreign armed groups or groups of foreign origin:** either they are seeking to (re)take power in their country of origin (for instance, the FDLR for Rwanda, the ADF for Uganda, RED Tabara from Burundi), or they are of Congolese origin and supported by a foreign power working for the interests of that country (Rwanda's support for the M23, for example) 2. **Congolese armed groups that did not agree to disarm after the Sun City Agreement** (2003) ending the Second Congo War (1998-2003). The Yakutumba, present in the Fizi region, which the consortium has identified for the Madini project, fall into this category. This armed group can trace its history back to the 1960s.<sup>10</sup> After the dialogue started in Sun City (2002-2003), some soldiers from Fizi were disappointed and felt that the grievances and demands of the Mai-Mai were not taken into account, and that their military officers were treated ruthlessly in the military integration process.<sup>11</sup> And finally, 3. **Congolese armed groups identifying themselves as "self-defence groups"**, created in reaction to abuses committed by other armed groups and which the FARDC were unable to stop. This is the case of the Raia Mutomboki, whom Madini met in Shabunda, who are autonomous self-defence groups that were formed around 2006 to drive out the FDLR, and succeeded in doing so around 2011-2012.<sup>12</sup> However, even when the objective was achieved, these self-defence groups did not want to disarm and continued to justify their presence to "drive out foreigners".<sup>13</sup>

This justification of "driving out foreigners" is malleable. In South Kivu, the armed group Yakutumba considers the ethnic Banyamulenge as foreigners, and more precisely as Rwandan Tutsis. Since then, almost all the warring groups have claimed to be either fighting against the Banyamulenge (Mai-Mai Yakutumba, Mai-Mai Ebuela) or protecting them (e.g. the Ngumino and Twigwaneho groups).<sup>14</sup> This rhetoric of "driving out foreigners" can also be applied to foreign-owned industrial companies. In a context of widespread poverty, poor governance, and a tradition of conflict (eastern DRC has been almost continuously at war since 1996), these armed groups have no difficulty recruiting young people seeking to survive. Over time, illegal predation has become the main objective of some rebel groups and has almost entirely supplanted the ideological factor. This analysis confirms Collier and Hoeffler's theory according to which predation – i.e. greed (defined as the pursuit of profit and the ability to finance a rebellion) –

9 DW, "Une centaine de groupes armés dans l'est de la RDC", 13 December 2019, <https://www.dw.com/fr/une-centaine-de-groupes-arm%C3%A9s-actifs-dans-lest-de-la-rdc/a-51664664#:~:text=Selon%20les%20chiffres%20publi%C3%A9s%20par,ces%20rebelles%20seraient%20encore%20actifs.&text=Les%20rebelles%20les%20plus%20connus,ougandais%20et%20les%20FDLR%20rwandais.>

10 See J. Stearns, *Les Mai-Mai Yakutumba: Résistance et racket au Fizi*, Sud Kivu, Rift Valley Institute, 2013

11 See J. Stearns, *Les Mai-Mai Yakutumba: Résistance et racket au Fizi*, Sud Kivu, Rift Valley Institute, 2013, p. 29

12 J. Stearns, *Les Raia Mutomboki : déficience du processus de paix en RDC et naissance d'une franchise armée*, Rift Valley Institute, 2013, p.13

13 This ideology of "driving out Rwandans" or foreigners is also found among the Mai-Mai Yakutumba of Fizi. See J. Stearns, *Les Mai-Mai Yakutumba: Résistance et racket au Fizi*, Sud Kivu, Rift Valley Institute, 2013

14 J. Stearns, *Repenser la crise au Kivu : mobilisation armée et logique du gouvernement de transition*, in *Politique Africaine*, no. 129, 2013/1.

outweighs injustices or grievances, based on ethnic or religious divisions or political repression to explain the causes and predict a civil war.<sup>15</sup> In Bisie, North Kivu, circa 2007-2008, there were up to four non-state armed groups that were supposedly antagonistic, who agreed not to attack each other so that each could focus on cassiterite in the territory they controlled.<sup>16</sup> In Fizi, South Kivu, the IPIS investigations for Madini found that the FARDC and Yakutumba divided the taxation days between them at at least three particularly productive sites, to avoid coming face to face and having to engage in combat. In some cases, the FARDC and armed groups even work hand in hand to fight a common enemy. This is the case in North Kivu, in the Walikale region, where the rebel group NDC Rénové collaborated with the FARDC to drive out the FDLR (from Rwanda). In the Minembwe region (South Kivu) some roadblocks are jointly held by the FARDC and the armed group Ngumino.

The main victims of these economic wars are the local populations, as they are the primary targets of the activities of these non-state armed groups, whether in a violent way, by looting villages or mining sites, or in a more “regulated” way, by imposing periodic, fixed and regular taxes at roadblocks or at mining sites.

In the past, conflict analysts, and especially NGOs advocating the adoption of the Dodd-Frank Act, have seen this predation as evidence that minerals finance armed groups and therefore prolong and/or cause war, hence the term “conflict minerals”. We propose an alternative analysis, where minerals are not the cause of conflict, but only a symptom, and where the structural causes of violence in mining regions are poverty, poor governance, and a tradition of conflict. To define the socio-economic context of eastern Congo as “poor” is an understatement; nevertheless, to recognise this is to understand the opportunity that artisanal mining provides for social and economic improvement (more on this later).

### 3.1. What are the means of subsistence in a remote mining area?

In remote and hard-to-reach areas such as the mining regions of South Kivu, the sector that employs the most people after agriculture is artisanal mining.<sup>17</sup> After these two sectors, opportunities for financial independence and social advancement are rare. For people who are well connected and/or have a degree, being recruited into the civil service can be seen as a guarantee of job security. However, when analysing the predation of state agents on the profits made by artisanal miners, it becomes obvious that their civil service salary is not enough for them to survive on, as it is either insufficient or not paid, or both. As of March 2020, only seven of the 128 agents of the Ituri mining authority were receiving their civil servant salary.<sup>18</sup> The unpaid civil servants, encouraged by their hierarchy, therefore find their own means to get paid by taxing the miners and/or the cooperatives, traders or processing entities. For South Kivu and Ituri (182 mines visited), IPIS counted 150 mining sites where at least one state agency had visited the mine in the last six months.<sup>19</sup> At 100 % of the sites (n =150), state agents come to collect “lump sum” taxes or to interfere in the mine’s affairs in order to collect money.<sup>20</sup> As mentioned above, only SAEMAPE and the Division des Mines and MHP are allowed to visit the mines. However, IPIS has counted no less than 14 different state agencies taking money from miners to pay their salaries.

After artisanal mining, agriculture and the civil service, there is still a fourth way to survive: by joining an armed group and taxing and looting the civilian population to get by. In 69 out of 182 mines (38 %), at least one armed group was present. With the exception of the mines where the Nyatura (Kalehe) behave appropriately (five mines), all other mining sites (64) are victims of illegal taxation by armed groups. The most recurrent tax is a regular payment (often weekly, varying from CDF 500 to 1500) demanded from

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15 Cited in S. Mwachofi Singo and S. Okhoth Opondo “Ambiguity of the Soil, Ambiguity of Belonging: Grievance, Resource Avarice and Conflict in Eastern Democratic Republic of Congo”, in *The Roots of Ethnic Conflict in Africa*, from Grievance to Violence, Palgrave, 2015, p. 78.

16 Testimony obtained by IPIS in October 2015, in Bisie.

17 According to the FAO, 70 % of the active Congolese population are employed in peasant agriculture. (2021) <http://www.fao.org/republique-democratique-congo/fao-en-republique-democratique-du-congo/le-pays-en-un-coup-doeil/fr/>

18 J. Tilouine, “Le florissant business de l’or des conflits”, *Le Monde*, 6 March 2020

19 The remaining 32 sites are not visited because they are too far away or it is too dangerous to go there because of the presence of a non-state armed group.

20 It should, however, be noted that the state agencies based in Kalehe behave appropriately with the miners by not systematically taxing them. There is, however, double taxation on motor pumps.

each person. In Shabunda, the system is so well established that the Raia Mutomboki even give advance notice of the day of their arrival by text message so that the site manager can collect the money.<sup>21</sup> In some cases, armed groups set up roadblocks. In a 2017 study, IPIS counted 40 roadblocks controlled by non-state armed groups out of the 312 identified (or 13 %) in South Kivu.<sup>22</sup>

To counter these armed groups, the Congolese state has sent in battalions of the Armed Forces of the Democratic Republic of Congo (FARDC) and its omnipresence is reflected in patrols of sites and roadblocks.<sup>23</sup> However, these soldiers are in the same situation: because they are not being paid, they are taxing the population to pay themselves directly. In South Kivu and Ituri, the FARDC are present respectively in 95 % (N=104) and 66 % (N=78) of the sites visited within the framework of the Madini project. In places where the FARDC patrol, they impose taxes, of varying frequency and amount depending on the area, in 75 % (n=99) of the mining sites in South Kivu and in 85 % (n=52) of the sites in Ituri. Posted uninterruptedly in these regions since 2004-2005, the FARDC have gradually gained other forms of power, especially judicial (see reports on South Bamuguba and Baliga, in Shabunda).

For the miners, armed groups and undisciplined soldiers are the “triggers” of “immediate” conflicts because they impose themselves as mediators in disputes between stakeholders in the mine, and this “mediation” becomes a new source of income. For example, a state agent, with the support of undisciplined FARDC soldiers, will close down a pit without any legal authority<sup>24</sup>, supposedly to solve the problem of the pit’s ownership, and demand USD 5,000 - 10,000 to reopen it, or a soldier will arrest a miner and demand USD 5,000 for his release. Since the presence of the FARDC is only justified by the presence of armed groups, we find ourselves in the paradoxical situation where the presence of an armed group has become a source of enrichment for FARDC soldiers.

In this local war economy context, artisanal mining manages to support the miners and, indirectly, the unpaid state and military agents without rank (whether FARDC or militia), but not lift them out of poverty in the long term. In 2020, IPIS calculated that a 3T miner earned between USD 71 and USD 86 per month, and that USD 243 per month was needed to support a household of six people.<sup>25</sup> And yet, the value of minerals extracted from artisanal mines is in the millions of dollars. While this upstream production generates significant revenue in taxes and illegal payments for Congolese state services and agents, its export is actually illegal and avoids the legal and formal imposition of export taxes and mining royalties.

### 3.2. Assessment of the value of gold production and 3T

The tables below calculate the values of the minerals produced at the 182 sites in South Kivu and Ituri visited by the Madini project in the summer of 2020. Normally, the mining royalty is based on the *export* value of the mineral, but since IPIS collected data from the mining sites, it could only calculate the *production* value, which is lower than the export value. Hence, all the figures mentioned below are low ranges of the Congolese state’s loss of revenue on the mining royalty.

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- 21 Observations of IPIS investigators during the summer of 2020 concerning field visits to South Bamuguba for the Madini project.
  - 22 IPIS, Everything that moves must be taxed: The political economy of the roadblocks in North and South Kivu, Antwerp, November 2017, p. 16
  - 23 <https://www.radiookapi.net/2020/10/07/actualite/societe/shabunda-la-societe-civile-demande-le-retrait-des-45-barrieres-erigees>
  - 24 According to the law, it is the Division des Mines, under the advice of SAEMAPE or the governor, that has the power to close a site by sending its agents there.
  - 25 G. de Brier, et al, How much does a miner earn? Assessment of miner’s revenue and basic needs study in the DRC, IPIS-Fairphone-Levin Source, 2020.

Table 2: Annual production and value of 144 gold sites visited in summer 2020 <sup>26</sup>

	Number of sites	Annual production (kg) <sup>27</sup>	Values in \$ (in millions) <sup>28</sup>
<b>Ituri</b>	78	309.62	12 878 918
<b>South Kivu</b>	66	419.16	18 162 903
<b>Total</b>	144	728.78	31 041 821

The table above shows that the 144 gold sites visited by IPIS during the summer produce almost 729 kilograms of gold, worth over USD 31 million. <sup>29</sup>

Table 3: Annual production and value of the 36 cassiterite sites visited in summer 2020 <sup>30</sup>

	Number of sites	Annual production (in kg)	Values in \$ (in millions)
<b>South Kivu</b>	36	930 872	3 452 614

Table 4: Annual production and value of the 15 coltan sites visited in summer 2020 <sup>31</sup>

	Number of sites	Annual production (kg)	Values in \$ (in millions)
South Kivu	15	53 672	1 024 332

According to these production value tables estimated by IPIS, the combined value of the artisanal minerals produced amounts to over USD 35.5 million per year.

### 3.3. Reinvesting in mining areas for the benefit of the local population: A mining royalty for 3T, but what about artisanal gold?

For 3T, the mining code obliges exporters to pay 3.5 % as a mining royalty for cassiterite and wolframite and 10 % for coltan, which is considered a strategic mineral. Since we have calculated the total production value, we can therefore estimate the expected revenue from the mining royalty. This royalty is divided as follows: 50 % for the Congolese state, 25 % for the provincial authority, 15 % for the Decentralised Territorial Entity (DTE), and 10 % for the Mining Fund for Future Generations. The table below details the estimates. <sup>32</sup>

26 Based on interviews with miners and site managers. The specific questions were: “In the rainy season, what is the average production of your site?”, and then the same question for the dry season. For the annual production estimate, IPIS considered the dry season to last four months and the rainy season eight months, at a rate of 4.348 weeks per month.

27 While South Kivu and Ituri have an almost similar weekly production during the dry season (8,656 grams and 8,660 grams), weekly production in the rainy season decreases by 47% in Ituri (4,570 grams) and only by 11% in South Kivu (7,721 grams). There is a clear difference in annual since the rainy season lasts eight months and the dry season four months.

28 The estimate of the total value is based on the estimated production (see footnote 7) and on the answers, at each site, to the questions “what is the average price per gram of gold in the dry season” and “what is the average price per gram of gold in the rainy season”. When prices were given in Congolese francs, we used the conversion of USD 1 = CDF 1956.

29 Value at the mining site as traders (cooperatives, official or illegal traders) increase the selling price to give them a profit margin.

30 Based on interviews with miners and site managers. The specific questions were: “In the rainy season, what is the average production of your site?” and then the same question for the dry season. For the annual production estimate, IPIS considered the dry season to last four months and the rainy season eight months, at a rate of 4.348 weeks per month.

31 Based on interviews with miners and site managers. The specific questions were: “In the rainy season, what is the average production of your site?” and then the same question for the dry season. For the annual production estimate, IPIS considered the dry season to last four months and the rainy season eight months, at a rate of 4.348 weeks per month.

32 Articles 240 and 241 of the Congolese Mining Code: <http://droitcongolais.be/Legislation/Droit%20economique/Code%20Minier/Loi.18.001.09.03.2018.html>

Table 5: Estimated potential earnings and distribution of the mining royalty if production from the “Madini” sites were properly recorded and taxed.<sup>33</sup>

	Total (100%) in \$	Congolese central government (50%) in \$	Provincial authority (25%) in \$	Decentralised Territorial Entity (15%) in \$	Mining Fund for Future Generations (10%) in \$
<b>Cassiterite (South Kivu)</b>	120 841	60 421	30 210	18 126	12 084
<b>Coltan (South Kivu)</b>	102 433	51 217	25 608	15 365	10 243
<b>TOTAL</b>	223 274	111 637	55 818	39 491	22 327

The South Kivu mining royalty for the coltan and cassiterite sites visited by Madini is sizeable, amounting to more than USD 223,000. The DTE portion, on the other hand, is modest: almost USD 40,000. In reality, as mentioned above, the artisanal mine’s value lies more in gold. However, the trading houses that export the gold are not subject to the mining royalty.

The biggest contradiction in the tax regime for artisanal gold is that nothing is paid back to the DTE where the gold originates, even though this gold is highly taxed. Impact’s “Just Gold” project reports in detail on all the difficulties and steps involved in exporting artisanal gold legally.<sup>34</sup> According to the Canadian NGO’s report, there are 26 different taxes, representing between 8 and 11 % of the export value. The rate is degressive in relation to volume. In theory, the gold from the 144 gold sites visited by Madini therefore brings in approximately USD 2.5 to 3.4 million.

Table 6: Estimated amount of taxes on artisanal gold at rates calculated by Impact

	Values in \$ (in millions) <sup>35</sup>	8 % rate	11 % rate
<b>Ituri</b>	12 878 918	1 030 313	1 416 681
<b>South Kivu</b>	18 162 903	1 453 032	1 997 919
<b>Total</b>	31 041 821	2 483 345	3 414 600

Regarding official figures, for South Kivu, in 2019, declared production amounted to only 8.105 kg, and exports to 48.79 kg.<sup>36</sup> Despite the obvious contradiction between production and export figures, this data shows the extent of the fraud. In our estimates, the 66 gold sites in South Kivu alone produce 419 kg annually. In 2013, the UN Group of Experts for the DRC estimated that 98 % of artisanal gold was being exported illegally. Almost 10 years later, it seems that nothing has really changed.<sup>37</sup> The same panel estimated in 2020 that total production in Ituri was between 768 and 1,152 kg per year, but that only 48 kg was declared.<sup>38</sup> Based on the high estimate, this means that around 96 % (or 1,104 kg) of artisanal gold was being smuggled out of the province, representing a loss of between USD 4.3 and 5.9 million in costs to the state.<sup>39</sup> It should be noted, however, that it is precisely this multitude of taxes and their high amounts that drive traders and trading houses into illegality.

33 This is a very conservative estimate as it takes into account the value of *production* and not the value of *export* on which the mining royalty is based, which is obviously higher.

34 Impact, The Just Gold Project: Lessons Learned for the Future of Artisanal Gold in the Democratic Republic of Congo, March 2021, p. 31 The Impact report goes further by saying that transport costs account for 8 to 11 % of the export value, making Congolese artisanal gold 16 to 22 % more expensive than the market price.

35 The estimate of the total value is based on the estimated production (see footnote 7) and on the answers, at each site, to the questions “what is the average price per gram of gold in the dry season” and “what is the average price per gram of gold in the rainy season”. When prices were given in Congolese francs, we used the conversion rate of USD 1 = CDF 1956.

36 Report of the UN Group of Experts for the DRC, S-2020-482, annexes 16 and 17, June 2020

37 S-2017-672, para. 26, August 2017

38 S-2020-482, annex 18

39 S-2020-482, annex 19, June 2020. The group of experts calculated a gram of gold at USD 48.9656. The range of USD 4.3 and 5.9 million is calculated as follows: 48.9656 (price per gram) \*1,104,000 (production per gram) \*0.08 (8 % tax, and \*0.12 for 12 % tax).

To better understand the issue of artisanal gold taxation, Madini is planning a study of field practices and the laws governing artisanal gold taxation in order to propose more precise and appropriate recommendations.

### 3.4. The mining enclave: “a glocalised space”

In the Madini project, for the 182 mines visited, we estimated that over 31,000 people (men, women, children) generated an annual production of more than USD 35 million for all minerals (gold, coltan, cassiterite). Given the level of local poverty, and the sums involved in the artisanal minerals sector, it is therefore undeniable that national and regional stakeholders connected to the mines, but physically absent from them, are becoming illicitly rich. Thus, a mine should not be seen as an “isolated enclave” but as a “glocalised space”,<sup>40</sup> in the sense that the local exploitation of natural resources is connected to national, regional and global economic, political and/or military stakeholders, to an elite that has been able to seize the state and control the checkpoints and revenues for its own benefit.

These “disruptive” stakeholders, i.e. state agents, armed militia groups<sup>41</sup> and undisciplined soldiers, operate at local level but are put in place (or manipulated) by a hierarchy whose influence and impact is visible at provincial, national and regional levels. While these state agents, militiamen and soldiers come to collect their wages from the artisanal miners, they are also required to bring back a minimum amount to their superiors. Supported, or even pushed, by a provincial or national hierarchy, these three local stakeholders (the state agent, the militiaman and the undisciplined FARDC soldier) act with impunity. These illegal seizures by these “disruptive stakeholders” contribute to increased insecurity and sabotage the governance of the economic sectors (including mining) in eastern DRC.

Before moving onto the analysis by territory, we can conclude that the presence of natural resources, in a context where the state is failing and relies on an unpaid army to assert its authority, leads to a militarisation of society and the economy, where poverty and the tradition of conflict drive new recruits into armed groups.<sup>42</sup> This militarisation of society has developed in tandem with the decline of the state, reaching a stage where armed violence has become the solution to socio-economic problems. A study by the University of Antwerp conducted in 2019 in Kamituga (South Kivu) concluded that a majority of artisanal miners were willing to take part in violent actions (attacking industrial companies coming to their area, joining an armed group) for socio-economic or material reasons.<sup>43</sup> The study shows that the intention to take part in violent actions depends on each miner’s exposure to violence, as a perpetrator or victim of it. Given that South Kivu and Ituri have more or less been at war since 1996, there is undoubtedly a high exposure to violence, which therefore explains this propensity to create armed “self-defence” groups and the ease of finding new recruits.

The economic and socio-cultural context and the tradition of conflict presented above apply to all five territories (Kalehe, Shabunda, Fizi in South Kivu, and Djugu and Mambasa in Ituri). Consequently, the following section will focus on a territory-by-territory analysis of the immediate causes of the conflict and their triggers; on the stakeholders and their interests, but also on their relations and interactions with each other, and their role as a disruptive or peace-making factor in the territory; and, finally, on the factors and dynamics of potential peace.

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40 While the traditional Local-Regional-National-Global hierarchy is built on the criterion of physical/geographical proximity, we use this neologism (global + local) to demonstrate the coexistence of global and local dynamics at the same time, in the same place.

41 The qualitative report establishes that the Yakutumba opposition to Leda Mining in Misisi (local level) is driven by at least one FARDC general (decentralised national stakeholder)

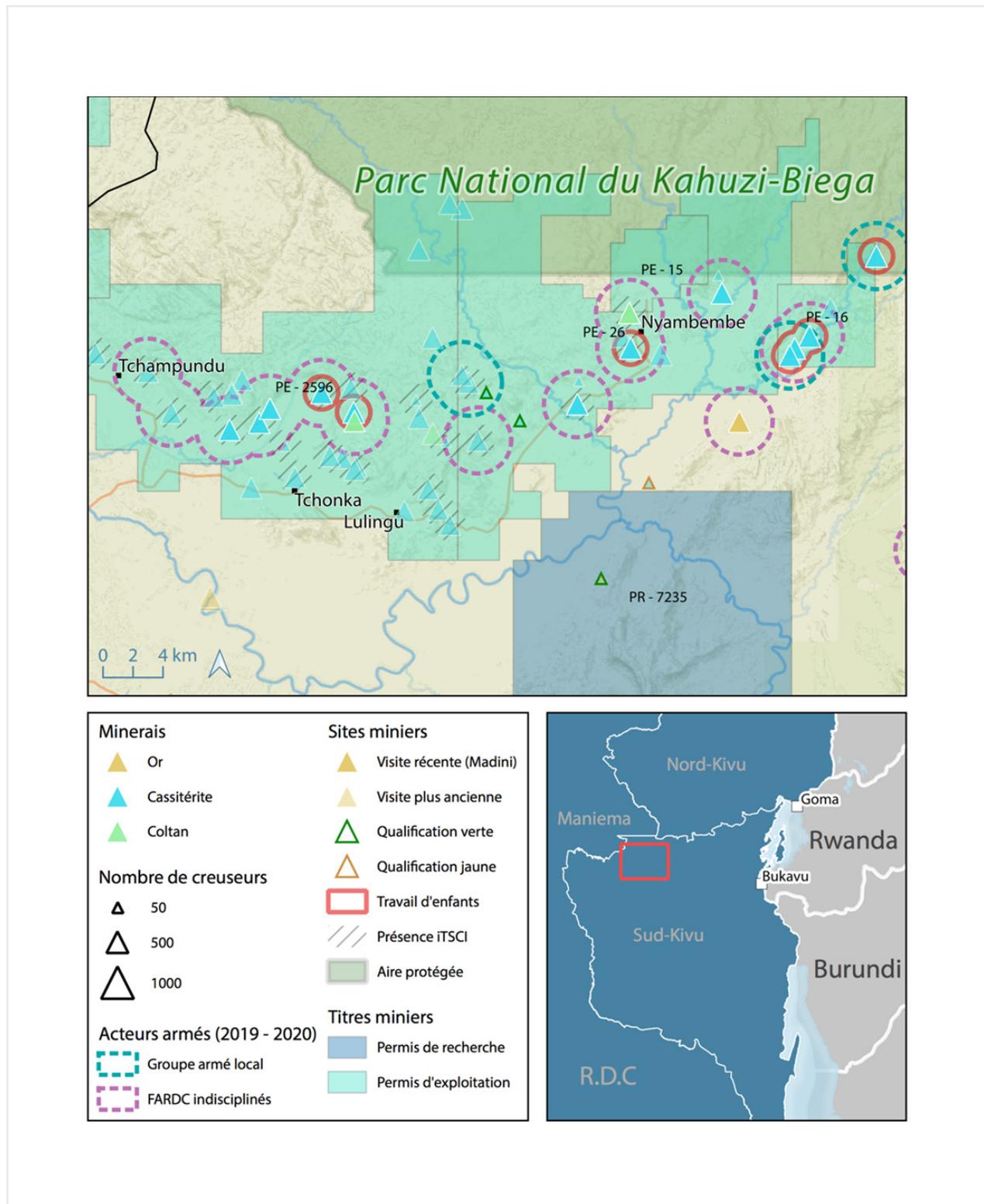
42 Amnesty International, “Democratic Republic of Congo: Children at War”, 2003, p. 6

43 N. Stoop and M. Verpoorten: “Would you fight? We asked aggrieved artisanal miners in eastern DRC”, forthcoming in the Journal of Conflict Resolution, 2021.

# 4. TERRITORIAL ANALYSIS OF IMMEDIATE CAUSES OF CONFLICT AND STAKEHOLDERS IN THE ARTISANAL MINING SECTOR.

## 4.1. SHABUNDA

Map 1: Sites visited by the Madini project in the North Bamuguba grouping



IPIS research has identified four major conflicts that we consider to be immediate causes of conflict. These are:

1. Opposition to the extension of the Kahuzi Biega National Park (KBNP)
2. Rivalries over the ownership of the Tukutu site
3. Tensions between the miners, the processing entities, and SAKIMA (owner of the mining rights).
4. The failures of the Nyambembe trading centre, which benefit the Tchonka trading centre, encouraging the contamination of mineral supply chains.

Opposition to the extension of the Kahuzi Biega National Park (KBNP) dates back to 1975.<sup>44</sup> The populations and the miners are against this extension because it encompasses farmland and artisanal mines. In addition, the extension of the KBNP also includes mining concessions belonging to SAKIMA. Violent clashes sometimes occur between the KBNP eco-guards and the Raia Mutomboki, who claim to protect the rights of the people (whether miners or farmers), or between eco-guards and the population directly.

Several events can be *triggers for violence*. Among these, we have identified :

- *KBNP demarcation activities*: the last demarcation activity was in 2003, but the population removed the signs. In 2007, the KBNP decided to demarcate the park again but this turned into violent clashes.<sup>45</sup>
- *The installation of eco-guard camps in and around Nyambembe*: in March 2018, the Raia Mutomboki succeeded in convincing young people to participate in the destruction of the Nyambembe eco-guard camp. Eco-guards were abducted by the Raia Mutomboki.<sup>46</sup>
- *Arrests of miners, poachers or farmers active in the park*. The population takes up the cause of these three profiles. Their arrests are considered arbitrary, and can cause violence, especially if the Raia Mutomboki intervene "to protect the population".

These three triggers are independent of the Madini project, but project representatives will need to keep abreast of the progress of negotiations and events related to the KBNP as they may have a direct impact on the project. A fourth possible trigger, which is directly related to the Madini project activity, is the exclusion of mineral production originating from the KBNP from the supply chain created/promoted by Madini.

While the KBNP's opposition is an immediate cause of conflict, and the recent past allows us to identify what triggers the violence, the other three major conflicts (local family rivalries, tensions between the population and the mining companies, the failures of the trading centre) have not been the direct cause of known violence. However, these conflicts fuel smuggling, illicit profit (a structural cause of the conflict) and the contamination or infiltration of supply chains. The risk is that undisciplined FARDC or Raia Mutomboki encourage stakeholders in the artisanal mineral chain (miners, traders, cooperatives) to contaminate these chains, and thus sell minerals on the international market for profit.

The second cause of conflict relates to the rivalry between two influential families over the highly productive Lutukutu mining site. The disagreements between the two families have not yet led to violence that could destabilise the region, but there have been arrests and prison sentences handed down. In addition, the territorial and provincial authorities have been involved in mediation, and each side has been able to broker political support at provincial level. In 2020, one of the parties created the COMINYALU cooperative and the latter claims ownership of sites currently managed by COOMIMBE, which increases the risk of violent flare-ups.

The third immediate cause of conflict involves the mining company SAKIMA, a company owned by the Congolese state. Financially unable to initiate an industrial mining activity, it allows miners, under the

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44 E. Mushagalusa et al, Analyse critique du processus de cogestion du parc national de Kahuzi-Biega en République démocratique du Congo, Open Edition Journal, Hors-Série, no. 17, September 2013.

45 Testimony gathered during the qualitative mission.

46 Idem

umbrella of the COOMIMBE cooperative, to extract minerals at its concessions. In exchange, the miners have to pay USD 0.1 per kilo of quota. The miners are calling into question this quota because they believe SAKIMA does not participate in local development. The local population also fears the negotiations underway since 2018 between SAKIMA and the Muyeye processing plant for the exclusive purchasing monopoly on all 3T minerals in the Lulingu mining area. The population believes local competition will be stifled and that it will be impossible to negotiate the sale price if there is only one buyer. This criticism is also echoed in Kalehe (section 4.2).

The fourth cause of conflict is Nyambembe's isolation and its dependence on the neighbouring Tchonka trading market. This isolation is real because the Nyambembe-Tchonka road is its only access route. However, this road is in extremely poor condition. This isolation favours insecurity because it facilitates the control of the region by the Raia Mutomboki, or by the undisciplined FARDC, without interference from an external stakeholder (MONUSCO, FARDC). Moreover, this isolation affects the traceability of the minerals, since instead of being labelled in Nyambembe, they have to be transported to Tchonka where the mining authority is located. The isolation of Nyambembe also affects all populations. Although isolated and without an active civil society organisation, the inhabitants of Shabunda have in recent years organised "ghost town" days to demand repairs to the sections of road in Shabunda.<sup>47</sup>

As far as the stakeholders in the conflict are concerned, the Raia Mutomboki have an obvious capacity to cause harm, as they are armed men who live off predation. Present at 36 % (n= 47) of the Shabunda sites visited during the summer of 2020, the Raia Mutomboki are characterised by their division into a multitude of independent groups, most often taking the name of the leader. Among the Raia Mutomboki active in the mining industry, the Donald, Mabala and Bipopa branches were identified. As mentioned above, their existence is more a matter of survival. With the exception of a few high-ranking officers, the majority of the militia, despite the looting and theft, are not rich and have little to lose by surrendering.<sup>48</sup> Moreover, the Raia Mutomboki are natives of the region and have family or acquaintances in the villages. These can act as intermediaries to convince them to lay down their arms and join a community DDR project. However, there are many Raia Mutomboki factions, which complicates stabilisation missions and programmes. MONUSCO noted that when one group disarmed, its portion of territory was quickly taken over by another armed group because the FARDC were too few in number to control these gaps.<sup>49</sup>

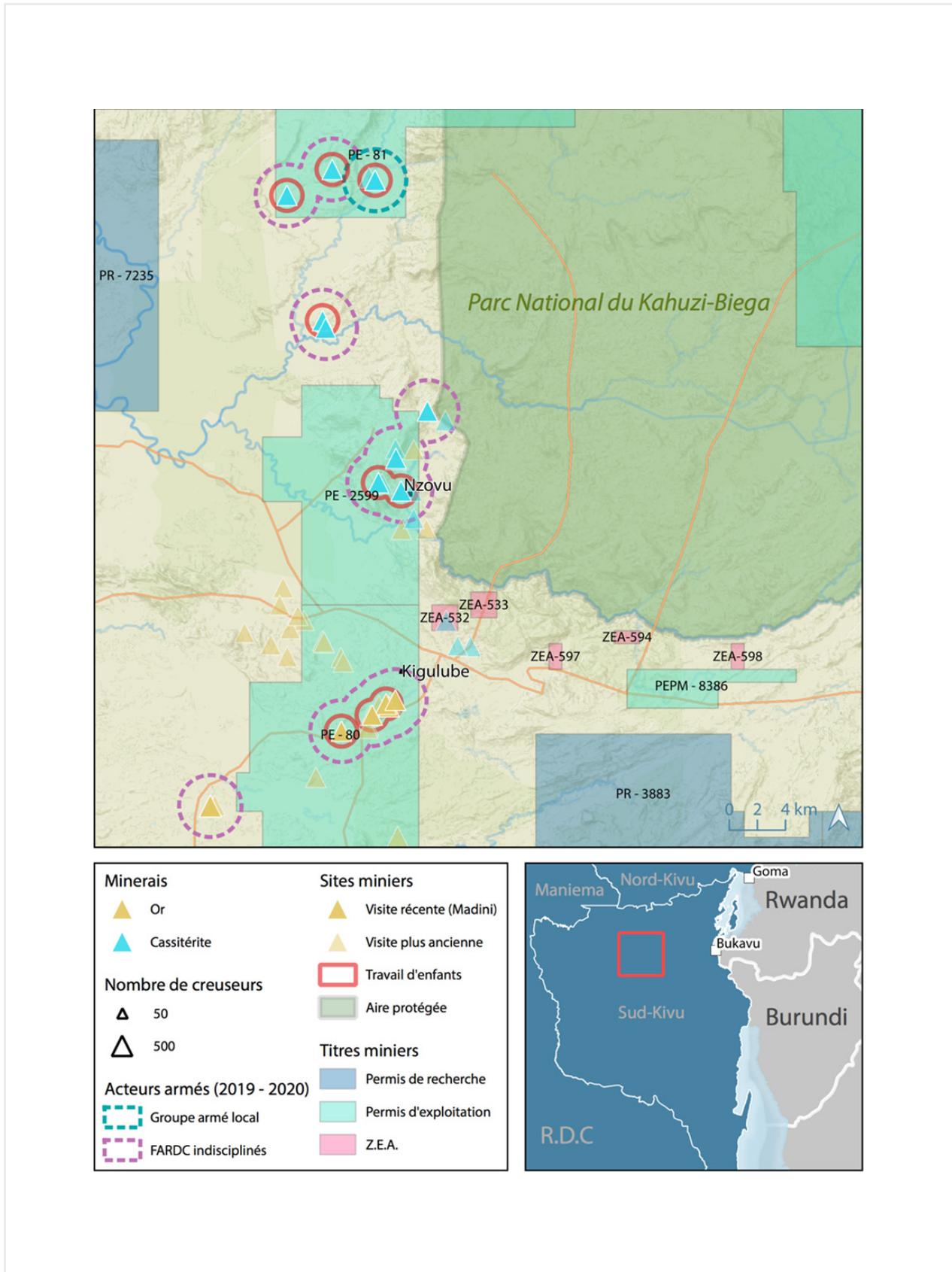
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47 In August 2018: <https://www.radiookapi.net/2018/08/01/actualite/en-bref/journee-ville-morte-shabunda> and again in February 2020: <https://www.7sur7.cd/2020/02/28/sud-kivu-shabunda-la-population-manifeste-contre-le-delabrement-de-la-route-nationale>

48 In a 2016 report, IPIS wrote that the Raia Mutomboki's income from gold and 3T mines was low because the mines were small. The UN Group of Experts on the DRC estimated that the Raia Mutomboki factions in Shabunda earned more than USD 40,000 between November 2014 and May 2015 (or USD 6,700 per month) by taxing miners. IPIS, *Analysis on the interactive map of the artisanal mining areas in eastern DRC, 2015 update*, Antwerp, 2016, p. 34.

49 Interview with MONUSCO's Natural Resources Officer.

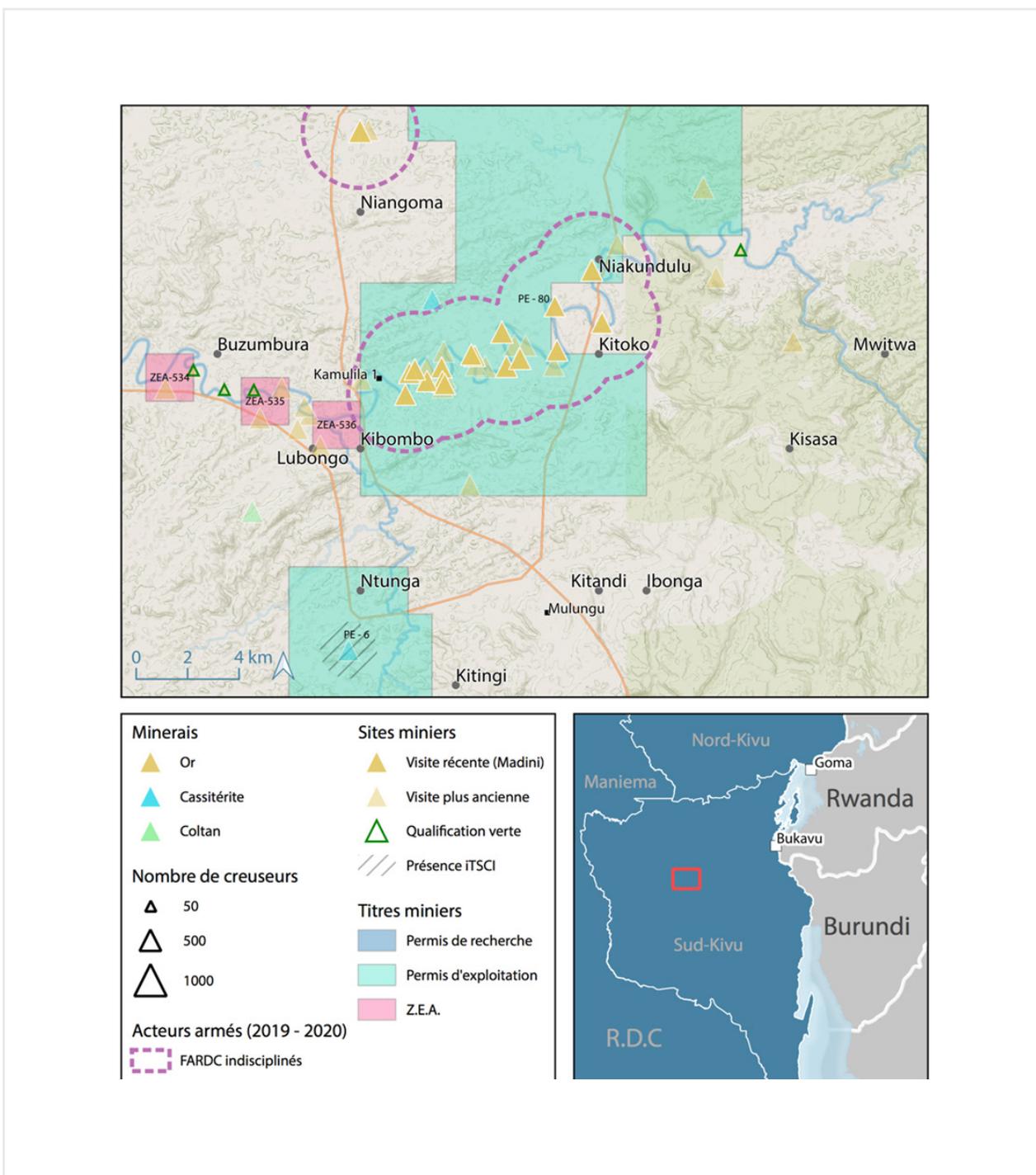
Map 2: Sites visited by Madini in the South Bamuguba region



The omnipresence of the FARDC (93 % (n=47) of the sites visited) is reflected on the one hand in a take-over of judicial and administrative powers (especially in South Bamuguba), and in illegal taxes on the other (93 %, n=41). In some parts of Shabunda, the collection system is so well established that it is the

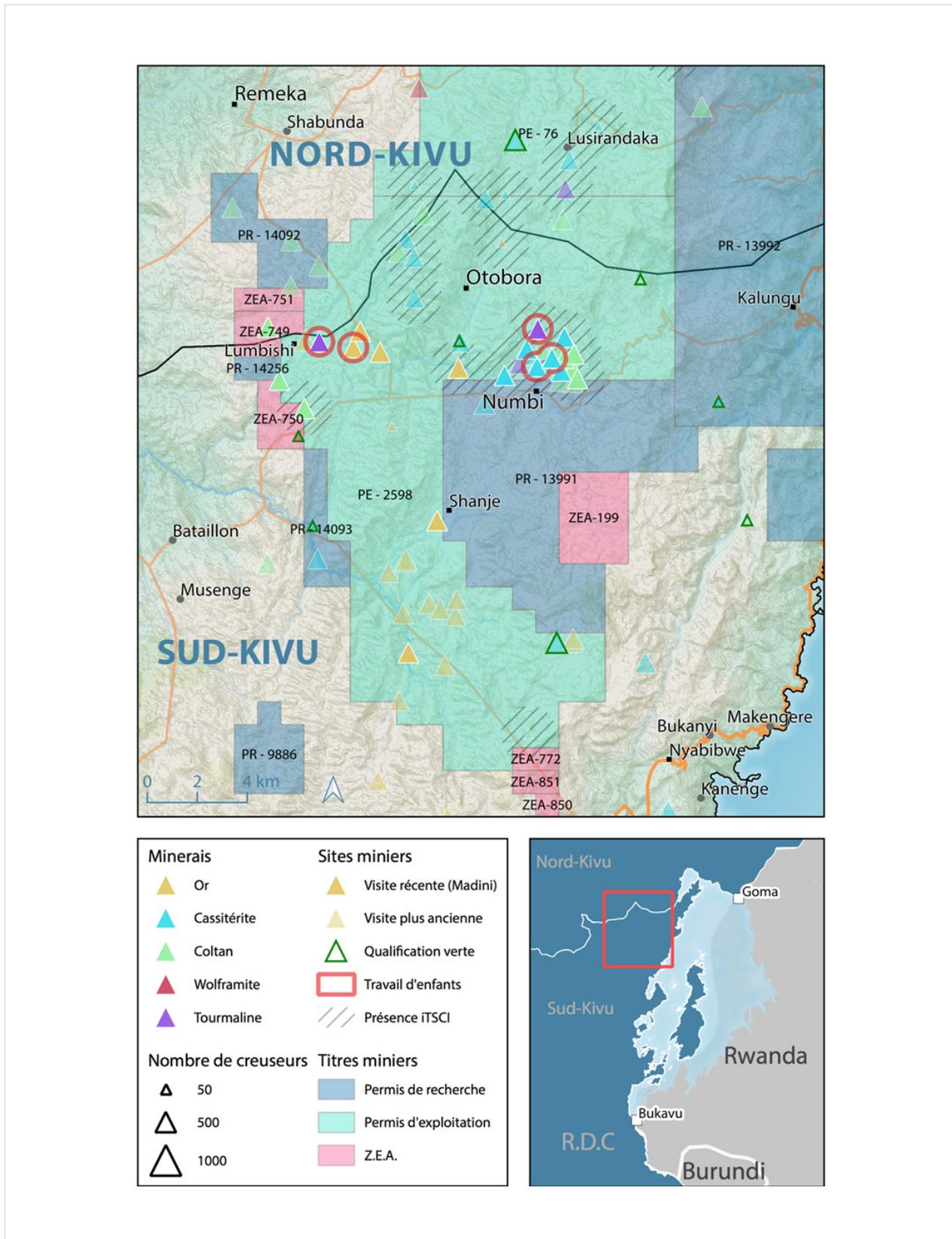
pit leaders who collect the money (between CDF 1000 and 2000 per week per miner depending on the site's productivity) and who travel to the FARDC camp to pay. In Nyambembe, the FARDC charge CDF 100/kg of 3T (USD 0.05) extracted from Nyambembe and the money is collected through the local FEC section, whose members, the local traders, are the main victims of this extortion. These two examples of tax collection demonstrate a "normalisation" of illegal taxes perpetrated by undisciplined armed forces. To justify this abuse, the undisciplined soldiers appeal to the war effort. However, the local population has testified to many examples of the FARDC not intervening to stop the Raia Mutomboki, even after they have been made aware of an incursion.

Map 3: Sites visited by Madini in the Baliga region grouping



## 4.2. KALEHE

Map 4: Sites visited by the Madini project in Kalehe



Of all the territories targeted by the Madini project, Kalehe is probably the most peaceful. Despite the presence of the FARDC (100 % of sites, n=20), there is no interference, and no active non-state armed groups were reported at any mining site. This information should be nuanced as several former Nyatura militia have

become miners and they inspire a fear of insecurity among their fellow miners. Some of them are beneficiaries of the DDR programme. Initially put together in the Nyamunyunyi camp, the FARDC asked the demobilised Nyatura to return to their villages (especially Numbi) until the army called on them again because the camp was running out of space. Since June 2020, the FARDC have been distributing “tokens” to around 127 surrendered militiamen. A FARDC commander we met in August 2020 wondered, “The militiamen have become miners and received tokens from the government. They are now used to getting money regularly. Will it still be easy to identify them, group them together, and send them to the brassage centre?”<sup>50</sup>

In Kalehe, two causes of conflict with a destabilising impact were identified: the first is the ownership and demarcation of sites and the second is the tension between farmers and miners over land use.

With regard to the property and land demarcation conflicts identified in the summer of 2020, tensions were so high that some sources told us that there was a risk the cooperatives would turn into “militia mobilisation structures”. Since then, it seems that the risk of violence has been reasonably reduced thanks to the mediation of the sub-LMC (Local Monitoring Committee) and the PMC (Provincial Monitoring Committee). One of the reasons behind the tension was the management of the Ruziba coltan site. In March 2021, a solution was found. COMEAHLU received exclusive rights to the site while COMEALU received the Cyangugu site as compensation. Although there is still disagreement over the demarcation of AMZ 751 between the two cooperatives, it is believed that the sub-LMC has succeeded in initiating a positive spiral of negotiations that will lead to a resolution of the conflict.

The second conflict is between some 50 land concessionaires (i.e. the owners of the agro-pastoral farms) and the local mining operators. The land concessionaires need to keep their grazing land intact while the miners want to extract the minerals. Most of the land-use disputes take place in the Sakima perimeter (MP 2598). Some land concessionaires refuse to allow mining to take place in their concessions on the grounds that SAKIMA should first compensate them before making any claim of ownership of a mining site. This farmer-miner opposition is recurrent in Kalehe.

In another ongoing conflict, SAKIMA is at the centre of tensions with the local population who question the agreement it has with the AMUR processing plant, giving it a monopoly on mineral purchases. Traders complain that these purchasing monopolies stifle competition beyond MP 2598. Moreover, the position of sole legal buyer allows AMUR to decide unilaterally on the selling price of the minerals. As for mining, SAKIMA has given COPAMIHANUBU permission to mine for a royalty of USD 0.3 per kilo of exported minerals. Although these agreements facilitate the traceability of the minerals and the chain of custody, the population feels that SAKIMA does not participate in local development. It is interesting to note that this criticism is also levelled at other mining companies, as we shall see below.

In comparison with Shabunda and Fizi, the **triggers** behind the instability in Kalehe are more difficult to identify, especially since the successful mediation by the sub-LMC between the two cooperatives mentioned above. Nevertheless, we have identified three of them, which fortunately have not yet led to an escalation of violence.

The first of these triggers is the violence against miners or stakeholders in the mining sector. In the spring/summer of 2020, confrontations between the two cooperatives escalated into targeted killings of rival members. Today, it is necessary to make the most of recent mediation successes to quickly find a peaceful solution to the demarcation of AMZ 751.

Secondly, violent outbursts following protest marches against SAKIMA and Numbi’s demand for its departure act as a trigger for violence. Such a march has been planned since August 2020 and has not yet taken place. Such a demonstration can also take place without triggering violence.

A third potential trigger is the end of payments received by the Nyatura within the framework of DDR. Although accused of no violent acts, the mining (and local) population feels insecure about their presence. In particular, the former Nyatura are accused of having kept their weapons. This accusation goes hand in hand with recurrent armed banditry in the region.

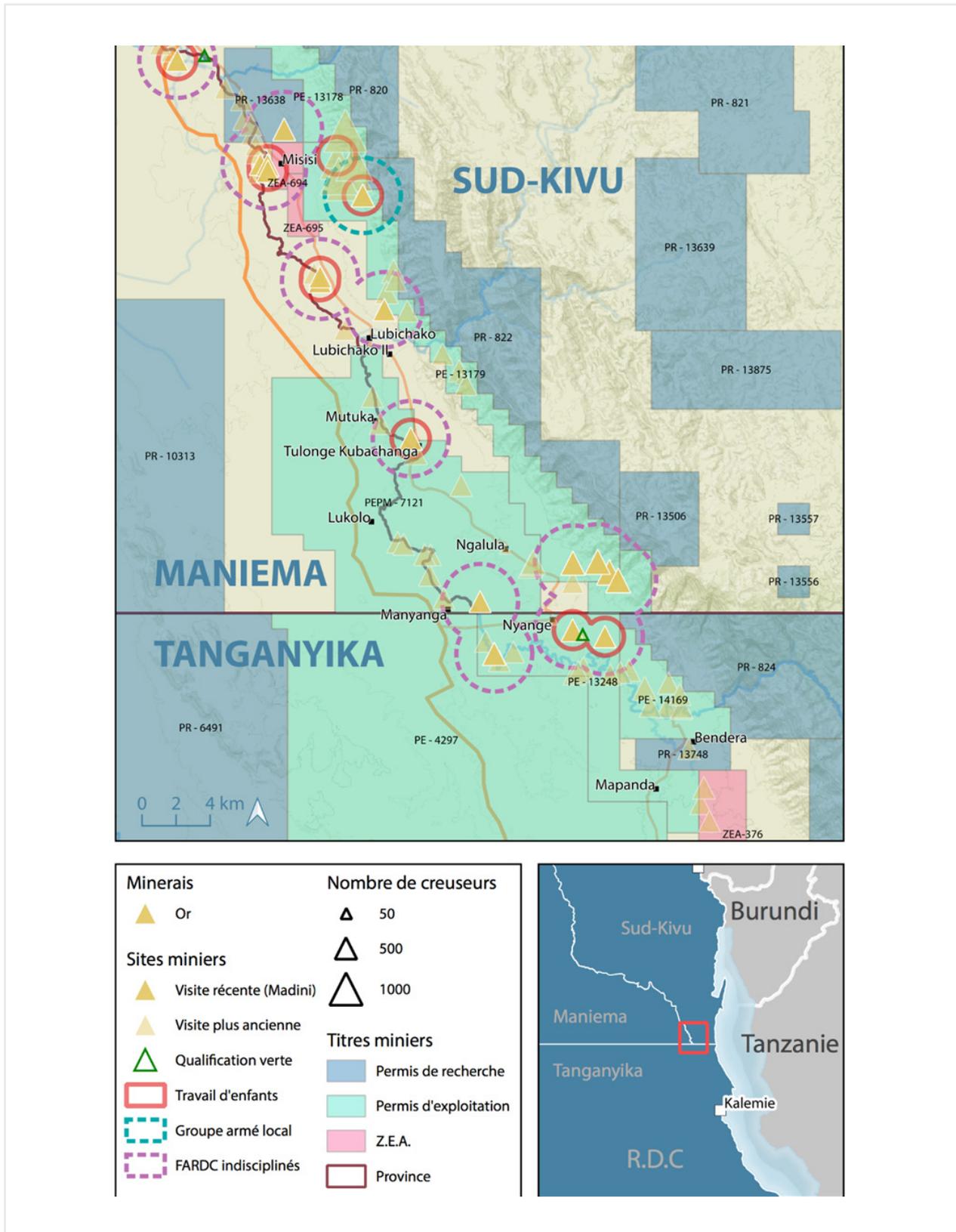
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50 Interview in Numbi in August 2020 with an FARDC commander.

### 4.3. FIZI

Of the five territories targeted by the Madini project, Fizi is probably the most unstable (together with Djugu in Ituri). The territory is greatly affected by the presence of the non-state armed group Yakutumba, which is virtually everywhere. During visits in the summer of 2020, this armed group was present in all 36 mining sites visited in Fizi around Mukera and Misisi. In 2013, Ebuela Kibukila defected to create his own Mai-Mai group, the Ebuela. Today, this separation does not seem to have weakened the Yakutumba. The two groups collaborate more than they fight each other. The Yakutumba and Ebuela belong to the same coalition, the National Coalition of the People for the Sovereignty of Congo (Coalition Nationale pour le Peuple et la Souveraineté du Congo, CNPSC), which is headed by the Yakutumba, and have the same objective of defending the Bembe in Fizi. The Yakutumba collaborate with other armed groups that should be considered more like bandits. Our research reported collaborations with self-defence groups such as the Bambotes (Pygmies) from Maniema or simply with young delinquents from Misisi.

Map 5: Sites visited by the project in Nyange (Fizi)



The Yakutumba and Ebuela Kibukila benefit from a positive image at the mining sites because of their strong ties to the local community. As we shall see later, the local community believes that the Yakutumba protect them from predation by state services and that they also act as a bulwark against the establishment of Leda Mining. In fact, many of the miners did not hide their affiliation with the Yakutumba or Ebuela. A government official also admitted he was aware some of his employees belonged to the

Yakutumba. In Mukera, the miners are warned by the Mai-Mai not to go to the site for their own safety, which reinforces the good understanding between the civilian population and the armed group. These testimonies show a significant capacity for mobilisation, whose extent could surprise the national and international authorities.

Efforts by the FARDC and MONUSCO to counter these armed groups have so far been unsuccessful. It should be noted that the attitude of some FARDC at the mining sites was so bad that the miners preferred to work with the Yakutumba. In addition, there were reports of undisciplined officers helping the Yakutumba to transport their gold. The FARDC of the 3407<sup>th</sup> regiment of the 33<sup>rd</sup> military region was singled out by UN experts for facilitating the transport of gold, particularly for the Mai-Mai Yakutumba and for their own personal gain.<sup>51</sup>

The first reported cause of conflict is the opposition of the local population to the mining company Leda Mining. Currently there are thousands of miners on Leda Mining's concessions and the Yakutumba have managed, with the acquiescence (or even encouragement) of local leaders, to present themselves as the protectors of the artisanal miners. There are three main causes explaining the conflict between Leda Mining, political and military stakeholders (who sometimes use the cooperatives) and the people of Misisi. Firstly, there are the enormous interests of 'glocalised' stakeholders, including political ones, in local gold panning. It should be noted that the mining sites in Fizi are among the most productive. Secondly, these interests coincide or combine with, or add to those of the Mai-Mai Yakutumba, who also have their own interests at heart. More specifically, for the Yakutumba, fighting Leda Mining serves to reinforce its image among miners who fear being delocalised, but above all to defend the profits they generate from illegal gold mining and trading.<sup>52</sup> Finally, the issue of "legality vs legitimacy" in mining has a part to play in the contestation of the mining rights held by Leda Mining. This is often observed by other mining rights holders (whether they be exploration permits (EP) or mining permits (MP)). In the case of Leda Mining, the Yakutumba differentiate between "us, the natives of Fizi" and "the foreigners", Leda Mining, which accentuates the opposition of "legality vs legitimacy".

A second cause of conflict is the rivalries between cooperatives: in Misisi, the disagreement between COMIKI, COMIKIMA and SCEMITRADA-SCOOPS over the ownership of the Miba and Akyanga mining sites (which are on Leda Mining's MP 1319) has a major destabilising effect. A number of high-ranking individuals at political level are involved in these cooperatives. A second challenge is that the capital for these cooperatives is said to come from Tanzania, which makes it difficult to be transparent about the funds but also about the people in charge of trade. Finally, these cooperatives operate in an environment where the Yakutumba and undisciplined FARDC seek to make a profit from artisanal gold. It is therefore possible that relationships, even if forced, exist between the cooperatives and armed stakeholders. The presence of arms means that an outbreak of violence could well be sparked by a disagreement over the artisanal gold sector.

In Mukera, the third cause of conflict is the dispute between local chiefs over the chiefdom. In Congolese law, the head of the chiefdom is recognised and invested by the public authorities (Articles 46 and 47).<sup>53</sup> The position of customary chief (of the chiefdom) is therefore a position of prestige but also profitable since customary law allows him to collect taxes on his territory, as well as a form of informal mining royalty, not provided for by the mining code but tolerated by the mining authority. In Mukera, the current conflict concerns the succession to customary power in terms of the management of the village (and mining centre) and involves two members of the Babungwe clan. Several actions in support of one side or arbitrary detentions of supporters, or even of a pretender, demonstrate the instrumentalisation of the conflict by territorial or even provincial authorities. The customary management conflict in Mukera has an impact on the local economy, in particular on gold governance, and affects the economic interests of certain stakeholders. In addition, this succession dispute has divided the people of Mukera and the conflict has sometimes degenerated into violence. In September 2018, the local MHP post was ransacked by supporters of one camp following the imprisonment of one of its supporters and the local police officers fled. It was not until September 2020 that the MHP returned. Madini teams also reported violence in March

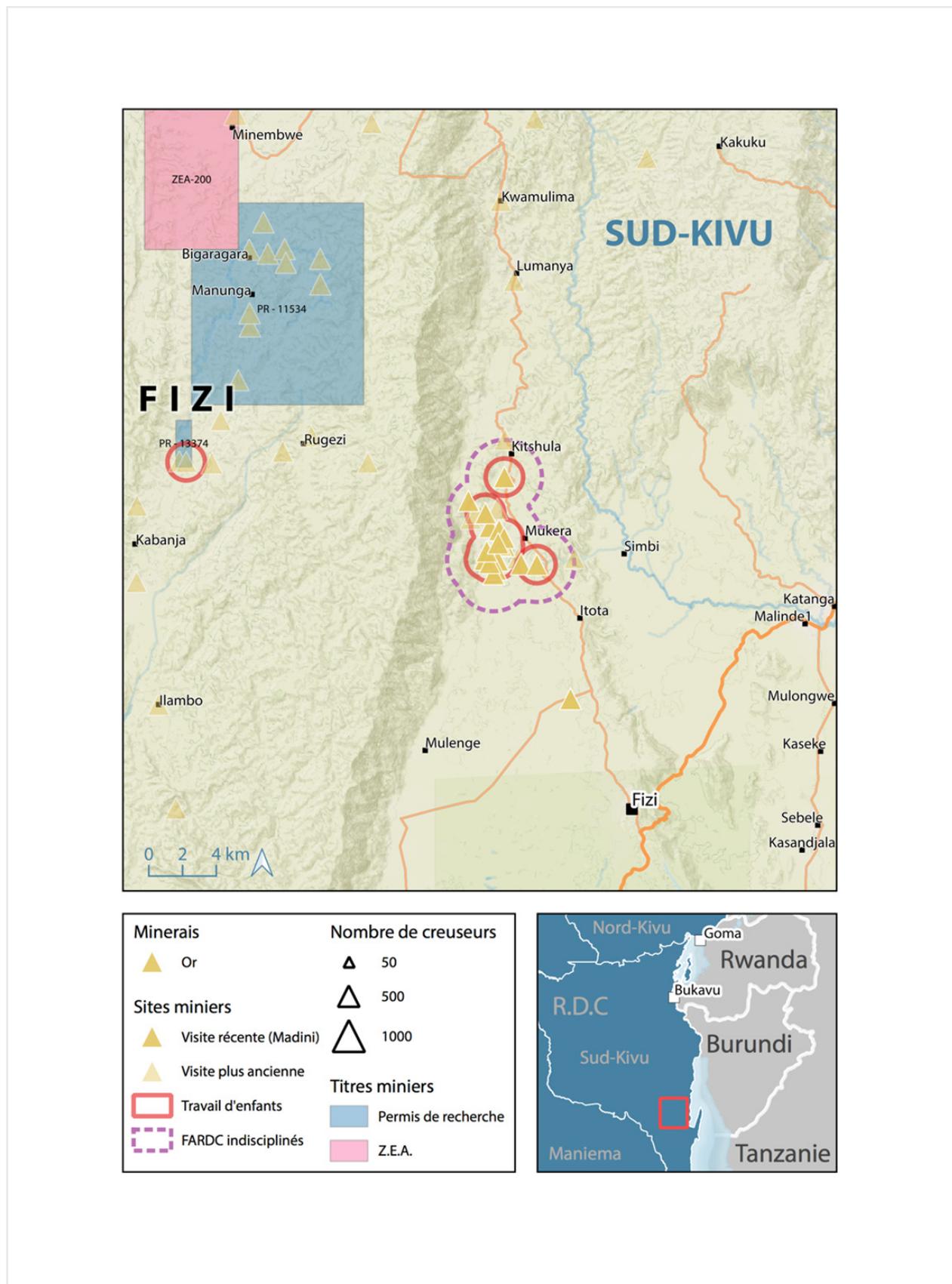
51 Report of the UN Experts for the DRC, S-2020-1283, para. 72

52 Report of the UN Group of Experts on the DRC, S/2020/1283, para 70.

53 J.K. Yetilo: La sous administration territoriale en République démocratique du Congo: Etats des lieux et perspectives, Pyramides, no. 19, 2010, para.64 <https://journals.openedition.org/pyramides/711?lang=en#tocto3n4>

2021, with houses burnt down due to conflicts between opponents on both sides. Thus, there are fears that the two conflicting parties in Mukera are resorting to the mobilisation of a militia to enforce their interests.

Map 6: Sites visited by the Madini project in the Mukera area (Fizi Territory)



In the cases concerning Fizi, it seems futile to identify conflict triggers as the conflict is currently ongoing.<sup>54</sup> The situation is further complicated by reports of violent exchanges between the FARDC and the Yakutumba in 2020, but also by collusions in the gold trade. The latest report by the UN experts for the DRC shows how gold extracted from Yakutumba-controlled mines in Misisi is transported to export points by FARDC trucks. From an external point of view, it appears that Leda Mining SARL is highly isolated from the political and military elites, the Yakutumba, and the local population, who all have converging interests in banding together against Leda Mining. As a result, any exploration or mining initiative by Leda Mining seems destined to trigger attacks against it.

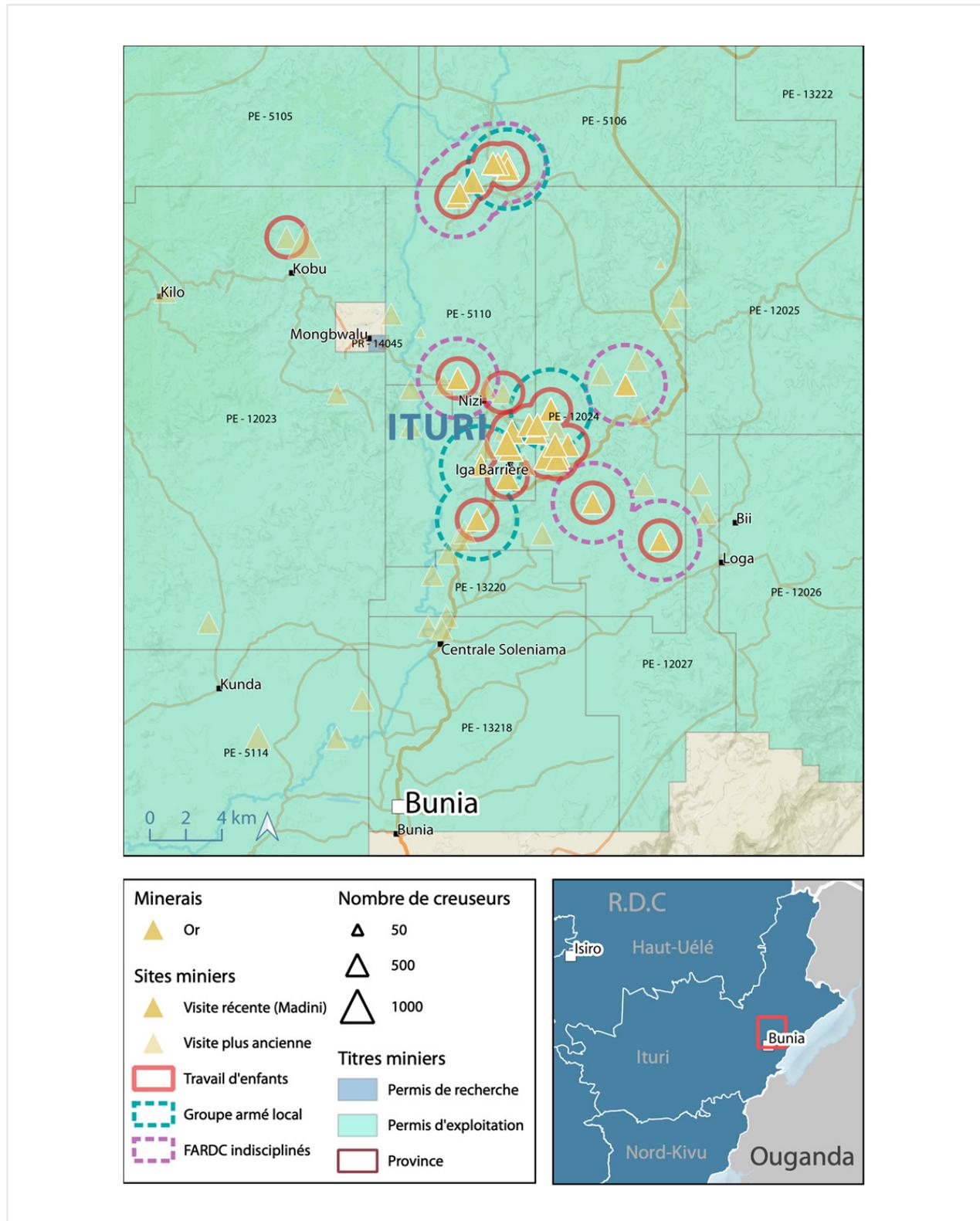
Another element to be taken into account is the seriousness of the interference of state agents in the gold sector. The situation is uncontrollable for the miners who suffer double or even triple taxation and are unable to know which payment is legal and which is not. Many testimonies say that they now prefer to work under the surveillance of the Mai-Mai rather than the mining services.

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54 <https://actualite.cd/2020/09/17/rdc-fizi-les-mayi-mayi-yakutumba-reprennent-leurs-attaques-contre-les-positions-des> (September 2020) or <https://congoprofond.net/fizi-affrontements-entre-fardc-et-coalition-yakutumba-17-morts-4-blesses-bilan-provisoire/> (April 2020)

## 4.4. Djugu

Map 7: Sites visited by the Madini project in the Iga Barrière area (Djugu Territory)



As mentioned above, Djugu is one of the territories particularly affected by insecurity. While we had planned to visit the gold-rich Mongbwalu area, IPIS investigators were never able to visit the gold sites here because of the risks posed by the numerous roadblocks, and the frequent reports of violence by CO-DECO groups against the civilian population and their occupation of the pits. Information about Mong-

bwalu was gathered from influential people at meetings in Bunia, but also in Beni and Butembo. On the other hand, IPIS was able to visit 27 sites on the Iga Barrière side, and its partner Justice Plus will implement the Madini project activities.

The Congolese government has made peace in Ituri a priority of its mandate. President Tshisekedi has even hired former warlords to establish a dialogue with the CODECO. One of this government's greatest successes was to convince the FRPI, active for almost 20 years, to lay down its arms. It is essential that this DDR programme continues.<sup>55</sup> The governor has been personally involved in restoring peace in and around the mining sites.<sup>56</sup> In addition, some local initiatives demonstrate the desire for stability at the mining sites: the COMIMA and COMINDEF cooperatives have committed themselves to making peace and respecting the limits of each other's worksites.<sup>57</sup> It will be interesting to see if their agreements can be replicated at other sites with other stakeholders.

The most obvious cause of conflict in the mining sector, and beyond, is the presence of the CODECO group. The Ituri governorate, the Congolese government and MONUSCO are working to demobilise and neutralise this group, which is responsible for numerous massacres and violence in Ituri. The CODECO in particular are an obstacle to stability and peace in Ituri because they maintain tensions between Lendu and Hema (see box below). While miners of both ethnicities work together on the same site, albeit in a climate of distrust (see below), CODECO knowingly discriminates against non-Lendu at mining sites. In Bakombe, this discrimination is reflected in the forced labour of non-Lendus and the redistribution of mining plots in favour of the Lendu. This "omnipresence" of the CODECO group hangs like a sword of Damocles over any disagreements that may exist between stakeholders in the mining sector, whether between two individuals disputing ownership, or between a mining industry and artisanal miners. Indeed, the fear is that artisanal miners will be deprived of their livelihood (the mine site) and join CODECO. It can also be interpreted as a way of refusing to be a "collateral victim" of a conflict between two people who generally live in Bunia.

When there are two parties disputing ownership or the demarcation of mining plots, in most cases, violent confrontation is triggered when one stakeholder calls in the FARDC. When they arrive at the disputed area, the military often unilaterally decide to close the site, which frequently leads to violence between the military and the miners. According to testimonies from Djugu, CODECO recruitments increase when crises occur at mining sites. Among the disputes where there is a risk of violence flaring up, we identified the one involving the Mongbwalu Gold Mines (MGM) company and the one involving two groups.

The MGM mining company is an important player as it holds the mining rights to a large number of mining sites on the Mongbwalu side. Between 25,000 (MGM figure)<sup>58</sup> and 100,000 (Sara Geenen)<sup>59</sup> illegal artisanal miners are present at MGM's concessions. The industrial company has established agreements with miners' cooperatives. These receive established plots, mainly where industrial extraction is not appropriate.<sup>60</sup> However, friction remains possible and incidents against MGM are still sometimes organised by civil society.<sup>61</sup> This is especially the case when miners have to withdraw to make way for industrial extraction. In 2017, four miners died after demonstrations against their eviction by MGM, which led to further shows of force.<sup>62</sup> The eviction of artisanal miners is an established conflict trigger. In addition, the

55 <https://afrique.lalibre.be/55380/rdc-debut-du-desarmement-dun-groupe-arme-actif-depuis-20-ans-en-ituri-la-frpi/>

56 7sur7.cd: Ituri: les cooperatives de Mongbwalu s'engagent à faire la paix et à respecter les limites entre leurs carrières, 30 April 2020 <https://www.7sur7.cd/2020/04/30/ituri-des-cooperatives-minieres-de-mungwalu-sengagent-faire-la-paix-et-respecter-les>

57 7sur7.cd: Ituri: les cooperatives de Mongbwalu s'engagent à faire la paix et à respecter les limites entre leurs carrières, 30 April 2020 <https://www.7sur7.cd/2020/04/30/ituri-des-cooperatives-minieres-de-mungwalu-sengagent-faire-la-paix-et-respecter-les>

58 Sofala, Better Chain: The barrier to financial access for the responsible mineral trade in the GLR, PPA, April 2019, p. 34

59 To be precise, 100,000 was the total number of miners in 2010 in Djugu territory, the majority of whom were working at the AGK (now MGM) and SOKIMO concessions. In S. Geenen, The future of the Artisanal mining sector in South Kivu and in Ituri, IOB discussion paper, 2013/03, p. 14.

60 A. Ross, "Congo gold mines innovate to solve illegal mining dilemma", Reuters, 16 December 2016. <https://www.reuters.com/article/idUSL5N1E317G>

61 [https://www.radiookapi.net/2021/03/17/actualite/economie/ituri-la-societe-civile-demande-lentreprise-mini%C3%A9re-mgm-de-quitter?utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed%3A+radiookapi%2Factu+%28Radiookapi.net+-+News%3%A9%29](https://www.radiookapi.net/2021/03/17/actualite/economie/ituri-la-societe-civile-demande-lentreprise-mini%C3%A9re-mgm-de-quitter?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+radiookapi%2Factu+%28Radiookapi.net+-+News%3%A9%29)

62 <https://www.business-humanrights.org/en/latest-news/r%C3%A9p-d%C3%A9m-du-congo-quatre-mineurs-artisanaux-bless%C3%A9s-par-la-police-lors-dune-manifestation-dorpailleurs-contre-mongwalu-gold-mines/> and <https://www.radiookapi.net/2017/02/27/actualite/societe/ituri-quatre-blesses-lors-des-manifestations-des-creuseurs-artisanaux>

population has difficulty understanding why certain MGM areas, such as concession 40, are not exploited industrially and why they are therefore denied access. Some miners ignore the ban, which leads to arrests that are sometimes violent. Despite the initiatives taken to regulate cohabitation, the problem of the mining companies, in the eyes of the local population, is that they are “foreigners” (identity discourse of non-state armed groups) and therefore illegitimate (legality vs. legitimacy debate).

It is unclear whether MGM’s ousting of the Administrateurs des Foyers Miniers (AFM)<sup>63</sup> and their replacement by cooperatives is a possible trigger for violence. One account mentions around 100 AFM who were ousted, but many were able to switch, especially to a cooperative. In ownership disputes, MGM is sometimes mentioned as being responsible because it prefers to receive dividends from several cooperatives. This accusation seems contradictory (wouldn’t it be easier to manage a minimum number of cooperatives responsible for larger areas?)

A second particularly alarming conflict, where there are fears of a flare-up, is that between the Taratibu and Kepka groups. To summarise the dispute, the trigger for this conflict was the decision of the Coopérative Minière de l’Ituri au Congo (COMICO), in collaboration with the chief of Kepka, to establish<sup>64</sup> a Chinese mining company for semi-industrial exploitation in the Liga River between the Kepka and Taratibu groups in early 2020, without involving the chief of the Taratibu group. This move reignited a misunderstanding that had existed for some years between the two group leaders regarding the exploitation of this river. The former chief of the Taratibu group and the chief of the Kepka group had adopted an unwritten agreement whereby the chief of the Taratibu group was authorised to exploit timber on both sides of the Liga River, and the chief of the Kepka group was authorised to mine gold. After the death of the Taratibu group’s chief, the new chief refused to continue this agreement. Despite all, COMICO and the Chinese company continued with the gold mining.

Around November-December 2020, the Chinese company left because of the violence perpetrated by CODECO in the Lalo area and in the neighbouring chiefdom of Ndo Okebo. Like most other Chinese companies, it left for Mambasa (see below).<sup>65</sup> Nevertheless, the conflict between the two groups persists, and considering the number of people involved and the presence of CODECO there, a provocation from either side could initiate violent disturbances.

## 4.5. Mambasa

According to our observations, the northern part of Mambasa territory up to Teturi is relatively free of violence and armed groups. After Teturi, in the south of Mambasa territory, the security situation is periodically destabilised by Mai-Mai groups from North Kivu and Beni. Our field research identified four Mai-Mai groups (RNL, Apasiko, UPLC, UPLD) present on the Biakato and Teturi side. While their presence in the region is known, IPIS visits to the mining sites do not mention them, except at two sites (out of 51). These four armed groups originate from North Kivu and were fighting against the Ebola response teams. These armed Mai-Mai groups therefore do not intend to stay and control a mining site, and visiting a site is limited to an unexpected ransom. It seems that these armed groups have suffered seriously from the SOKOLA I operations carried out by MONUSCO and the FARDC in North Kivu and have retreated into neighbouring Mambasa. Their destabilising impact is less than that of a group like CODECO and should therefore not be overestimated.

Although present at the majority of mining sites visited (88 %, n= 51), the FARDC perpetuate the “war effort” tax at more than 76 % of sites (n=42). Although illegal, the FARDC based in Mambasa appear more moderate than other undisciplined battalions. This war effort is limited to payments of CDF 1000 every 15 days. Cruel, degrading and inhumane treatment is rarer and limited to specific sites (Cinquantenaire, Kiviri Delta Force and Mamome-mawambo). In addition, several informal mining site owners testified that it was possible to stand up to the undisciplined FARDC soldiers, provided they know their rights.

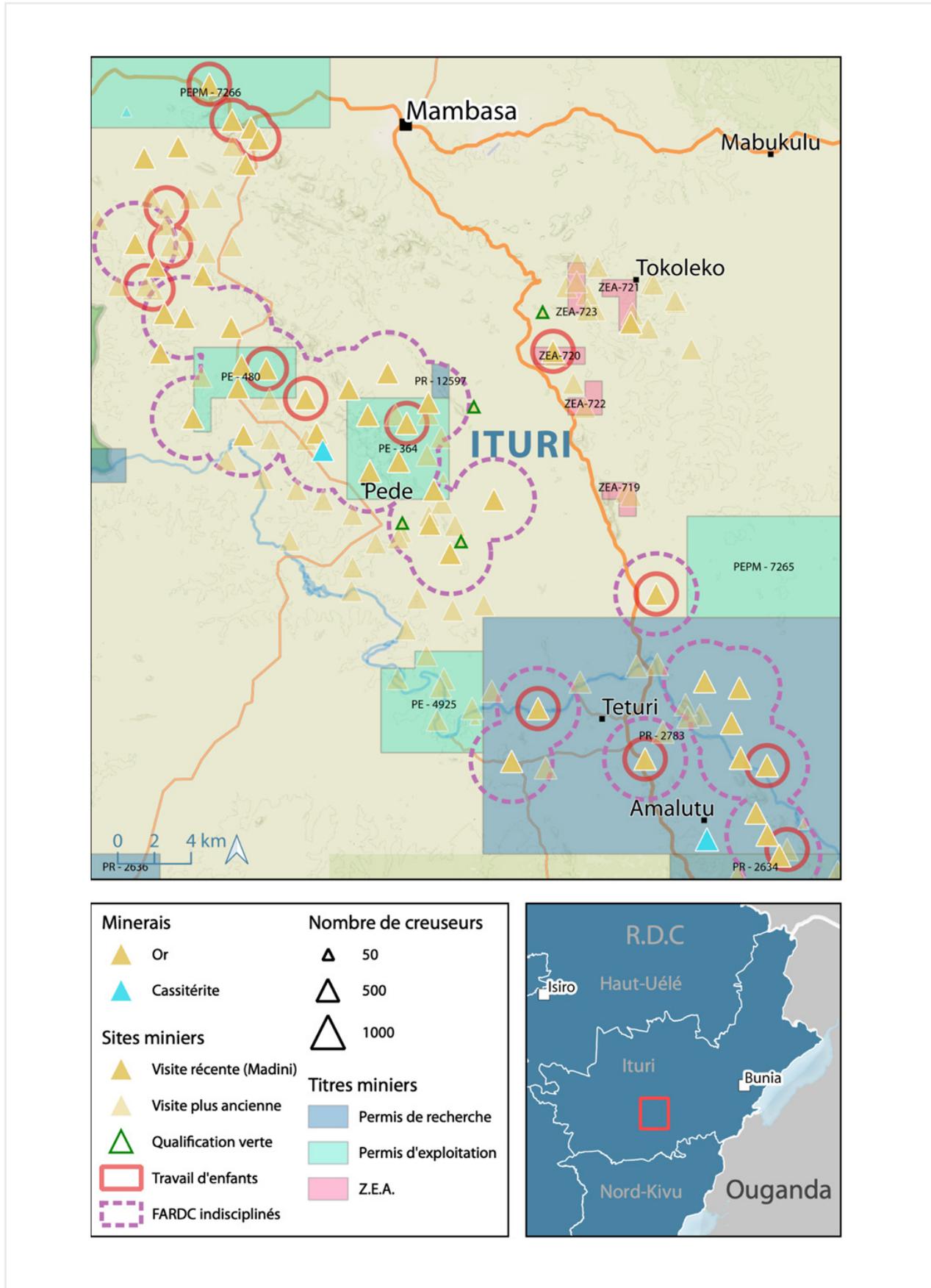
63 AFM: Administrateur de Foyer Minier. A term used in Ituri to identify the owner of a mining site or pit, but not recognized in the mining code.

64 The informants do not know the name of the Chinese company. As they have not met the head of the COMICO cooperative, which is its partner, its name remains unknown for now.

65 Telephone interview with natural resources experts based in Bunia, April 2021.

Some mentioned the possibility of filing a complaint with the military prosecutor in Bunia against the most insistent undisciplined soldiers.

Map 8: Sites visited by the Madini project in Mambasa territory



All the conflicts identified in Mambasa were related to ownership or boundary disputes. There are two mining companies who hold the mining rights. The first is Masters, which appears to be completely absent. No representative is known in either Mambasa or Bunia. The other is a private mining-agribusiness company called Kalubamba. It is recognised by the Congolese state and covers 56 mining plots. Our field research reports 11 conflicts with other site owners, but none of these have escalated into violent confrontation. In fact, the majority of conflicts involve smaller formal or informal mining owners.

An initial trigger of these conflicts is the propensity of Pygmy and Bila traditional chiefs to sell the same mining plot several times, sometimes under different names, to several operators. Considered as the first occupants of the Congo, it is locally tolerated by the mining authority that Pygmies and Bila sell mining plots. However, this practice is not recognised by the mining code. It is difficult to know to what extent they knowingly sell the same mining plot to several operators, but it is a fact that they make money from each sale and do not want to get involved in subsequent mediations. Customary chiefs have reported questioning agreements signed decades ago because they no longer reflect today's reality.<sup>66</sup> On the other hand, these sales are sometimes enabled by the mining authority, which means that both parties hold ownership documents from the mining authority. The latter justifies itself by pointing a finger at the owners who do not renew their mining permits, thus giving the impression that the plot is vacant. An on-site visit could solve the problem, but the officials "do what they can with the available means". Visits are usually monthly and not all the territory is covered: of the 51 sites visited in the framework of the Madini project, SAEMAPE covered 34 (67 %) and the Division des Mines 31 (61 %).

The dynamics leading to violence are the same as in the other territories: the conflict will intensify when one of the parties calls in the FARDC to drive out miners. Although the risk of recruitment by an armed group is lower than in Djugu, it is still possible that miners who feel unfairly treated (violence by the FARDC, closure of mining sites) because of a mining conflict between landowners may create their own movement.<sup>67</sup> In Mambasa, the FARDC based in Beni (North Kivu) and the FARDC in Biakato (Mambasa) have been known to take up positions on behalf of rival mine owners. The use of the FARDC as mediators in conflicts is not only illegal because it replaces the judiciary, but it also undermines the coherence and unity of the army.

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66 IPIS, Testimony collected in Mambasa, November 2020

67 See section 2 on context analysis and, more specifically, on the tradition of conflict.

## 5. PRELIMINARY RECOMMENDATIONS

### 5.1. To national authorities

#### 5.1.1. Concentrate payment of taxes at the point of export and prohibit them at mining sites.

In the five territories visited, it has become impossible to differentiate between legal taxes and abuses by state services. In addition, there are various customary payments and royalties not provided for in the mining code but tolerated by the mining authority. The arrival of a dozen or so services demanding a tax pushes miners towards smuggling.<sup>68</sup> To put an end to the abuses, the national authorities should prohibit any collection of taxes, legal or illegal, at sites and concentrate payment of taxes at the point of export. The Ministry of Mines should then allocate the amounts due to each state service.

By prohibiting the collection of taxes at mining sites, we can expect a) a decrease in illegal visits by state and customary services; b) an increase in legal production due to a reduction in smuggling; c) an increase in the income and standard of living of miners; and d) a refocusing of the mission of state agencies on supervision and data collection.

#### 5.1.2. Redistribute the share of the mining royalty owed to the DTE.

As seen above, in the conflict context analysis, 15 % of the mining royalty tax regarding 3T is owed to the DTE. The absence of a similar mining royalty for artisanal gold exports raises important policy issues and deserves further analysis of the intentions of the mining code. In practice, the 3T royalty is almost never redistributed, and no revenue from the 26 artisanal gold taxes is provided for the mining area, implying that taxpayers receive no benefit from paying their taxes as they are not reinvested in their DTE. However, if the royalties were effectively transferred and invested in local projects (infrastructure, etc.), civil society and the population at large would become involved in the fight against smuggling and in the control of the chain of custody.

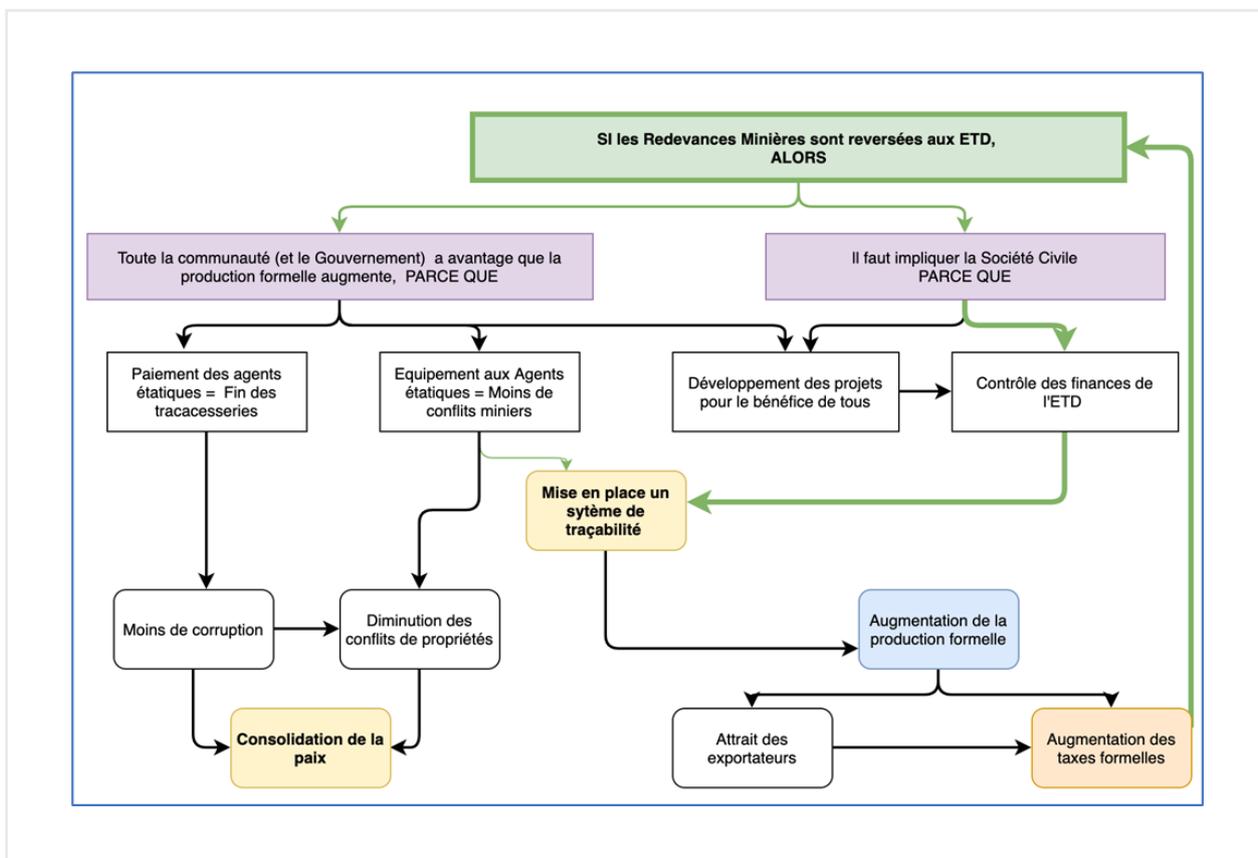
The mining royalty is not paid by the artisanal miners, hence, in order for their production to be taxed, it must flow through to the two taxable categories: processing entities and mining licensees.<sup>69</sup> As mentioned above, the issue of a royalty paid by trading houses that export gold will need to be analysed further.

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68 For the Madini project, IPIS will publish a study at the end of 2021 on the different taxes identified in the artisanal mining sector.

69 Article 240 of the Mining Code revised in 2018.

Figure 8: Benefits of redistributing the mining royalty



### 5.1.3. Consolidate efforts for successful DDR programmes in eastern Congo.

In Kalehe (South Kivu), the national authorities should continue their efforts to demobilise the Nyatura. There is a real fear that the Nyatura who benefit from the DDR will remobilise when the token payments end (see section 3.2 on Kalehe). In Shabunda, it seems that when one Raia Mutomboki group is demobilised, another one immediately replaces it. For these areas where the militiamen are natives, international, national and local partners should encourage community-based forms of DDR, favouring a bottom-up strategy. The fact that some 100 demobilised persons were not able to reach the internment camps (see section 3.2) again demonstrates the importance of multi-level engagement with the Congolese government and all bilateral and multilateral stakeholders to move towards a coherent and budgeted DDR-C strategy.

### 5.1.4. Increase the number of Artisanal Mining Zones (AMZ) and improve their management.

According to the mining code, artisanal mining must take place in an Artisanal Mining Zone (AMZ). However, there are very few of them and they are most often located in areas with little mineralisation. The table below also shows that many AMZs are simply devoid of any activity.<sup>70</sup>

<sup>70</sup> It is possible, however, that the AMZ has simply not been visited by IPIS or GIZ in the last 12 years. However, many nearby sites have been identified and there is ample evidence of little interest.

Table 7: Number of AMZs per territory visited by Madini

	Number of AMZs	Number of empty AMZs	Number of sites in an AMZ	Comments
<b>Shabunda</b>	12	6	9	
<b>Fizi</b>	10	9	1	
<b>Kalehe</b>	13	6	13	
<b>Mambasa</b>	22	11	17	4 AMZs are located in the Okapi Wildlife Reserve (OWR,) which is illegal.
<b>Djugu</b>	11	11	0	

Legally, an AMZ is established by a ministerial decree that allocates the area to a specific cooperative. Despite this measure, several cooperatives compete for the same AMZ (in Fizi and Kalehe). To avoid this type of situation, the assessment for the favourable opinion that the Ministry of Mines in Kinshasa grants to the cooperatives, should be subject to a more thorough examination and, more specifically, on the sites they intend to exploit.

#### **5.1.5. Accelerate the formalisation of mining sites and encourage the “blue mine” qualification system.**

In addition to the sites located in the AMZs, the other sites authorised to extract minerals are those which have been the subject of a certification and validation mission and which have obtained the status of “yellow” or “green” mine. In South Kivu, of the 703 3T and gold mines identified by IPIS, only 82, i.e. 12 %, have been certified or validated. Moreover, certification is even rarer for gold. Around 4-5 % of gold sites have been certified or validated in South Kivu (23 out of 497) and Ituri (19 out of 424). These figures show that these missions are all too rare and that, in practice, 95 % of gold sites are illegal.

To accelerate the formalisation of mining sites, the “blue mine” certification system was included in the second revision of the ICGLR Manual of the Regional Certification Mechanism (RCM) and adopted by all member countries (including the DRC) in 2019. The revision of the RCM manual has several advantages. First, it facilitates the certification process: a mining site becomes “blue” once it makes an official application for certification to the mining authorities and after its exporter has made public and shared with its government and the ICGLR its ground risk assessment. The start-up phase of the mine is therefore facilitated because the mining sites can already be active and while their application is pending, they are allowed to legally mine, sell and export their minerals. Furthermore, it creates an environment where the RCM can grow despite a state’s lack of resources. Thirdly, the risk assessment must be carried out by the exporter: this reaffirms the central role of the private sector and industry in implementing effective due diligence. Finally, the blue mine status is valid for three years. Validations (green sites) are valid for one year only and must be renewed by a validation mission. However, no green site has ever been reassessed.

Besides the advantages mentioned above, aiming for blue mine status seems particularly appropriate for gold mines, which represent 100 % of the artisanal mining sector in Ituri, and 70 % (n= 710) of that in South Kivu. While traceability systems exist for 3T (ITSCI, BSP), none of them have managed to exceed the pilot phase for gold control. The “blue mine” system therefore sets a course for the formalisation of the artisanal gold sector which takes into account the reality on the ground (the mines are already active and certification missions are too rare) and places the private sector (the exporter) at the centre of the implementation of due diligence.

Of course, for the implementation of the “blue mine” certification, many challenges will have to be met by the mining operator and exporter. In collaboration with the Ministry of Mines, the Madini project proposes a pilot approach, the scope of which will be defined later, depending on the current capacities of each of the stakeholders and the opportunities on the ground.

### **5.1.6. Reorient the missions of state agencies in the mining sector.**

Currently, the main mission of state agencies (Division des Mines, SAEMAPE, Environment, etc.) is to collect taxes, which on the one hand fuels the distrust of miners towards state agents and, on the other hand, directs production towards smuggling. However, their presence is essential to support artisanal mining.

The mission of the state agencies should focus on the registration and notification of ownership of mining plots, the main source of conflict. This would also involve checks on the archives and in the field before the sale of plots by customary chiefs is approved. In order to carry out this mission, the customary and mining authorities will have to strengthen their communication and collaboration to avoid the sale of the same land to several operators, as was seen in Mambasa. In addition, the mission to supervise miners should also focus on increasing production, eliminating mercury from mining sites, improving safety in dangerous mines (underground mines, filling in inactive pits, risk of flooding, etc.), and avoiding uncontrolled deforestation. Finally, state agencies should be involved in anticipating, planning and expanding AMZs and their management. Finally, the role of SAEMAPE in supervising cooperatives should be clarified and strengthened.

### **5.1.7. Combat the illegal establishment of Chinese companies.**

Many Chinese companies extract gold illegally. They are present on dredges in Shabunda, but also in Mambasa, in the AMZs set up by the “Just Gold” project. The mining code is very clear that artisanal mineral extraction is an activity reserved for nationals. In addition to not respecting the law, these Chinese companies are a source of conflict. One of them (which has now moved to Mambasa) fuelled conflict between two groups in Djugu by inviting only one group leader to negotiate its location. Another controversy is the fact that they are often protected by the FARDC, fuelling the population’s distrust of them: “Is the army here to protect the Congolese people or the Chinese?” is an ironic question often shared with IPIS investigators.

Finally, the destination or quantities of the Chinese companies’ production are unknown, which encourages smuggling and opacity in the artisanal mining sector.

### **5.1.8. Restore the authority of the Mines and Hydrocarbons Police.**

We recommend that the authority of the MHP at the mining sites be restored by increasing its numbers and resources, and by removing undisciplined FARDC. We also recommend that the MHP be given the power to arrest state agents caught illegally taxing miners. Currently, the MHP (or CNP, or FARDC) supports these agents in their interference. The fear of the MHP must change sides.

### **5.1.9. Pay the salaries of state employees and support local structures.**

This analysis dwells at length on the fact that many state agents illegally tax the miners in order to pay themselves. When there are too many interferences, the miners are pushed towards the sites of armed groups where they will be taxed less (in Shabunda and Fizi). Hence, paying the salaries of state agents is part of stabilisation and peacekeeping.

## 5.2. Recommendations for the Armed Forces of the DRC (FARDC)

### 5.2.1. Sanction the FARDC involved in the artisanal mining sector.

In this report, we have shown that the interference of undisciplined FARDC at mining sites was so bad that some miners preferred to work with the Yakutumba or the Raia Mutomboki. In Djugu, undisciplined FARDC transported Ugandan smugglers loaded with gold in army vehicles to the border.

Several civil society organisations and international and national NGOs have documented, in detail, the involvement of undisciplined FARDC in the artisanal mining sector. These interventions range from soldiers charging illegal taxes to senior officers taking over a pit or site and taxing all the workers. In the vast majority of cases, these actions go unpunished. In order to restore peace, and in order to stop the practice of recruiting non-state armed groups among miners, it is essential that the FARDC headquarters punish the military, especially officers, guilty of interference in the artisanal mining sector.

The military prosecutor in Bunia was reported by some mine owners as being a responsive stakeholder capable of disciplining undisciplined military personnel seeking to interfere in mining affairs.

### 5.2.2. Withdraw from all mediation and stop closing pits.

This report highlighted that the involvement of the FARDC in mining conflicts was in most cases the trigger for violence. It is especially the closure of a site or the expulsion of a group of miners that drives them into the arms of non-state armed groups. However, the decision to close a pit is not within the competence of the FARDC. The closure of a pit is decided either by the Minister of Mines or by the governor, depending on the reason for the measure, and the execution of the measure must be executed by the Division des Mines. The Division des Mines agents are also Officers of the Judicial Police (OJP). Legally, the suspension of a mining activity must be the subject of an order by the governor. Furthermore, even if the decision is issued by the competent authorities, we recommend that the closure of a pit should only be carried out if there is a risk of work-related accidents (landslides, floods, etc.) or for external security reasons (presence of armed groups)

It is important to remember that in Mambasa, the FARDC from Beni and the FARDC from Biakato were hired by mine owners in dispute. This situation shows the inconsistency (and the risks) of letting the FARDC interfere in the mining sector.

### 5.2.3. Strengthen the role and authority of officers responsible for civil-military affairs in number and means.

In South Kivu, the Department of Agriculture and Fishing (DEAGRI) is responsible for chasing away undisciplined soldiers active in the illegal mineral trade and handing them over to the military prosecutor or the military intelligence service. Given the number of undisciplined FARDC still active, we recommend that this service be given more resources to carry out its mission and that its results be evaluated.

### 5.2.4. Disseminate and publicise arrests of military personnel related to interference in the artisanal mining sector.

In Ituri, the Service d'Éducation Civique Patriotique et des Actions Sociales (SECAS) checks that the military is not involved in the mining sector. When Madini asked for information on their findings, the people we spoke to replied that this information was protected by military secrecy.<sup>71</sup> We recommend publicising the arrests for two reasons. First, it will send a positive signal to the population that there is no impunity for undisciplined soldiers. Secondly, it may discourage some soldiers from venturing into the illicit mineral trade.

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71 Telephone interview between IPIS and SECAS in Ituri, April 2021

## 5.3. Recommendations for the provincial authorities of South Kivu

### 5.3.1. Coordinate political, military and multilateral support to combat the Yakutumba.

The fight against the Yakutumba must be holistic and needs political and military support, multilaterally, and at all levels of power. This report pointed out how corruption and interference by undisciplined FARDC and illegal state agents were consolidating the image of the Yakutumba as protectors of the local population. We also mentioned that even state agents claimed to be Yakutumba supporters. Therefore, the military fight against the Yakutumba must be accompanied by measures to implement a DDR programme for ex-combatants, but also a programme to formalise the mining industry in order to eradicate interference by state agents and undisciplined FARDC, and to redirect gold to legal channels so that it no longer finances the Mai-Mai Yakutumba.

### 5.3.2. Coordinate the DDR-C of the Nyatura and other Mai-Mai groups with international, national and local partners.

DDR activities that are not completed result in failure. Provincial authorities should ensure coordination between DDR projects and military advances. In Shabunda, it seems that every Raia Mutomboki group that surrenders is replaced by another.

### 5.3.3. Maintain dialogue between local populations and mining companies holding mining rights.

The provincial authorities have the competence and legitimacy to act as an intermediary between the local population and the mining companies. For instance, they can offer to ensure that agreements are honoured and that the terms of reference are adhered to, both of which are often the cause of conflict between the two parties in dispute, as well as ensuring that the mining code is understood and respected by all stakeholders.

## 5.4. For the provincial authorities of Ituri

### 5.4.1. Encourage peace initiatives between Lendu and non-Lendu.

In the mining sites where Lendu and Hema live together in a tense but still peaceful manner, it is necessary for the provincial authorities to support non-violence training and joint projects for the benefit of both communities. The Collectif des Chefs Coutumiers de l'Ituri (COCCI) organised a tour of the Djugu territory to raise awareness among communities, including artisanal miners, in order to distance them from armed groups. In places where the situation is not yet an armed conflict but remains sensitive (the sites of Nizi and Lopa, or Morgue, for example), it is important that civil society, and national and international partners, take the lead to strengthen peace between the two groups.

### 5.4.2. Coordinate political, military and multilateral support to combat armed groups.

The CODECO group is currently the biggest obstacle to security in Djugu. The provincial authorities should make its disarmament and demobilisation a priority. Regarding the members of the FRPI who have surrendered and are benefiting from the DDR programme, it is important to invest in their follow-up so that they do not take up arms again.

### **5.4.3. Invest in the mining authority for more effective control of properties and property boundaries.**

This investment must be accompanied by increased communication and regularisation of customary rights under the Mining Code through the mining authority and customary chiefs. It seems that the understanding of the concept of “owner” and the communication about rights (and changes of ownership) is insufficient. In summary, the mining authority should be able to verify whether mining plots sold by customary chiefs have a formal and legal framework. In addition, customary chiefs have reported questioning agreements with mine owners that were signed decades ago because they no longer reflect today’s reality. This demand may seem legitimate, and is probably the reason why customary chiefs are creating property disputes. The province should instruct its mining authority to moderate these negotiations in consultation with the Cadastre Minier.

Some conflicts between miners or between owners are resolved by SOKIMO’s subcontracting service, which allows a peaceful resolution without having to go to the prosecutor’s office. The mining authority could draw inspiration from these methods. Can this be replicated on “non-SOKIMO” sites, i.e. independent sites?

## **5.5. Recommendations for the Madini Consortium**

### **5.5.1. Create partnerships with the existing traceability systems.**

ITSCI is established in 19 sites targeted by the Madini project in Shabunda and Kalehe. ITSCI has the advantage of offering a legal export route for artisanal 3T, and its agents have already been trained. Constructive discussions are underway for a Madini-ITSCI partnership in the region, which appears to be a win-win situation. The Madini project could benefit from ITSCI’s experience and qualified staff, while Madini will be able to offer monitoring and evaluation of the sites. ITSCI sites will also benefit from the results of the Madini project regarding stability. ITSCI can also be a strong ally of the SLSC, LSC and PSC, the Ministry of Mines and the army (at provincial and national levels, as mentioned above) to advocate for stability. In regions where other tracking systems are in operation, such as the Better Sourcing Program, a similar framework for partnership could be created.

### **5.5.2. Create partnerships with existing programmes and projects.**

At the workshop to launch the Madini project, the provincial authorities quite rightly insisted that the Madini project should fit in with what was already in place. In order to work in a complementary manner, Madini officials are working closely with the Zahabu Safi project for Commercially Viable Conflict Free Gold, implemented by Global Communities, Levin Sources, Better Chain and RCS. Madini is already working with Zahabu Safi with whom we have identified common sites for both projects - Djugu and Kalehe. Its objectives are entirely complementary to the Madini project. While the Madini project aims to restore peace and stability at the mining sites, Zahabu Safi aims to increase demand for and investment in conflict-free, traceable and responsible artisanal gold, increase its export, and improve the commercial viability of artisanal gold cooperatives. In February 2021, a memorandum of understanding was signed between the two projects.

Secondly, the Dutch organisation VNG is coordinating a four-year good governance project in Djugu, implemented by Cordaid and funded by the Dutch embassy in Rwanda.<sup>72</sup> Within the framework of formalisation, the Madini project aims to empower civil society in the control of finances related to the mining royalty and due diligence. In August 2020, the NGO supported the creation of a local development committee (LDC) at the initiative of the Buhavu chiefdom, as well as group local development committees

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72 <https://www.vng-international.nl/congo-drc-esper-peace-and-security-program-east-drc>

(GLDC) with which Madini has been in contact.<sup>73</sup> Madini's support for the LSC will include coordination with the LDC to identify synergies and avoid the duplication of activities.

In the stabilisation and peacekeeping sector, several international partners accompany local NGOs in establishing or maintaining dialogues with armed groups. Search for Common Ground (SFCG), ILC and ADCI have started the process of disengaging armed groups in Fizi. Disengagement strategy activities took place in 2020, in which armed groups participated (including the Yakutumba). Interpeace, funded by DFID, has also initiated a project aimed at inter-community dialogue and the disengagement of armed groups in Fizi. A third activity is the establishment of Cadres de Concertations Intercommunautaires (CCI) in Fizi in which there are two types of committees: a) negotiation committees, which include armed groups as well as former rebels, and b) mixed committees to ensure dialogue between herders and farmers during transhumance. A fourth initiative will be implemented in February 2021 by SFCG in the mining sector, in Minembwe, a neighbouring region of Mukera. Finally, as part of the International Security and Stabilisation Support Strategy (ISSS), Cordaid and ZOA will implement a two-year project in Fizi specifically targeting land conflicts, local governance and armed groups. International Alert, a member of the Madini consortium, is involved in some of these activities. This is important in order for the community stabilisation and DDR activities of each organisation to be able to coordinate and complement the work of the other partners.

### ***5.5.3. Support local projects and initiatives that contribute to peace and the traceability of minerals.***

In Ituri, several initiatives by local organisations have been started and deserve support. This is the case of the Réseau pour l'Autonomisation des Femmes des Communautés Minières (REAFCOM). These women have been trained to mediate and monitor mining conflicts. Its scope is currently around Some. Recently, they have been supported by the Canadian Embassy. This organisation can be a relay to encourage dialogue between parties in dispute. It can also be an advocacy partner among territorial and/or provincial authorities.

The report mentions the willingness of COMIMA and COMIDEF, which are active in Djugu, to settle disagreements over their mines peacefully. This is an initiative that should be encouraged and, if necessary, supported. It would be interesting to see to what extent it can be replicated in other conflicts between cooperatives.

Finally, organisations specialising in natural resources, such as the Cadre de Concertation de la Société Civile pour les Ressources Nationales (CdC/RN) or ACIAR, are priority stakeholders that should be supported. Their participation in the creation of a traceability system for Ituri gold from the mine to the exporter could be a guarantee of success and adoption of the system by the local community.

## **5.6. Recommendations for foreign-owned industrial companies (Leda Mining, MGM)**

### ***5.6.4. Maintain a dialogue with local people and contribute to local development.***

Although legal, mining companies suffer from a lack of legitimacy, some elites and armed groups fuel resentment against them by calling them "foreigners who have come to steal the minerals". This is a fallacious argument that appeals to a population for whom minerals are a means of subsistence. Yet these industries are legally obliged by the mining code to respect their social responsibilities towards the community. The contribution to local development can take the form of investments in infrastructure from which the population can also benefit. These projects should be subject to consultation with the people concerned, civil organisations and local authorities. A second essential contribution is the recruitment of local staff to create direct employment, but also sub-contracts. MGM has signed contracts with cooperatives active in these concessions where artisanal activity is more appropriate than industrial.

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<sup>73</sup> Note that Justice Plus, our partner in Ituri, is also a partner of VGN in the project "Ensemble pour la Sécurité et la Paix à Djugu", financed by the Stabilization Coherence Fund (ISSSS)

## 5.7. Recommendations for Congolese-owned industrial companies (SOKIMO, SAKIMA)

### 5.7.5. Open a dialogue with the FEC on SAKIMA agreements with processing plants.

The people of Shabunda and Kalehe seem particularly concerned about the agreements SAKIMA is making with processing plants to give them a monopoly on the purchase of minerals. In absolute terms, these agreements facilitate the chain of custody but may effectively leave traders unemployed. To allay fears, these dialogues should be made more transparent, for example by opening them up to traders with a trader's card who are members of the FEC. We also recommend that measures be taken to establish fair pricing in order to prevent processing plants from abusing their monopoly position.

### 5.7.6. Finalise an agreement with farmers active on SAKIMA concessions in Kalehe.

As noted in the report, more than 50 farmers are in conflict with artisanal miners because no compensation agreement has been reached. Given the length of this conflict, we recommend that SAKIMA reopen the dialogue as soon as possible. We also recommend that SAKIMA contact the SOKIMO mediation service, which has been successful in resolving many property disputes in Mambasa.

### 5.7.7. Make their action for local development more visible.

The local population considers that SOKIMO and SAKIMA do not participate in the development of the region even though they receive a share of the production. We encourage these companies to communicate more about their activities in favour of the population. For example, SAKIMA pays 5 % of the taxes received to the local mining branch and 5 % to a cooperative.

## 5.8. Recommendations for cooperatives

### 5.8.8. Encourage transparency in management and the identity of managers.

Among the first governance measures to be taken, the cooperative's organisation chart should be made public: who is at the head (presidency, vice-presidencies, general secretariat, treasurer)? It would be interesting if these mandates were subject to a time limit and periodic elections. The miners' representatives should be involved in the decision-making process and have the right to vote on it. Financial management should be transparent: how is the money from membership fees spent? In Shabunda, a cooperative receives 10 % of the taxes collected by SAKIMA: where does this money go? To put it more simply, there is no advantage for miners to belong to a cooperative under the current system. On the contrary, being a member means paying a membership fee and in some cases, accepting its purchasing monopoly on production. The IPIS surveys concluded that the vast majority of miners saw cooperatives as an instrument of the elites to exploit them. This dynamic must change. The cooperative must become a tool to support production, for example by investing in better working tools and/or better working conditions.

## 5.9. Recommendations for civil society organisations

### 5.9.9. Advocate for the payment of mining royalties to the DTE, including taxes levied on artisanal gold.

Civil society organizations should support local authorities in advocating for a return of mining royal-

ties. Once this recommendation is obtained, civil society should propose projects that would benefit the entire community. In the case of Tchonka (Shabunda), for example, isolation seems to affect the entire population, from traders to farmers. If road infrastructure were built with the money from mining royalties, civil society, and more broadly the population, would become involved in the fight against mineral smuggling.

Regarding artisanal gold, we have seen that it is widely smuggled to avoid paying taxes (representing 8 to 11% of the export value). However, there is no provision for taxes to be paid back to the DTEs of origin of the production. Therefore, we recommend that CSOs in the gold zones demand that a portion of these payments be returned to the ETD so that local populations also benefit from artisanal gold. If this were to be implemented, the local community could be expected to support the implementation of a gold traceability system

#### **5.9.10. Advocate for greater transparency in the use of DTE funds**

In 2019, mining companies established in South Kivu paid USD 3.29 million in mining royalties.<sup>74</sup> As previously mentioned, this report estimates that the 182 artisanal mines production is worth USD 35.5 million (of which USD 31 million is artisanal gold). Concerning 3T, the mining royalty is approximately USD 223,000, of which USD 40,000 must be paid to the DTE and USD 55,000 to the province.

Civil society is legitimate in asking the authorities concerned for more transparency in the allocation of these funds. In Kalehe, Sakima pays 5% of these revenues to the CLS. It is essential that the use of these funds be transparent and monitored by the members of the CLS, but also by civil society. We recommend regular and periodic meetings between the CLS and CSOs to monitor the revenues and expenditures of the accounts into which the mining royalties are paid.

#### **5.9.11. Invest in the traceability of artisanal minerals.**

The diagram presented in section 4.1.2 on the mining royalty shows that civil society must be involved in the traceability of gold in order for the community to benefit from the taxes collected on this production. In simple terms, this means that civil society organisations should ensure that production is channelled to the categories subject to the mining royalty, such as the 3T processing plants and mining rights holders. As to exactly how and where artisanal gold should be channelled to increase the mining royalty, and how the burden of illegal taxes on miners and cooperatives should be removed, will be the subject of further study.

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74 Consortium Makuta Ya Congo, La redevance manière destinée aux entités territoriales décentralisées: un casse-tête à résoudre, November 2020, p. 12





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