



global witness



UNDER-MINED



How corruption, mismanagement and political influence is undermining investment in Uganda's mining sector and threatening people and environment.

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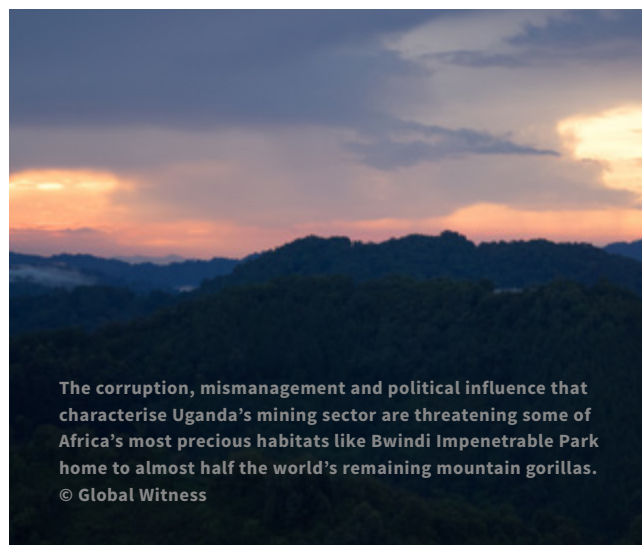
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EXECUTIVE SUMMARY

David's lesson was interrupted when the men entered his classroom and called his name. They took the fifteen year old to a hotel in town where he was confronted by several mining company representatives and a contract. They pointed to a stack of money on the table and told him he could take it if he signed away his family land. Intimidated and confused he handed over the rights to his family's only source of wealth, which had been placed in his name as the eldest child.

When we asked David (whose name we have changed to protect his identity) why he had signed he looked embarrassed and simply said he had just wanted to get back to school. While the compensation he and his mother received was sufficient to build a house on a small plot of land, the family can no longer grow enough crops to feed themselves and sell at the market to make a living. Ironically, David has since had to drop out of school because they can't afford the fees; he now breaks rocks at the side of the road to sell to a local cement factory.

David and his family are among the many victims of pressure placed on communities in Tororo, Eastern



Uganda as a result of the rush to develop the phosphate mine at the Sukulu Phosphate Project. The fledgling mining sector could help raise families like David's out of poverty, but corruption and mismanagement is stifling investment and preventing local communities from seeing any benefits. In fact, because elements of the Ugandan elite who dominate the sector behave as if they are above the law, impunity reigns, and results in human rights violations and potentially devastating environmental destruction.

This is a stock image of a Ugandan classroom and does not show the boy named in the text below. © Jake Lyell/Alamy stock photo

Uganda's mining sector is officially run by the Directorate of Geological Survey and Mines (DGSM). However, rather than fulfilling its mandate to work for the benefit of the Ugandan people, the DGSM is controlled by a hidden alternative power structure and decision making process or 'shadow system' which benefits predatory investors and politically powerful Ugandans. Poorly qualified companies can win licenses based on their connections, at the expense of well-qualified and conscientious companies. The absence of respect for the rule of law and the systemic circumvention of policies and procedures undermines investment and puts Ugandan's and their environment at risk. The underpayment or complete failure to pay taxes, mineral rents and royalties by many of those operating in the sector deprives the public coffers of millions of dollars a year. This affects the provision of basic services for ordinary Ugandans and further obstructs proper oversight and regulation of the industry.

Companies that obtain their licenses in an underhand manner have little incentive to uphold the law, knowing that the best and quickest way to get ahead is via political patronage. Likewise, officials, fixers, and political elites can personally profit from perpetuating the status quo rather than implementing regulations or pushing for reform. This costs Uganda much-needed jobs and revenue and damages its international reputation.

From low-level officials to senior political figures, many of those involved with mining in Uganda are ready to bend or break the rules. In this report, Global Witness details the parts played by lawyers, a Member of Parliament (MP), foreign-backed investors, and even a pop star in the exploitation of Uganda's mineral wealth at the expense of ordinary people and the country's long-term development.

In 2012, an internal government report, (the "2012 Report") documented chronic levels of fraud, mismanagement and corruption in the DGSM. The report focused on the licensing process at the Directorate, and did not name the companies and individuals behind the suspect deals. Although it was shared with the former Permanent Secretary at the Ministry of Energy and Mineral Development and allegedly discussed with President Yoweri Museveni, it was never published. Little seems to have changed in the DGSM since then.

Global Witness is now publishing some of the 2012 Report's findings, including, for the first time, the identities of some of those associated with the licensing irregularities identified in it. We also reveal a series of more recent cases that are functions of the same corruption and mismanagement. This evidence base proves that the problems identified in the 2012 Report are ongoing but it also identified new problems.



Uganda's poorly regulated mining sector benefits predatory investors and stifles investment while miners work in dangerous and even life threatening conditions. © Global Witness

The case studies in this briefing demonstrate just how much of Uganda's mining sector is characterised by corruption, mismanagement and undue political influence. Below, we have spilt the case studies into four sections of the report to show who is involved and how suspicious deals are done in Uganda's mining sector and at the DGSM.

1. THE DAMAGE DONE

It is Uganda's poorest people and its delicate environment that stand to lose the most from corruption and mismanagement in the mining sector. According to Uganda's Mining Cadastre, the DGSM has granted

mining exploration licences in all but three of Uganda's protected areas, of which there are 28, putting some of the planet's rarest and most endangered species at risk. In one example, an MP claims that she is able to explore for minerals in Bwindi National Park which is home to almost half the world's remaining mountain gorillas, because she is "a good, good friend" of the former tourism minister. (The former tourist minister told Global Witness she did not know the MP). In another, a company was operating just outside of a UNESCO World Heritage Site without conducting the required checks on how its operations may affect the local environment (an Environmental Impact Assessment, or "EIA"); it has also made attempts to explore for minerals in the World Heritage site.

2. THE CORRUPT DIRECTORATE

Corruption in the Mines Department at the DGSM is systemic and goes from some junior officials all the way to the top. Global Witness has discovered that it is routine for investors to pay certain Directorate employees a fee to ensure that mining applications meet all requirements. Not all staff might be involved, and some feel coerced to participate and do so reluctantly. However, in one instance certain staff have seen personal opportunity in the scam and have set up a company for the explicit purpose of facilitating licence applications. For a fee, this company will write licence applications and work plans and shepherd these through the compliance process which some of its own employees are responsible for overseeing. Global Witness was told by one ministry official that if an investor fails to employ a DGSM staff member their licence applications stands precious little chance of success. Some DGSM staff also seem to turn a blind eye to companies' failures to comply with environmental regulations, or to submit mandatory information on production levels.

3. THE BIG MEN

Senior political figures appear ultimately to call the shots. Their patronage facilitates access to the sector and allows investors, including political elites, to flaunt the law. In one example, a small group of Belgian and Ugandan businessmen, with close ties to the President, were found to be shipping out hundreds of millions of dollars' worth of gold, apparently paying barely any taxes and failing to disclose the origins of the gold. Their exports may include gold which could be fuelling conflict in neighbouring DRC and South Sudan. In the absence of government data and evidence of rigorous supply chain checks it is not possible to tell.

4. MIDDLEMEN, SPECULATORS, FIXERS AND BROKERS

This section details the activities of a handful of middlemen with close ties to the DGSM who have been using their connections to acquire large numbers of licences before 'flipping' them onto other buyers. In one example, an Australian home loans broker with no evident experience of mining, was able to secure licences for over 6000km² of land (more than any other company or individual Global Witness has seen) by making payments to DGSM officials, and later teamed up with pop star turned businessman, Ragga Dee, who has close ties to the president's brother Salim Saleh.

Periodic attempts at reform of Uganda's mining industry have all been stymied by institutional corruption and vested interests. Bodies such as the Office of the Auditor General and the Inspector General of Government have done some good work, and with sufficient resources and political backing, could play a vital role in cleaning up the sector and making it fit for sustainable and above-board inward investment. There are also honest and hardworking employees doing their best to uphold the law at the DGSM. However, to date, their efforts have been insufficient in the face of the entrenched corruption and established ways of working at the Directorate.

Uganda is at a crossroads. If managed properly, its mineral wealth could create jobs and generate much needed revenues. Alternatively, if corruption and mismanagement are allowed to persist, Ugandans will continue to lose land and livelihoods, reputable companies will hold back investment, and the environment will suffer.

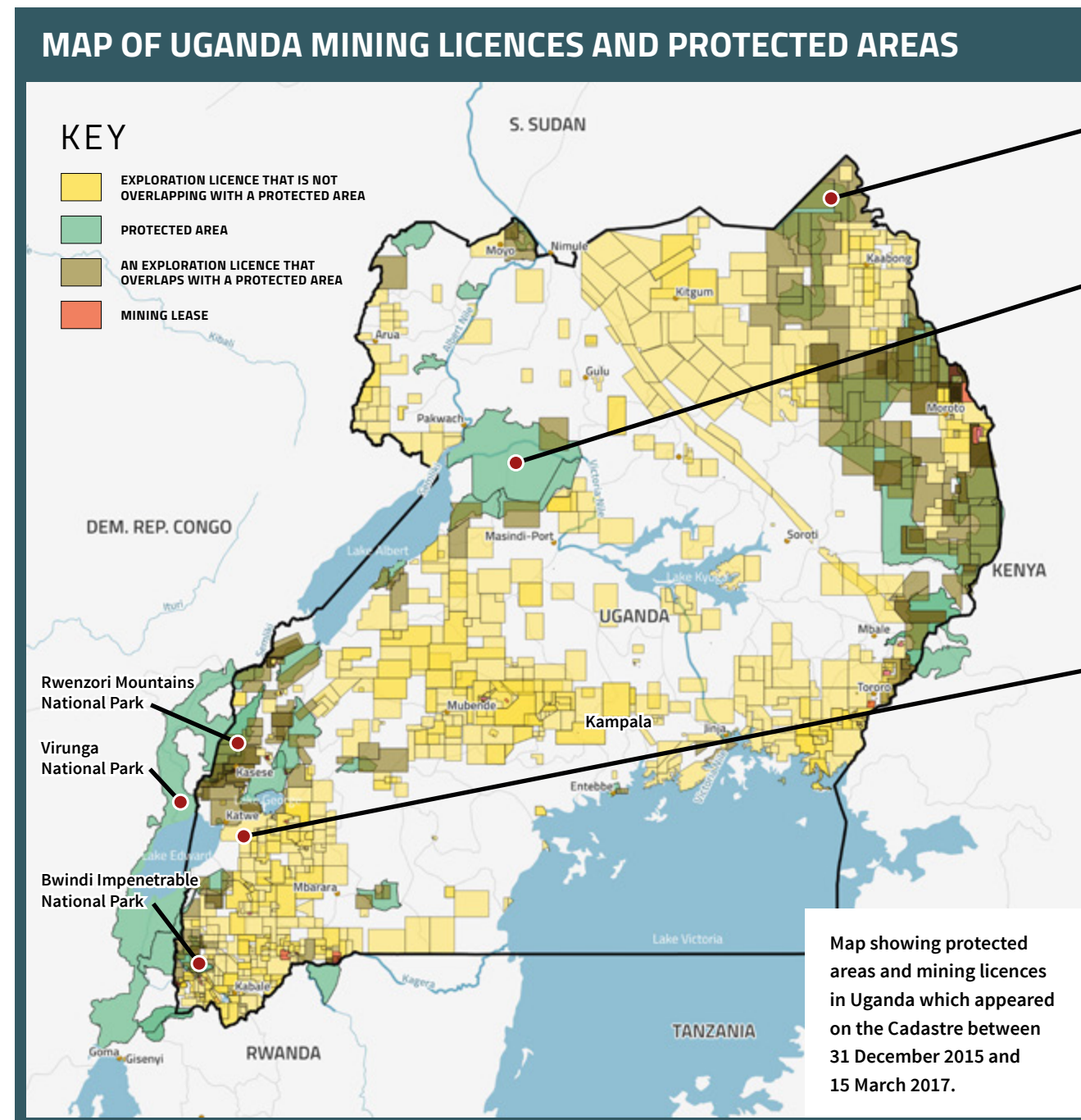
There is an opportunity for change. The President has recently made the mining sector a priority and the government has been working with the World Bank to reform the mining law. But the system needs a radical overhaul to ensure that transparency, accountability and environmental and social safeguards can prevail over self-interest and political patronage. Civil society has produced its own recommendations for improvements to the Mining Act, which can be found on our website.

Global Witness hopes that this report and the evidence it contains will help the Ugandan government, civil society and MPs, along with the country's international development partners, to identify the loopholes and regulatory failings that let this corruption prevail and fix them. The details and full references for all the case studies included in the annexes of this report should help law enforcement agencies and accountability institutions conduct further investigations and hold the corrupt to account.

Global Witness wrote to all of the people and companies named in this report to ask for comment. The responses we received are referenced and referred to throughout the text of the report. Further details of the responses we received can also be found in the annexes.

CHAPTER 1: THE DAMAGE DONE

Uganda is rich in mineral wealth; the gold, tin, iron and other metals hidden in its soils could – if managed well – help drive development, provide jobs, and contribute to a healthy economy where citizens have access to basic services such as health, clean water and education. Unfortunately, the mining sector in Uganda is – and has long been – riven with corruption and dominated by vested interests.



1. Kidepo Valley National Park, is home to the Maneless Zebra. © Julia W 2. Murchison Falls National Park hosts one of the few remaining populations of the endangered Rothschild Giraffes already under threat from oil exploration in the park. © istockphoto/1001slide 3. Queen Elizabeth National Park, part of the Greater Virunga Landscape, is home to African Elephants. © Global Witness 4. Rwenzori Mountains National Park. © istockphoto/guenterguni



Money and political power currently trump regulations designed to protect society or the environment and as a result next to none of the potential benefits are being seen by ordinary Ugandans. The corruption, mismanagement and impunity that characterise the sector are threatening some of Uganda's last remaining wildernesses and the safety of workers.

The DGSM has already handed out Mining Exploration Licences in all but three of Uganda's environmentally protected areas, of which there are 28, including some of the most bio-diverse according to the Mining Cadastre.¹ This includes the world-renowned Bwindi and Rwenzori UNESCO (United Nations Educational, Scientific and Cultural Organization) World Heritage sites, which form part of the Greater Virunga Landscape and are protected by international convention. Pressure on these areas is mounting and in some instances mining activity has allegedly already taken place.

Mining in these areas is incompatible with the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, to which Uganda is a signatory.² It also poses a grave threat to the country's most iconic species including endangered mountain gorillas, and to the emerging tourist industry, which relies on Uganda's reputation as a wildlife hotspot.

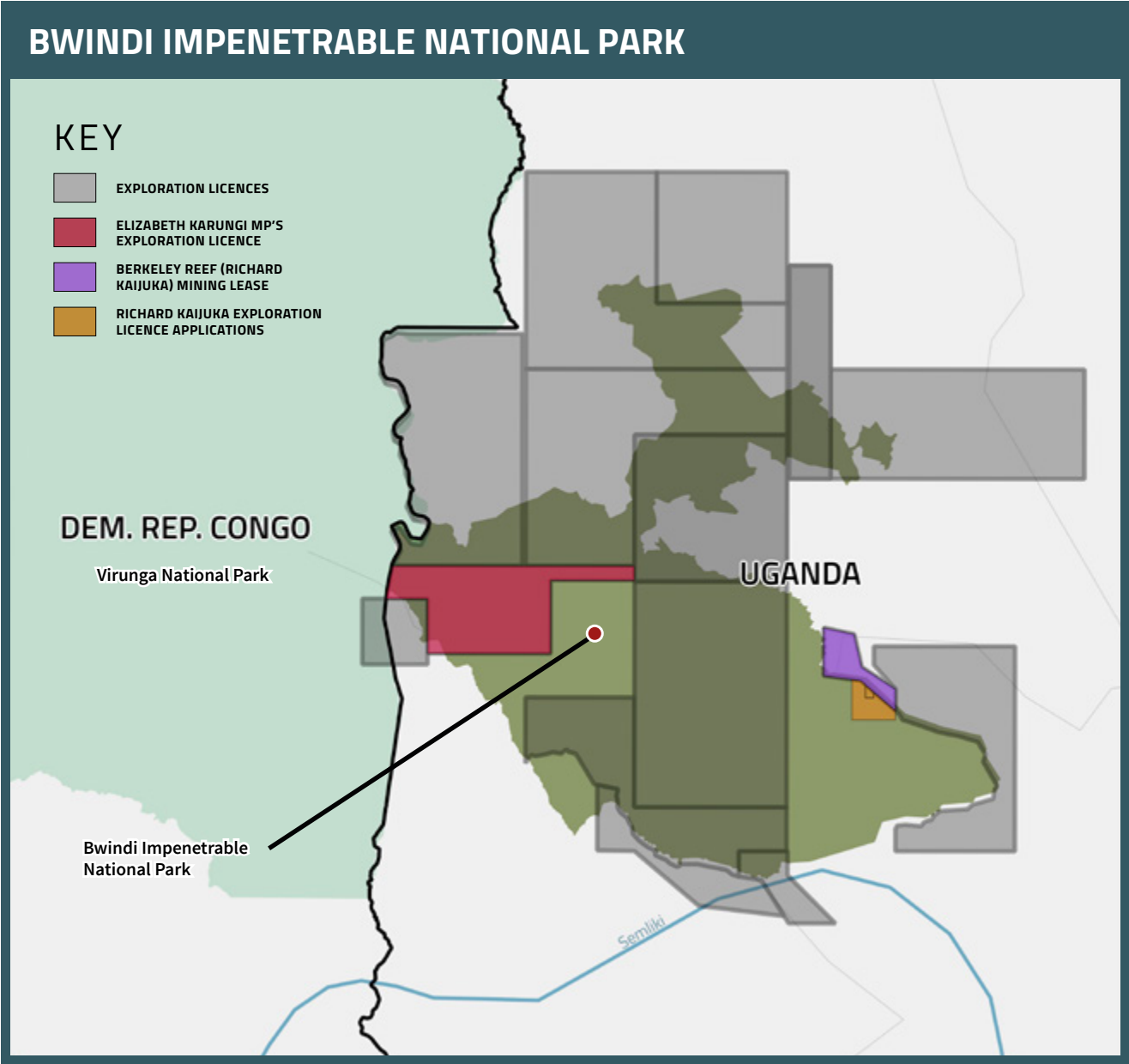
The way licences are handed out is absolutely central to the management of the mining sector. If companies obtain licences corruptly neither they, nor the government Directorate that issued them, have any incentive to uphold the law or respect human rights or the environment.

Global Witness has been a leading force in a global campaign to prevent oil drilling in the Virunga ecosystem. The area represents a frontline for the conservation movement and the battle at UNESCO to protect World Heritage sites from oil and mining activities.

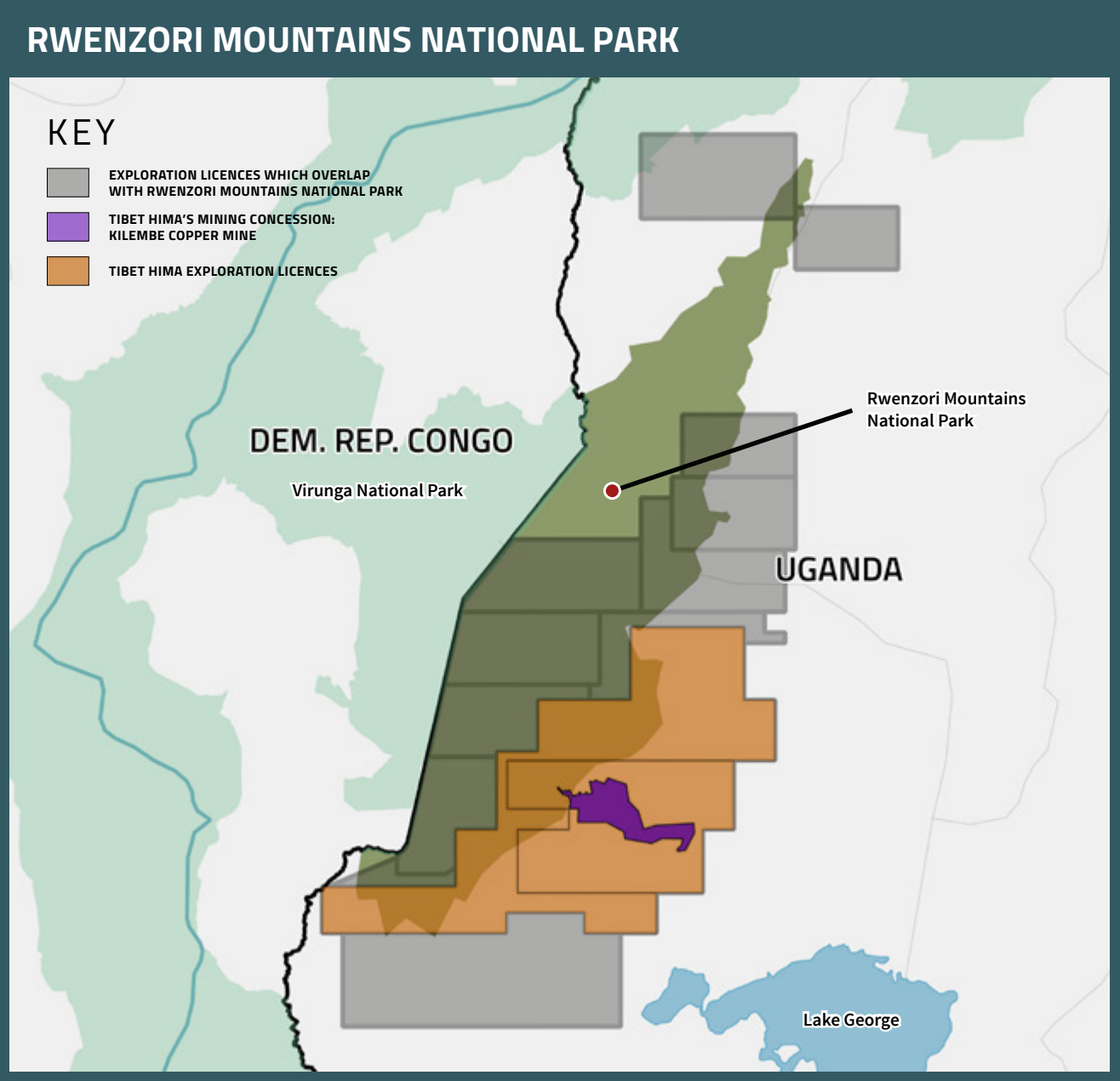
1.1. AN MP'S MINING LICENCE IN THE HEART OF BWINDI

Bwindi National Park, resting in the cloud-covered mountains on the border with the Democratic Republic of Congo (DRC), is a well-known bio-diversity hotspot. The UNESCO World Heritage site is a tiny sanctuary for one of the richest concentrations of mammals in Africa, including almost half the world's remaining mountain gorillas.³ According to Uganda's online Mining Cadastre over twenty companies and individuals have held mining exploration licences which lie at least partially inside the Bwindi World Heritage site or immediately adjacent to it.

One licensee is NRM MP Elizabeth Karungi, whose story is emblematic of how well placed individuals claim to be able to use their political connections for personal gain. The woman representative for Kanungu District told Global Witness that she was able to carry out mining activities in Bwindi because the former tourist minister Maria Mutagamba was a “good good friend.” It is remarkable that the DGSM saw fit to issue her with a licence in this area despite the obvious threat to the wildlife there. In a letter to Global Witness dated January 2017, Mutagamba claimed that she did not know who Elizabeth Karungi MP was, however Karungi was on the Committee of Tourism, Trade and Industry which held meetings with the Minister during her period in office. The DGSM Commissioner told Global Witness that mining activities in national parks require the permission of the Uganda Wildlife Authority.



Map showing protected areas and mining licences in Bwindi Impenetrable National Park which appeared on the Cadastre between 31 December 2015 and 15 March 2017.



Map showing protected areas and mining licences in Rwenzori Mountains National Park which appeared on the Cadastre between 31 December 2015 and 15 March 2017.



1.2. THE KILEMBE MINE

The Rwenzori Mountains National Park is a popular tourist destination and contains endemic species such as the African Forest Elephant and the endangered Red Duiker.⁴ The area is also an important source of water for the Nile River. However, Uganda's online Mining Cadastre shows that over twenty companies or individuals have held licences which lie at least partially within the World Heritage site or immediately adjacent to it.

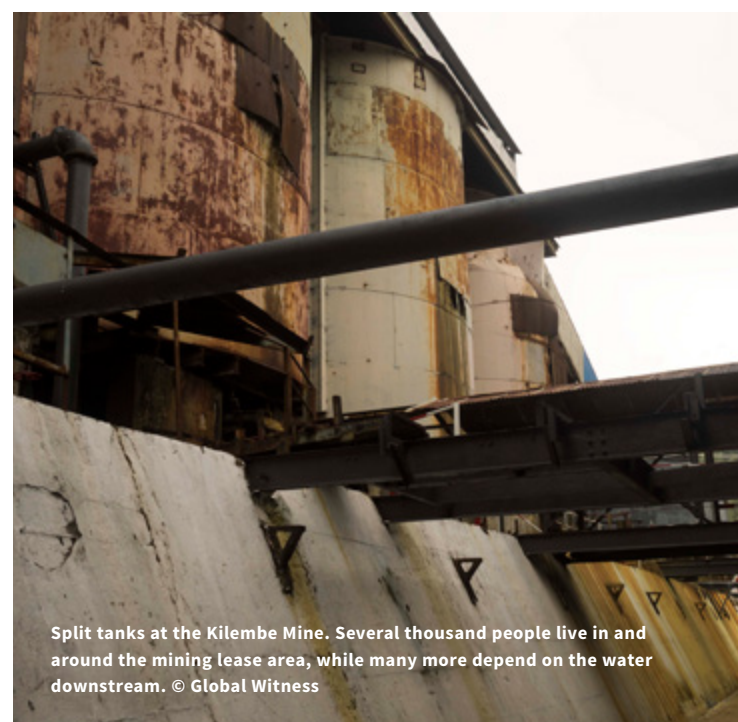
One of these is the Tibet Hima Mining Company, which won a multi-million dollar contract to re-open the former colonial



Two miners died at the Tibet Hima mine in accidents in December 2015, shortly after Global Witness had visited the site. The company was operating without a proper Environmental Impact Assessment. © Global Witness

Kilembe Copper Mines on the border of Rwenzori in 2013. Two DGSM staff told Global Witness that the President instructed the government to partner with Tibet Hima. Global Witness wrote to President Museveni in December 2016 but has not received a response. As part of the deal, Tibet Hima also received two mining exploration licences that run deep into the national park and right up to the DRC border. The DGSM Commissioner told Global Witness that Tibet Hima had been awarded the concession through a competitive bidding process.

Global Witness has seen a letter from Tibet Hima addressed to the Chief Warden of Rwenzori National Park dated 30th January 2015, in which they ask the park authorities for cooperation with their exploration efforts, including allowing them to work inside the park. The park authorities refused the request but the letter implies that the future of mining at Kilembe is dependent on exploration in Tibet Hima's exploration licences which surround the Kilembe mine site and extend into the park.



Split tanks at the Kilembe Mine. Several thousand people live in and around the mining lease area, while many more depend on the water downstream. © Global Witness



The Kilembe mine has been a serious source of pollution to Lake George in the past. Local officials told Global Witness in November 2015 that they did not have the tools to monitor the impact of the mine on water quality. © Global Witness

1.2.1. FAILURE TO CARRY OUT ENVIRONMENTAL IMPACT ASSESSMENT

As well as obtaining exploration licences inside a World Heritage site, Tibet Hima appears to have been carrying out operations at Kilembe - one of the largest mines in the country - without an Environmental Impact Assessment (EIA), which is required by law. The company produced an environmental 'project brief' in February 2015, but this did not cover the activities witnessed by Global Witness staff at the site in November 2015.

Two people died at Kilembe in accidents in late 2015, shortly after our visit, and water pollution into the nearby river and Lake George has been a serious problem in the past (before Tibet Hima won the concession). When Global Witness visited the mine in November 2015, a company representative showed us around the rusty machinery and decaying facilities left by the previous owners. The plant has now been re-opened by Tibet Hima and the representative we spoke to indicated he

had concerns about the impact of the mine on water quality. Several thousand people live in and around the mining lease area, while many more depend on the water downstream and the fish that swim in it.

These are issues that should be considered as part of a proper EIA process, with mitigation strategies put in place as a result. Global Witness also learned that the local government did not have the capacity to monitor pollution from the site and its impacts at the time. This raises serious concerns about the ability of the government to safeguard its citizens and their environment against the harmful impacts of the mining sector as it grows. Government officials have subsequently raised a number of serious concerns about operations at the site including pollution and safety.

Tibet Hima told us in a letter dated January 2017 that they had submitted a full EIA in April 2016. They told us that minerals are presumed to exist deep under the park and they were seeking access to conduct sampling to



Kilembe: Uganda's largest copper mine at the foothills of the Rwenzori Mountains sits on the edge of the UNESCO World Heritage site. © Global Witness



Tibet Hima was given two exploration licences which run deep inside the Rwenzori Mountains National Park. Global Witness has seen a letter dated January 2015 seeking permission to explore for minerals inside the park. © Global Witness

establish the mineral deposits. They also told us that our allegations about activities which had taken place without a proper EIA were not true “since no prosecution by the authorities have been instituted.” The company told us that they conduct regular tests on water quality at the site that show that the water leaving the site is not a threat to the water system or human health.

1.2.2. RECOMMENDATIONS

1. The Inspector General of Government (IGG) or the Office of the Auditor General (OAG) should investigate further the way that both Elizabeth Karungi and Tibet Hima received their licences and the compliance of their operations with those licences and the laws of Uganda.

2. All licences issued inside UNESCO World Heritage Sites and other protected areas should be immediately revoked. Mining in protected areas should be prohibited by law.



Global Witness visited the Kilembe site in November 2015 where Tibet Hima was carrying out activities without a proper Environmental Impact Assessment. © Global Witness

3. A review of all active licences should be conducted to ensure that anyone who is carrying out exploration or mining activities has an approved EIA to cover all such activities.

4. The government, with the support of international development partners, should urgently increase the capacity of the agencies responsible for upholding environmental and social protection provisions to ensure that they can effectively monitor the impacts of the mining sector and hold companies to account for failures to abide by legally mandated standards.

5. Licensing for areas containing well established mineral deposits should follow a clear and transparent competitive bidding process. Companies should be selected on the basis of their environmental and human rights track records, as well as their technical and financial standing.

1.3. AFRICAN PANTHER

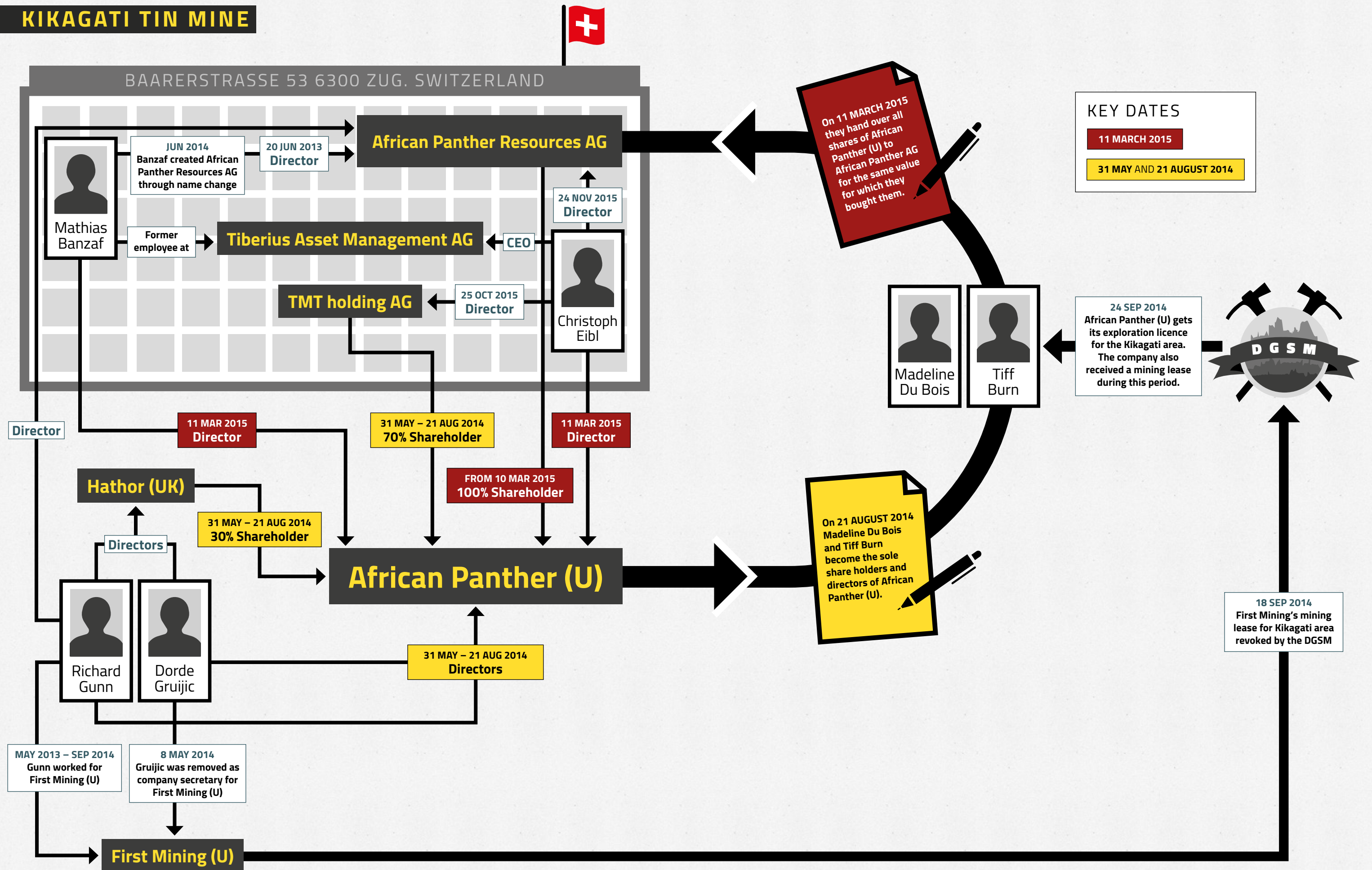
Our investigations into the Kikagati Tin Project in South Western Uganda raise a number of key concerns about questionable dealing which are covered in greater detail below and in the annexes of this report. These include: allegations that former First Mining company staff at African Panther had colluded with government officials to have First Mining's mining lease cancelled; questions about the speed at which African Panther received its exploration licence for the same area; the unexplained

changes in ownership and directors of African Panther before and after it received its exploration licence and mining lease; the contradictory statements from First Mining about the decision to cancel the company's mining lease.

In 2014, African Panther Resources gained control of a tin mining concession in the country's most prospective tin mining area in South Western Uganda. They were awarded an exploration licence for the site in just three days. One DGSM employee told Global Witness that the speed at which African Panther's licence had been granted was “impossible.” African Panther and the DGSM told Global Witness that any insinuations that the speed at which the licence was granted indicated impropriety were unfounded.

At the time that African Panther's exploration licence and mining lease were granted (in 2014 and 2015 respectively) the company was owned and directed by two twenty-somethings from London with seemingly no experience of mining. However, the company was only in their hands for seven months. Before and after that period the company was controlled by Christopher Eibl, the CEO of the major international Swiss commodities investor Tiberius Asset Management, and his business partners. After African Panther acquired the licenses, ownership of the company was transferred to African Panther AG in Switzerland, a company in which Eibl is Director and which shares the same physical address as Tiberius Asset Management. African Panther told us that there is no legal relationship between African Panther and Tiberius Asset Management.

KIKAGATI TIN MINE





The changes in ownership and management of African Panther Uganda, before and after it received its exploration licence and mining lease for the Kikagati area, appear to be a clear attempt to hide the identities of those who went on to control the company. © Global Witness

The transfers of ownership during the licensing stage appear to be a clear strategy by Eibl and his colleagues to publicly distance themselves from the deal during this period.

Amalgamated Metal Corporation, which invested in African Panther after the company had received its licences, told Global Witness that they had “made further enquiries” and discussed with African Panther directors the rationale for the change of ownership and directors of the company during 2014 and “are satisfied that there was a commercial rationale for the actions taken.” African Panther, Amalgamated Metals and the directors at the time did not offer further explanation for the changes in ownership and control of the company during this period.

African Panther’s rapidly issued exploration licence covered an area that had previously been held by a rival company, First Mining. This company’s mining lease had only been cancelled one week earlier raising complaints at the time that the officials who made the decision were colluding with African Panther.

First Mining’s lawyers appealed to the Minister of Energy and Mineral Development at the time stating that the speed at which African Panther’s licence had been granted was “clear evidence of fraudulent and under-hand dealings between African Panthers Ltd. and officials at the department.” They blamed members of First Mining’s management and staff linked to African Panther and claimed that they were responsible for the cancellation of the licence. First Mining later dropped their appeal and went into liquidation. However, Global Witness has spoken with a source with close knowledge

of the deal and a source at the DGSM who both gave similar accounts of events to those which were contained in the First Mining appeal. Several owners and directors of African Panther, including the man who first registered the company, did previously work at First Mining.

African Panther, its owners, and the directors at the time the licence was granted, as well as the DGSM, all deny any wrongdoing and point to paperwork at the DGSM which shows that the decision to revoke First Mining’s mining lease and issue an exploration licence to African Panther followed due process. Global Witness also received a letter from First Mining’s parent company’s former managers, Mark Patzelt and Evan Cross, stating that their licence was revoked due to lack of funds and failure to conform to the terms of the mining lease. This directly contradicts the information in the letter from their lawyers to the Minister at the time, which as above accused members of First Mining staff with links to African Panther of bringing about the cancellation. We put these contradictions to Cross and Patzelt in a letter in April 2017 and asked for an explanation but never received a response. Global Witness has seen communications between the Ministry of Energy and Mineral Development and First Mining which suggest that there were legitimate reasons why First Mining’s Licence could have been cancelled, including land rights disputes, but also that First Mining had allegedly made attempts to resolve them in order to retain their license. The speed at which the licensing took place as well as changes of ownership and control of African Panther around the time of the deal continue to raise serious questions. For further details see annexes.



In 2015, the Ugandan Office of the Auditor General carried out a site visit at African Panther’s mine and discovered about 3.5 tonnes of tin that the company had failed to declare, raising concerns of possible tax avoidance. © Global Witness

1.3.1. ARTISANAL AND SMALL-SCALE MINERS WITH NO SAFETY EQUIPMENT

“What African Panther is doing is wrong and dangerous to life”

– Local government official, 2016.

Global Witness visited African Panther’s licence area on the Tanzanian border in 2016. We discovered men, women and children digging in dangerous hand-built pits, using their own rudimentary tools. They had no safety equipment and many did not even have proper shoes. The Anglo-Swiss company was not actually employing the miners we met. It simply bought the tin from the local artisanal miners that operate there. The miners appeared to be operating in African Panther’s exploration licence area rather than its smaller mining lease area. This is not the only mine in Uganda where Global Witness has documented artisanal miners operating this way.

The miners told us that company staff had said if they wanted safety equipment they would need to pay for it. They told Global Witness they dared not complain for fear of being deprived of the work that was their only source of income. African Panther told Global Witness, in a letter dated January 2017, that they do provide safety equipment free of charge and outlined the procedures they have in place to protect health and safety, and prevent children working at the site. Amalgamated Metals also responded along similar lines. Evidence of children working within the exploration licence area does not constitute evidence that African Panther has employed child labour and we do not allege that.

1.3.2. TAX AVOIDANCE SUSPICIONS DON’T DETER INTERNATIONAL INVESTORS

In 2015, the Ugandan Office of the Auditor General (OAG) carried out a site visit at African Panther’s mine and discovered about 3.5 tonnes of tin (potentially worth approximately US\$60,000) that the company had failed to declare, raising concerns of possible tax avoidance. The OAG investigations are key to uncovering corruption and malpractice, and reforming the sector.

Despite this, and the licensing issues raised above, in May 2016 the subsidiary of a well-established British metal trading firm, Amalgamated Metal Investments Holdings Ltd.⁵ converted a loan they had made to African Panther, and additional capital, into a 30% stake in the company. Amalgamated Metals sent us excerpts from a due diligence report, carried out by a Ugandan law firm on their behalf, into the granting of several licences, including the exploration licence in question, which

stated that the paperwork was all in order and did not identify any irregularities. They also told Global Witness that they had made specific enquiries and site visits and had not observed child labour or evidence that workers were being charged for safety equipment which they said was free of charge. For further information about this case, including further details of the responses we received, please see Annexes.

1.3.3. RECOMMENDATIONS

1. The IGG or relevant enforcement agencies should investigate the irregularities in the way in which African Panther received its licences and its activities on site.

2. Law enforcement agencies in the UK and Switzerland should investigate further to ascertain if the companies from these countries have breached any domestic laws or OECD guidelines.

3. The licensing process must be made far more transparent and should be overseen by an additional body outside the DGSM to avoid corruption in licensing decisions.

4. A thorough external review of all existing licences should be conducted to establish whether they were granted fairly and according to due process, and whether the licensees have the necessary qualifications and are conforming to their licence conditions. This will help free up areas, currently held by speculators, for legitimate investors.

5. The DGSM and OAG should make regular inspection visits to exploration licence, location licence and mining lease areas to ensure that workers and the environment are not being exploited and the law is being upheld. Inspection reports should be published so that they are subject to public scrutiny. Sufficient resources must be allocated to these institutions to enable them to operate effectively: the increased revenue resulting from better verification of mineral declarations would cover the additional costs.

6. Companies should be prohibited from acquiring licenses as a way of monopolising the purchase of minerals from local artisanal and small-scale miners (ASM) and co-opting them as an informal workforce. Companies with Mineral Leases should be required by law to employ any miners that work on the site and provide safety equipment to them.

7. The Ministry of Energy and Mineral Development (of which the DGSM is a part), or an alternative oversight body, should develop a mechanism for ensuring that the concerns of local government officials are both heard and acted upon.

Global Witness found artisanal miners, including children, mining within the African Panther Exploration Licence area with no safety equipment. The miners were not working directly for the company.
© Global Witness



CHAPTER 2: THE CORRUPT DIRECTORATE

“DGSM staff receive money for official services which is not authorized by law.” “Officers set rigorous conditions to extort money from applicants.”
– 2012 Internal Government report.⁶

The Directorate of Geological Survey and Mines (DGSM) on the shores of Lake Victoria in Entebbe is responsible for monitoring and regulating the mining sector in Uganda. All mining deals must pass through this office at some stage. Global Witness conducted extensive interviews with DGSM staff and others who have had dealings with the Directorate, including businesses which have applied for licenses. We also reviewed an internal report (the “2012 Report”), which identified instances of mismanagement and corruption at the DGSM, which is discussed further below. Our research has led us to conclude that corruption has become institutionalised at the Directorate. It manifests in two ways: we have been told that it is almost impossible to obtain licenses from the DGSM without making payments to certain DGSM mining officials; and, the interviews and case studies (below) also make clear that Directorate officials are expected to provide preferential treatment to companies favoured by the political elite.

As such, both money and influence can take precedence over the rule of law in the licensing process, and licences can be blocked or revoked just as easily as they can be granted. The system allows companies and individuals without the necessary financial backing and skills - and in some instances without even the intention to carry out exploration activities - to obtain and retain licences. The converse is also true: it deters responsible long-term investment from qualified companies and leads to a culture of speculation.

2.1. INSTITUTIONALISING CORRUPTION

Our review of the 2012 Report contributes to the emerging picture of established and institutionalised practices of bribery, deceit, corruption and abuse of political influence at the DGSM that is also apparent from our investigation. The 2012 Report contained detailed information on a range of concerns at the DGSM including speculation, environmental non-compliance, non-payment of royalties and extortion. The report was never published and it stopped short of naming companies or individuals. Further details about the findings of the report can be found in the annexes.

In reviewing the 2012 Report, Global Witness matched some of the licence numbers it cites to individuals and companies using the Cadastre and company documents. Some of these details are included in this report. We have also uncovered several more recent cases through our own investigations, addressed in the following chapters. The 2012 Report refers to a set of problems in the way things work, the case studies we have identified point to similar problems.

Global Witness was informed by a government source that the 2012 Report was handed to the Permanent Secretary in the Ministry of Energy and Mineral Development and discussed with the President. However, despite its condemning nature little seems to have changed in practice in the management of the mining sector. The DGSM Commissioner told Global Witness that the government had in fact produced two reports in 2011/2012, one of which looked at impropriety in the issuing of certain licences while the other was produced on non-performing mineral licences. The Commissioner told us that “corrective measures have since been taken” and that the second report is the “basis of the current review process of the mineral Policy and Act.”

Despite the assurances of the Commissioner, Global Witness was told by several sources that bribery is still commonplace and that certain DGSM staff are frequently paid to write and process all the necessary paperwork for private companies. Indeed, if you do not pay or employ someone in the Directorate your licence applications are likely to be declined. The result is that the paperwork looks legitimate but the underlying work that supports it may well not be.

In a letter dated January 2017, the DGSM Commissioner told Global Witness repeatedly that documents such as licences and company returns at the DGSM are publicly available and that we should review the records. However, the Commissioner did not furnish Global Witness with any of the documents mentioned in his letter. Global Witness staff visited the DGSM on numerous occasions during our investigations and regularly requested documents. While we were allowed to view some licence documents at the DGSM, on the whole staff were very reticent to share official documents.

DGSM wages are low and there is very little external oversight to catch out corrupt practices. Global Witness was told that in practice the key functions, including approving licenses and licence transfer applications, scrutinising returns, and cancelling licenses are concentrated in the Mines Department within the DGSM. The Commissioner, or a person delegated by

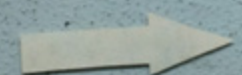
him, approves all final licensing decisions. This means that the employees of this department are able to manipulate the licensing process for their own benefit, but it also means that officials are vulnerable to bullying and political interference.

Global Witness spoke with a member of DGSM staff who said that employees at other sections of the DGSM were frequently overridden by the Mines Department and bullied by investors with political connections. They felt compelled to comply and approved paperwork despite their reservations. In this way, even honest staff at the DGSM are forced to go along with the corruption and mismanagement that dominates the sector.

In addition to the problems of corruption and circumventing proper processes, Global Witness was told by several different DGSM staff that the Directorate does not have sufficient resources to inspect mine sites and verify self-declarations by mining companies. Companies can therefore operate safe in the knowledge that they are unlikely to be checked or regulated. This has led to large-scale and widespread under-declaration, poor health and safety, environmental damage, smuggling and illegality. Corruption at the DGSM has become so commonplace that some staff have taken steps to formalise it.

Global Witness has uncovered two clear examples of DGSM officials acting under a conflict of interest for possible personal gain by working in the private sector simultaneously: Flemish Investments and TMT Mining, which are detailed below. By working in the private sector, employees place their personal interests entirely at odds with their professional obligation to collect taxes and ensure that rules for protecting people and the environment are enforced. It is little wonder then that the situation has not improved.

MINISTRY OF
ENERGY AND
MINERALS



Corruption at the DGSM has become so commonplace that some staff have taken steps to formalise it. © Global Witness

2.1.2. FLEMISH INVESTMENTS

Flemish Investments Limited illustrates how DGSM employees can potentially exploit their public positions to private companies’ advantage: two of Flemish’ former Directors held positions at the DGSM while Flemish was applying for, and was granted, mining exploration licenses. Flemish Investments acquired and entered into agreements to sell at least 21 mining licences in two deals worth hundreds of thousands of dollars between 2007 and 2013. Zachary Baguma, the Principal Geologist at DGSM, was simultaneously employed as a director at Flemish during most of this period. Baguma resigned in December 2011 handing over the directorship to Joshua T. Tuhumwire, who had previously been the DGSM Commissioner between April 1980 and June 2010, and several other people who also became directors at the same time.

Both men held key positions at the DGSM which was responsible for granting Flemish’s licence applications. Flemish is owned by secretive offshore companies in the British Crown Dependency of the Isle of Man. As such, it is not possible to know exactly who stood to profit from the company’s activities.

John Patrick Dixon, the former Director of Flemish, and Mr Baguma both told Global Witness that Mr Baguma had never been remunerated for his role as director. John Dixon also told us that he was the sole beneficial owner of the offshore company which owns Flemish but this is not possible to verify.

2.2.2. TMT MINING

“Basically what we do is taking advantage that I’m in government, it’s not a conflict of interest, I don’t use my position for conflict of interest issues, but it’s an advantage in itself.”

– Jackson Mayanja, TMT Mining and DGSM employee, August 2016

During a visit to the DGSM in November 2015, Jackson Mayanja, an employee in the Mines Department, handed Global Witness his business card. It described him as a ‘Principal Consultant’ for TMT Mining, a private company that offers a range of (costly) services, including acquiring mining licences on companies’ behalf.



The above quote, taken from a conversation with Global Witness, and the fact that staff in the very department responsible for deciding which companies get licences and monitoring their compliance are openly handing out private business cards shows how normalised this kind of abusive practice has become.

A conflict of interest can be defined as ‘a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.’ Section 17 of the Uganda Mining Act 2003 prohibits government officials from acquiring any right or interest in any mineral licence or owning a share in a company which carries out mining activity in Uganda. However, it does not prevent them from being employed by mining companies operating in the sector. This needs to change.

According to company records, Jackson and his DGSM colleague, Morris Tabaaro, were both directors and 25 per cent shareholders in TMT between 2012 and January 2015. During this period eight mining companies that TMT lists as its clients, collectively acquired 35 licences from the DGSM (although it is worth noting that these same companies did acquire 31 licences in total before and after Jackson and Morris’ stint as shareholders in TMT).⁷ Jackson continued to work for TMT after they passed on their shareholdings and Global Witness met with him in his capacity as a TMT employee.

TMT also owns shares in exploration licences, via its shareholdings in another company which itself holds exploration licences, and it did so while Jackson and

Morris were shareholders in TMT. This means that Jackson and Morris indirectly had a stake in the exploration licences via their shareholdings. This is illegal under Section 17 of the Mining Act. The company also owns a gold leaching plant in Mubende that appears to have been failing to declare its gold production to the department in which Jackson and Morris work. See annexes for further details.

We wrote to Jackson Mayanja and Morris Tabaaro for comment in December 2016 but never received a reply. Edwards Katto the DGSM Commissioner told Global Witness that the “DGSM is not aware of any conduct of private business in its office” or of “employment of any staff outside of its Public Offices.”

RECOMMENDATIONS

- 1. The relevant government agencies should investigate the activities of TMT Mining, Jackson Mayanja and Morris Tabaaro, and Flemish, Joshua Tuhumwire and Zachary Baguma to identify any illegalities or conflicts of interest. Any active licences that have been granted as a result of illegality or serious conflict of interest should be revoked.
- 2. The Ugandan government should conduct an independent review of the beneficial ownership of companies operating in the mining sector and connections to DGSM staff to weed out any conflicts of interest which impair the governance of the sector.
- 3. The law should be amended to make it illegal for any DGSM officials to be employed by a mining company during, or immediately before or following, their time at the DGSM. DGSM wages should be increased to dis-incentivise this behaviour.
- 4. The licensing process and oversight structures at the DGSM need urgent consideration and overhaul. Power should be decentralised and licensing decisions should be reviewed and overseen by a separate entity to avoid corruption.
- 5. The mineral declaration, verification and recording process needs urgent reform and additional capacity to ensure that the government does not lose out on revenue from minerals.
- 6. ‘Public documents’ at the DGSM such as licences should be made more easily accessible for example they should be available in the DGSM library or ideally online.



Secrecy jurisdictions, such as the Isle of Man just off the UK mainland, allow owners of companies to keep their names hidden meaning it is not always possible to know who stands to profit from the company’s activities. © Richard Faragher/Shutterstock



PRESIDENT MUSEVENI

© Isaac Kasamani/Stringer

CHAPTER 3: THE BIG MEN

Global Witness' investigation has shown that companies with the blessing of the ruling party are able to operate with relative impunity, regardless of their track record, or the negative impact of their activities. It is this impunity, coupled with a systemic lack of transparency, that shapes Uganda's mining sector and prevents reform.

Power in Uganda is centralised around President Yoweri Museveni. He has been running the country since 1986 and is now in his fifth term in office. Government decisions are taken with his blessing, and when it comes to mining rights, it seems that being close to him or his inner circle, makes it easier to get your permissions granted and your activities and investment protected. Global Witness wrote to President Museveni to ask him about this in December 2016; we did not receive a response.

This means that Ugandans are not always necessarily getting the best company for the job. Knowing that

this is how the system works, some investors prioritise securing support from the highest-ranking political figures possible to ensure their deals go through and their investments are protected. However, companies that receive licences via advantageous political connections rather than merit may not be able to do the job, and may not comply with other applicable laws such as those about taxes due, or how they should treat their workers and the environment.

It also undermines effective regulation and reform of the sector because it is controlled by vested interests and political elites. This creates a cycle of corruption and impunity, where even honest and hard-working government officials are unable to do their jobs and implement the law.

In this chapter, Global Witness exposes three cases where companies and individuals have secured support from senior political elites, thereby allowing them to dodge the law. The fact that some political patrons have their own interests in the existing shadowy system goes some way to explaining why impunity reigns and there has been so little impetus for reform.

3.1. AFRICAN GOLD REFINERY

"Wherever it comes from, it is not our business. But they bring it to our doorstep." – Richard Henry Kaijuka, Chairman of African Gold Refinery, on the origins of the gold his company processes

African Gold Refinery is run by a small group of Belgian and Ugandan businessmen, including former government minister Richard Kaijuka, who are managing to ship hundreds of millions of dollars' worth of gold out of Uganda without disclosing its origin and paying very little tax in the process. They are the owners and managers of a newly built gold refinery on the shores of Lake Edward near Entebbe airport. Remarkably, Barnabas Taremwa: brother-in-law to Salim Saleh, Museveni's most famous brother and Uganda's de facto number two, told Global Witness that he had helped negotiate the company's huge tax breaks with the government (corroborated by documents seen by Global Witness) and set up supply routes for the refinery.

Taremwa, who previously worked for AGR, also told Global Witness that some of the gold processed in the refinery comes from the neighbouring Democratic Republic of the Congo and South Sudan where there is a real risk that it could be funding conflict and human rights violations.

Taremwa and Salim have both previously been named by the UN in connection with the illicit trade of commodities from the Congo: a 2002 UN Group of Experts report names Saleh for playing a key role in an "elite network" of Ugandan's who were systematically looting Congolese resources from the area under Ugandan control; a 2015 UN Group of Experts report names Taremwa for trading in gold illegally exported from DRC and imported into Uganda. The owner of AGR, Alain Goetz, along with his late father Tony, also have a history of trading in Congolese gold. See annexes for further information.

Salah denies the allegations levelled against him in the 2002 report and pointed out that he was exonerated by the 'Porter Commission' and the Ugandan police. We wrote to Taremwa in December 2016; we have not received a response. AGR told Global Witness that cooperation with Taremwa ceased in February 2015 and that neither Alain Goetz or any other AGR employees have any ties with Gen. Salim Saleh. Saleh likewise told Global Witness that he has "no dealings whatsoever with AGR."



© Eric Dominic Bukenya

SALIM SALEH

The President's brother and defacto number two.



BARNABAS TAREMWA

Salim Saleh's brother-in-law and former AGR employee.



© Daily Monitor

RICHARD KAIJUKA

Chairman of AGR, former government minister and childhood friend of President Museveni.



© Gael Grilhot/Stringer

ALAIN GOETZ

Son of Tony Goetz, Alain, a Belgian national, is the owner and CEO of AGR.

3.1.1. UGANDA’S GOLD RUSH

For years, gold has been smuggled illegally into Uganda from the Congo before being flown out to Dubai through established channels, making a few gold dealers rich in the process and helping to perpetuate violent conflict in the Congo. Since the early 2010s, Uganda has also experienced its own domestic gold rush, concentrated around Mubende, Mayuge, Namayingo, Bugiri and Karamoja, with tens of thousands of Ugandans flocking to mostly unlicensed, artisanal mines in search of a living.⁸

Global Witness visited some of the mines in Mubende. Conditions are dangerous, with minimal health and safety provisions, environmental protection or government oversight. Bare-skinned children use mercury to collect the gold without safety equipment. Haphazardly dug mine shafts collapse in on themselves regularly, resulting in deaths. Drinking and prostitution are rife, and miners openly talk of their fear of dying. In spite of the risks, hopeful Ugandans, deprived of decent jobs in a well-regulated mining sector, continue to flock to these mines because of the financial opportunities they offer. Conditions are better in mines where ASM associations have secured location licences.

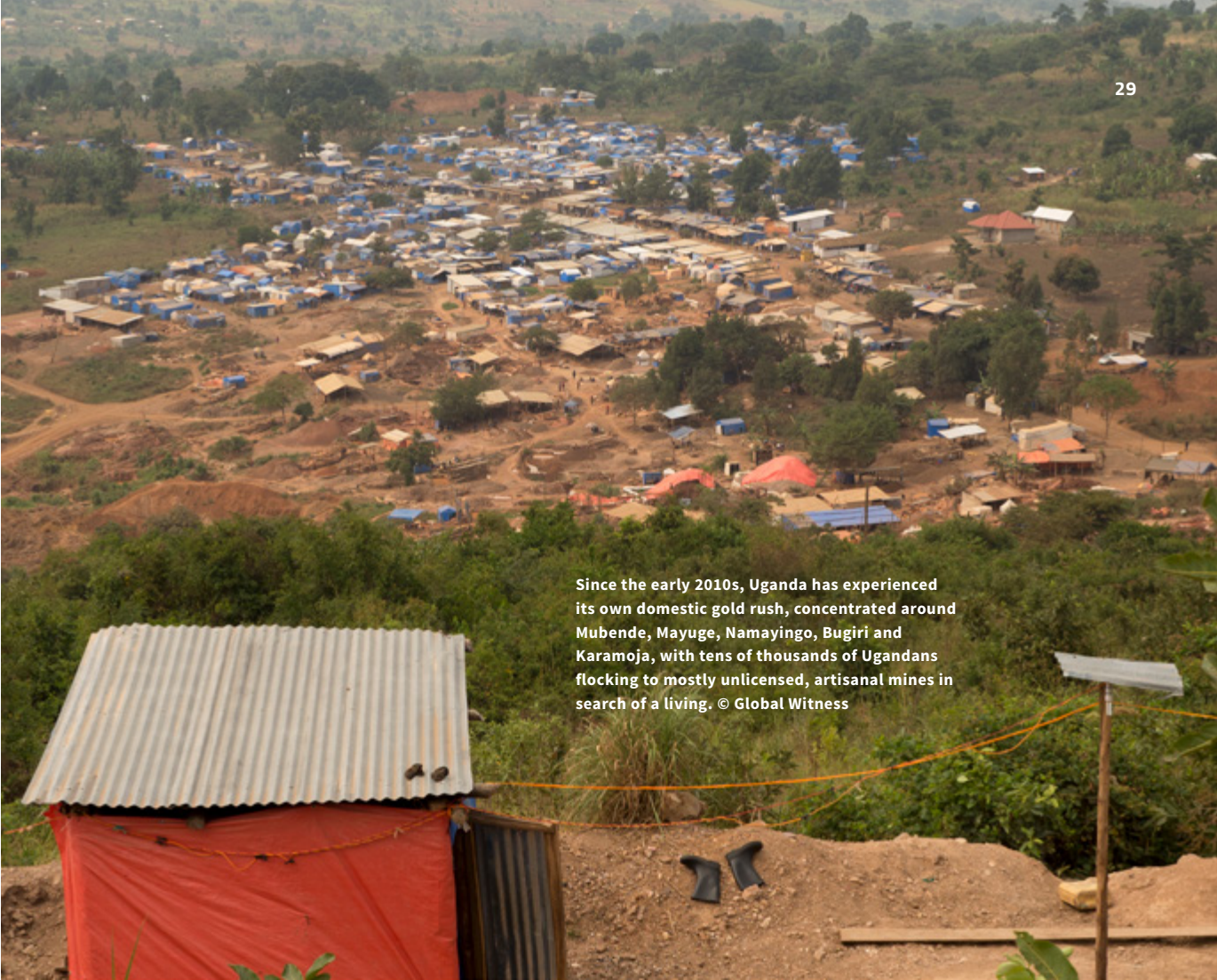
Estimates suggest there are currently at least 50,000 artisanal gold miners in makeshift camps dotted on hillsides around the country. It is thought that they mine around three tonnes of gold per year. Yet the DGSM only

recorded 93Kgs of gold production and export in 2015/16. Reports from the Customs and Excise Department of Uganda Revenue Authority indicated that 5,316Kgs of gold had been exported with a total value of US\$195 million during the same period – the majority of which was recorded by AGR. This discrepancy in official government figures suggests import and production under-reporting on an epic scale leading to lost revenues, and suspected smuggling. Put simply, while we can now see how much gold is leaving the country, its origin and the conditions under which it was mined and traded are still unclear. We asked AGR to provide us with detailed information on the origin of the gold the refinery processes but the company did not provide it.

AGR told Global Witness that “AGR is not a trading company but a service company providing industrial services such as assaying, melting, refining, and the shipment and delivery of precious metals. AGR does not trade in any precious metals.” It added that the company “is therefore exempted from certain taxes and royalties that only apply to mineral exporters.” However, Global Witness analysis of the URA export figures show that for the vast majority of official exports, while the company name is ‘African Gold Refinery Limited,’ the exporter name recorded is ‘Goetz Gold LLC’ and ‘AGOR DMCC.’ Other exporters include ‘Belgian Precious Metals Indust’ and ‘Alain Goetz.’ It appears therefore that related companies are trading in gold. See box “Gold that may fund conflict” and the annexes for further details.



African Gold Refinery has processed over US\$200 million worth of gold. The company has only paid half a million dollars in taxes and has failed to disclose the origin of the gold. © Global Witness



Since the early 2010s, Uganda has experienced its own domestic gold rush, concentrated around Mubende, Mayuge, Namayingo, Bugiri and Karamoja, with tens of thousands of Ugandans flocking to mostly unlicensed, artisanal mines in search of a living. © Global Witness

3.1.2. AGR’S TANGLED WEB

A shock story in Ugandan state owned newspaper Sunday Vision in August 2016 revealed that a gold refinery near the airport in Entebbe had been exporting millions of dollars’ worth of gold under a significant tax holiday. Global Witness can reveal that African Gold Refinery (AGR) has processed and exported over US\$200 million worth of gold from Uganda, paying only half a million dollars in tax and failing to publish information about where it came from. In a letter dated January 2017, Edwards Katto, the DGSM Commissioner, told Global Witness that the DGSM “has not issued any export permits” to AGR.

The names and backgrounds of the people behind AGR, detailed here, reveal how politically allied businessmen can bend the rules with impunity, and make a fortune in the process:

NAME: ALAIN GOETZ
POSITION: OWNER OF AGR

BACKSTORY AND POLITICAL CONNECTIONS: Tony Goetz was a famous Belgian dealer of Congolese gold. During the 1990’s, Tony and his son Alain reportedly dominated gold exports from the Congo through their networks to

Belgium and later Dubai. Alain Goetz is the CEO of AGR and according to a February 2017 AGR press release the 100% owner of the company.

NAME: BARNABAS TAREMWA
POSITION: FORMER BOARD MEMBER AND CONSULTANT AT AGR

BACKSTORY AND POLITICAL CONNECTIONS: Taremwa’s brother-in-law is Salim Saleh, the President’s brother (AGR told Global Witness in a letter dated January 2017 that Taremwa’s sister and Salim Saleh had divorced three years ago, seemingly in an attempt to distance themselves from the General, but Salim Saleh told Global Witness “Barnabas Taremwa is still my brother-in-law and it is false and an insult to me for you to state that I divorced his sister.”) Both Taremwa and Saleh have been named in separate UN Group of Experts Reports for their role in the export of commodities from the Congo including gold – further details are included above and in the annexes. Salim Saleh told Global Witness that “I know that Barnabas Taremwa is an independent businessman who has invested in agro-industry, ranching and commercial farming: he never involved me in any of his aforesaid businesses.” He added that entities do not need first family support to

get incentives for value addition investment in Uganda as it is “a well-published and transparent Ugandan government policy to grant such incentives.”

NAME: RICHARD KAIJUKA
POSITION: CHAIRMAN OF AGR

BACKSTORY AND POLITICAL CONNECTIONS: Kaijuka is a former Energy Minister and childhood friend of the President. He is Vice Chair of the Chamber of Mines and Petroleum and owns gold exploration licences across Uganda including on the border with Congo. Kaijuka told Global Witness that he had ceased mining exploration in these areas over three years ago. Kaijuka told us that Global Witness is “absolutely wrong to State that AGR is operating because of my friendship with the President or because Salim Saleh (a brother-in-law of Barnabas Taremwa) was involved. Salim Saleh may not even know where AGR is located or know of its existence.”

According to local media reports and documents seen by Global Witness, in April 2014, AGR was granted a tax exemption by the Ministry of Finance on all minerals it refined and exported. The company processed 9 tons of gold during 2016 helping to make gold Uganda’s second largest export after coffee. The tax exemption and unpaid taxes were estimated by the Sunday Vision in August 2016 to have cost the taxpayer 84bn Uganda Shillings (almost US\$25 million). According to an AGR press release from February 2017 the company has paid a total of US\$515,000 in taxes since they started their operations. AGR told Global Witness that “all duties are correctly paid by AGR as per our formal agreement with the government of Uganda.”

Barnabas Taremwa told Global Witness in a phone call in November 2016 that he had helped arrange the tax exemption on behalf of AGR in 2014 and that the gold the company exported came from across the region, including South Sudan, the Congo and Uganda. This raises three serious concerns. Firstly, and most obviously, that AGR - a company with such close connections to the President - was able to negotiate significant tax breaks in the first place. Secondly, that the refinery appears to accept gold originating from high-risk areas and conflict zones, without conducting adequate supply chain checks. And thirdly, that the refinery could be purchasing gold from unlicensed dangerous mining sites in Uganda which are not declaring their production. AGR told us that it does not have direct control over the working conditions of local mines in Uganda but that it is setting up a unit to work with small-scale miners, and is already working with government, to improve conditions. Global Witness wrote to President Museveni but did not receive a response.



© Global Witness

GOLD THAT MAY FUND CONFLICT

In 2010 Uganda signed the Lusaka Declaration of the International Conference on the Great Lakes Region (ICGLR) Special Summit to Fight Illegal Exploitation of Natural Resources. The ensuing ICGLR Regional Certification Mechanism (RCM) requires companies mining or trading minerals from member states to undertake due diligence to the OECD standard in order to receive a certificate for export. As such, AGR should have been required to document and publish details of careful supply chain due diligence efforts to ensure that the gold they process does not contribute to conflict or human rights violations. The due diligence process is designed to enable responsible trade from high-risk areas to continue, while spotting red flags such as the risk of conflict financing. In a letter dated January 2017, AGR stated that all suppliers have the necessary authorization to operate as miners or mineral dealers and they need to sign a statement that the gold they supply is not conflict gold. They also stated that they check that suppliers are not listed on any official sanctions lists and that “AGR is establishing a robust compliance system in line with the OECD guidelines.” The company did not provide us with due diligence reports or proof of origin for the gold as we had requested.

The role that the artisanal gold trade has played in long running conflict in eastern DRC, as armed groups vie for control of mines and trading routes to fund their activities, has been well documented. In a similar, but less well-documented way, the South Sudanese gold market is unregulated, uncontrolled and has been operating across weak borders with neighbouring countries for many years. The impact of the trade on the recent conflict has not been well documented.⁹



Mine site in Eastern DRC, where the sale of minerals has been used to fuel conflict and human rights abuses. © Global Witness



© Global Witness

3.1.3. THE SWEET DEAL GOES SOUR

In August 2016, it was reported that AGR was being investigated by the Inspector General of Government (IGG) in relation to payment of taxes and royalties, something which Global Witness verified with the IGG at the time. Global Witness has also seen a letter to the company records office from the IGG, dated 15th July 2016, headed, “Alleged aiding and abetting by government officials of fraudulent issue of mining concessions to African Gold Refinery limited.” The letter requests access to documents to facilitate the IGG investigation. AGR told Global Witness in a letter that the New Vision did not contact AGR during its research and published “mostly incorrect and potentially libellous information.”¹⁰ According to AGR the IGG conducted their audit of AGR in September 2016 and “recorded no adverse or negative issues with their business.”

The IGG has taken on politically unpopular investigations in the past and is a potential beacon of hope in Uganda’s fight against corruption. However, the decision to challenge the people behind AGR was a particularly brave one. In October 2016, shortly after AGR ran into troubles with the Ugandan authorities, Taremwa filed a court case against AGR arguing that he had been cut out of the deal and that he deserved a share in the company for his role in negotiating the tax break and supply for the refinery. AGR told Global Witness cooperation with Taremwa ceased in February 2016.

The President has since officially opened the refinery in Entebbe in February 2017. He made a commitment to waive taxes on gold produced in, and which transits through, Uganda in what he described as an attempt to prevent smuggling of unprocessed gold and promote the refinery.¹¹ This will provide a strong incentive for regional gold to be channelled through African Gold Refinery before making its way into international markets. However, it is not clear that it will lead to an improvement in the recording of production and imports and it will certainly undermine potential tax revenues for the government. While the refinery will add value to the gold in Africa, it is foreign owned and only employs 75 people. It remains to be seen whether the company’s tax contributions will increase in future.

3.1.4. RECOMMENDATIONS

1. The IGG should complete its investigation into the tax waivers granted to AGR, and the role that the politically connected people named in this report played in acquiring them. The investigation should also look into the origin of the gold and its legality. The findings should be made public.

2. The tax exemptions granted to AGR should be reviewed by parliament and civil society to assess whether they offer good value for the Ugandan economy and the taxpayer.

3. AGR should publish information on the volume and country of origin of its annual gold purchases. AGR should also conduct supply chain due diligence



Gold has been used by rebel groups in Eastern Congo to fund conflict for years. There is a risk that gold which makes its way into the refinery could be contributing to this problem. © Global Witness

on the gold it purchases or processes and report publicly and on an annual basis on its efforts, in line with the OECD Due Diligence Guidance. This should include information on risks identified and how these have been addressed. Goetz Gold LLC and AGOR DMCC, as government recorded exporters of gold from Uganda, should also meet these standards.

4. Entities in any jurisdiction that supply gold to, buy from, or otherwise engage the services of, AGR should require AGR to conduct supply chain due diligence and publicly report in line with the OECD standards and request evidence that they are being met. Those entities should themselves carry out supply chain due diligence and report publicly on their efforts, in line with the OECD Due Diligence Guidance.

5. The Ugandan government should publish up to date disaggregated gold production, import and export statistics, and introduce a supply chain due diligence law for all companies operating in its mineral sector, in line with its commitments under the 2010 Lusaka Agreement.

6. A review of the state of the artisanal and small-scale mining (ASM) sector should be conducted with a view to putting regulation in place to improve health and safety, environmental protection, and tax collection.

7. The DGSM and/or relevant oversight bodies such as the OAG should inspect exploration licence sites to ascertain whether mining is taking place in contravention of the licence agreements.

8. The international community should urgently consider the impact of Uganda’s gold trade on conflict in both the DRC and South Sudan, and should ensure that all companies operating in their jurisdiction that source gold directly or indirectly from Uganda carry out supply chain due diligence, and publicly report on it, in accordance with the OECD Due Diligence Guidance.

9. Buyers of gold originating in Uganda should conduct careful due diligence, in line with the OECD standard which Uganda has endorsed, on the supply chains to ensure that gold which may have funded fighting or human rights abuses does not enter international markets.

10. Further investigations should be conducted into smuggling of minerals in and out of Uganda from neighbouring countries and Entebbe. These investigations should include looking at Uganda’s role as a transit country for Congolese minerals and allegations that companies and individual may be certifying foreign minerals as Ugandan disguising their true origin.

11. Any entities found to be breaching Ugandan law or international conventions relating to supply chain due diligence and conflict minerals should be prosecuted or held to account. Reference should be made to the UN Group of Experts list of sanctioned individuals and entities.



On a visit to Tororo in August 2016 Global Witness met a blind man in his 80s who explained that having invested his life savings into land and crops he could no longer afford to send his children to university with the compensation he had received. © Global Witness

3.2. SUKULU PHOSPHATE PROJECT

*When the elephants fight,
it is the grass that gets hurt.*
– African proverb.

The Sukulu phosphate project is probably the most graphic illustration of how reportedly fraudulent licensing and political influence is perverting Uganda’s mining sector. The US\$560 million investment - the largest in Uganda’s mining sector in recent years - should have brought jobs, infrastructure and economic growth. Instead, hundreds of ordinary Ugandan families have been forced off their land and into worse poverty and the official licensing process has been utterly abused. Mining is yet to commence at the site.

In August 2016, shortly after the Inspector General of Government (IGG) produced a report into the apparent fraudulent issuing of an exploration licence for the Sukulu phosphate project to Chinese mining company Guangzhou Dong Song (hereafter shortened to Guangzhou), Global Witness visited the Tororo district of Eastern Uganda, where the project is located. We met local residents who, having been evicted from their homes, have raised serious complaints to the Speaker of Parliament about intimidation and under-compensation. A couple with ten children described how they could no longer feed and clothe them with the money they had received. A blind man in his 80s explained that having invested his life savings into land and crops he could no longer afford to send his children to university. We spoke to around 50 other residents who all had similar stories to tell. Furthermore, in March 2016 the High Court directed the government to pay damages to the former licence holder for “illegally” denying them a mining lease for the same area. Despite the problems surrounding the investor, the President has continued to pledge his support for the project.

SUKULU PHOSPHATE PROJECT TIMELINE

KEY

- NILEFOS
- FRONTIER
- GUANGZHOU DONG SONG (HUI NENG)
- SUKULU SITE

15 AND 17 APRIL 2013

Guangzhou enters legal agreement with Osukuru Rubongi Land Development Advocacy Organisation (ORLDAO) to negotiate land rights for the Sukulu phosphate project area.

APRIL AND MAY 2013

According to letter from ABMAK to the Permanent Secretary, Guangzhou paid US\$1 million to Hon Ekanya and ORLDAO.

MAY 2013

Residents sign documents with ORLDAO giving them exclusive permission to negotiate land rights on their behalf and 10% of the future compensation.

NOVEMBER 2013

Residents sign documents with local government officials revoking their permission for ORLDAO to negotiate on their behalf.

17 MARCH 2014

ABMAK writes to the Permanent Secretary on behalf of Guangzhou complaining that ORLDAO and Hon Ekanya had failed to fulfil their agreements with the company despite the payments made to them.

31 MARCH 2014

President appoints a Steering Committee to oversee compensation and re-settlement.

AUGUST 2014

Guangzhou signs surface rights agreements with residents which chronically under-compensate them (relative to 2013 official district rates) for lost crops in a process that denies them collective bargaining power.

APRIL 2015

Residents submit petition to the Speaker of Parliament complaining about their treatment and the compensation process.

2005

AUGUST 2005

Nilefos awarded Exploration Licence for Sukulu phosphate project.

2012

FEBRUARY 2012

Government representative quoted, in Cabinet meeting later disclosed in court, stating that “since the Madhvani lease period is lapsing in June.... Government could wait until the agreement collapses naturally” before handing the rights to the Chinese.

2013

MARCH 2013

According to internal government memo, deal with Guangzhou originates from “common consensus reached” between President Museveni and President Xi Jinping of China at BRICS meeting in Durban.

7 MAY 2013

Nilefos submits application for Mining Lease for Sukulu phosphate project.

JULY 2013

Nilefos exploration licence expires. Company fails to secure Mining Lease. Company subsequently takes case in the High Court.

1 AUGUST 2013

Guangzhou awarded Exploration Licence for Sukulu phosphate project.

SEPTEMBER 2013

Uganda enters into MOU with China for US\$560 million Sukulu phosphate project.

2014

26 JULY 2014

Frontier alleges it attempts to file an application for an exploration licence at the DGSM but is turned away. Company subsequently complains to the Inspectorate of Government (IGG).

29 OCTOBER 2014

Guangzhou awarded Mining Lease for Sukulu phosphate project.

2015

2016

MARCH 2016

Court orders government to pay damages to Nilefos.

AUGUST 2016

Details of comprehensive investigation by the IGG made public stating that Guangzhou appears to have received its licence fraudulently.



The Inspector General of Government [pictured here] produced a damning report in mid-2016 that alleged that Guangzhou's exploration licence processing had been "apparently fraudulent". The DGSM Commissioner told Global Witness that the report has since been retracted following further investigations. © Daily Monitor

3.2.1. GUANGZHOU DONG SONG'S POLITICAL MANOEUVRING

On 1st August 2013, Hui Neng, the Ugandan subsidiary of Guangzhou, received an exploration licence for the Sukulu phosphate mining site.¹² The license area had previously belonged to Nilefos, a company with close links to the prominent Madhvani family, which had been granted it in August 2005 but had struggled to resolve land disputes with local communities and had therefore not begun operations.¹³

Nilefos' license expired in June 2013 but it appears that Guangzhou had been manoeuvring behind the scenes for some time and had secured political support at the highest levels. According to an internal government memo written by Edwards Katto, the current DGSM commissioner, and seen by Global Witness, the deal with Guangzhou "originated from the common consensus reached" in a meeting between President Museveni and China's President, Xi Jinping, at a BRICS meeting in Durban in March 2013. This was almost three months before Nilefos' licence expired. Other evidence suggests that the origins of the deal go back even further. Global Witness wrote to Nilefos and President Museveni in December 2016 but never received a response.

According to Guangzhou Dongsong's vice-president Mao Jie, the project was 'set to be accelerated by China's strategy of "One Belt and One Road." 'One Belt and One Road,' known also as OBOR, is President Xi's ambitious

flagship foreign policy programme to stimulate trade and economic growth with countries in Asia and beyond. As will be set out below, the way in which the Sukulu project has been implemented by Guangzhou raises questions about whether it is living up to the positive underlying principles and goals of OBOR.

3.2.2. CHALLENGES TO GUANGZHOU'S CLAIM

After the Guangzhou group was awarded the licence, Nilefos and a third company, Frontier Exploration Ltd., which had also attempted to apply for a licence at the same time as Guangzhou, both claimed that they were unfairly treated. They raised complaints of illegality and irregularities in the way that Guangzhou had received its licence.

Nilefos has alleged that the decision to issue the licence to Guangzhou was made months before Nilefos' licence expired. The High Court ruled in March 2016 that the government was to pay damages to the company.¹⁴ Frontier sought remedy first through administrative review and then took its evidence to the IGG. They also took an action against the government in the High Court.¹⁵ These legal challenges, which have bought valuable evidence into the public domain, could see the government face compensation claims amounting to millions of dollars. Global Witness wrote to Guangzhou Dong Song in December 2016 but never received a response.

3.2.3. INSPECTOR GENERAL OF GOVERNMENT REPORT

A leaked report from the IGG concluded that Guangzhou Dong Song apparently received its exploration licence fraudulently. The implication is that political interference may have played a part.

According to the state-owned New Vision newspaper, in an article available on the IGG website, the IGG wrote to the President on the 20th of July 2016 to alert him to the flaws discovered in the award of an exploration licence to Hui Neng which are detailed in a report. Global Witness has obtained a full copy of the report which states that the DGSM Commissioner Edwards Katto and another more junior government official "should show cause as to why they should not face disciplinary action for knowingly facilitating the apparent fraudulent processing" of Hui Neng's exploration licence application.¹⁶

The report details a number of comprehensive failings in the licensing process including:

- DGSM officials, allegedly at the request of the Commissioner, refused to accept Frontier's application for an exploration licence for the Sukulu site.
- Guangzhou, under its subsidiary Hui Neng, failed to get their application approved by the relevant government official, which is, according to the Tororo District CAO, required by law.
- The Minister of Energy failed to respond to written requests by Frontier for an administrative review of the decision.

The IGG concludes that "the application in question is ... likely to have contained falsified dates and times to

facilitate its clearance at the DGSM." The report goes on to state that the irregularities in the application "strongly suggests that both the Ag. Commissioner in charge of the DGSM at the time" and another more junior government official were complicit in "fraudulently facilitating the processing of the application of M/S Uganda HuiNeng."

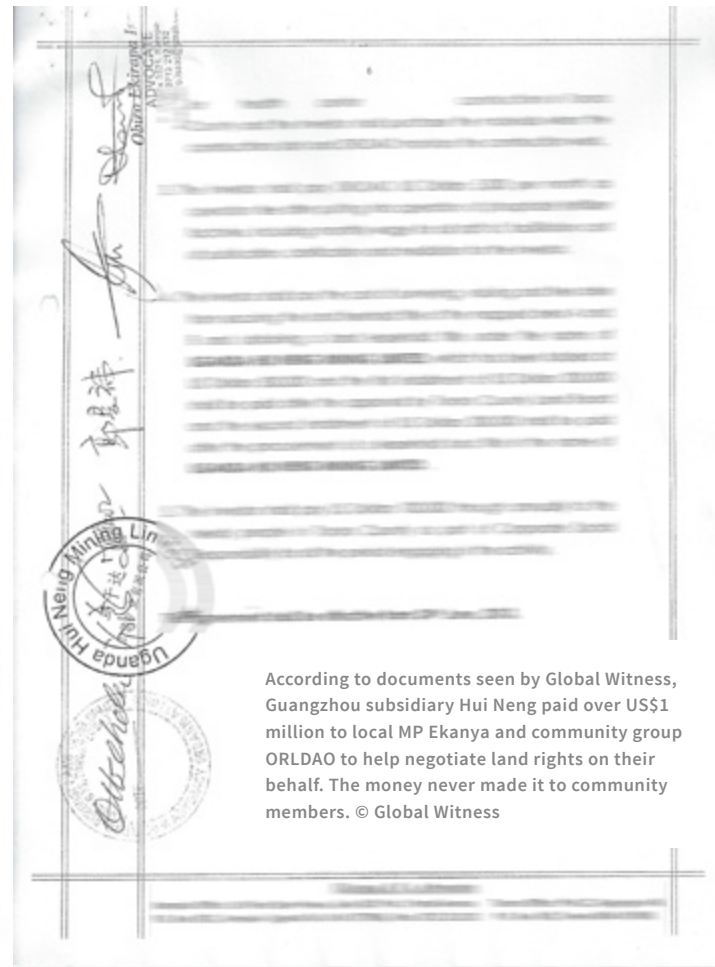
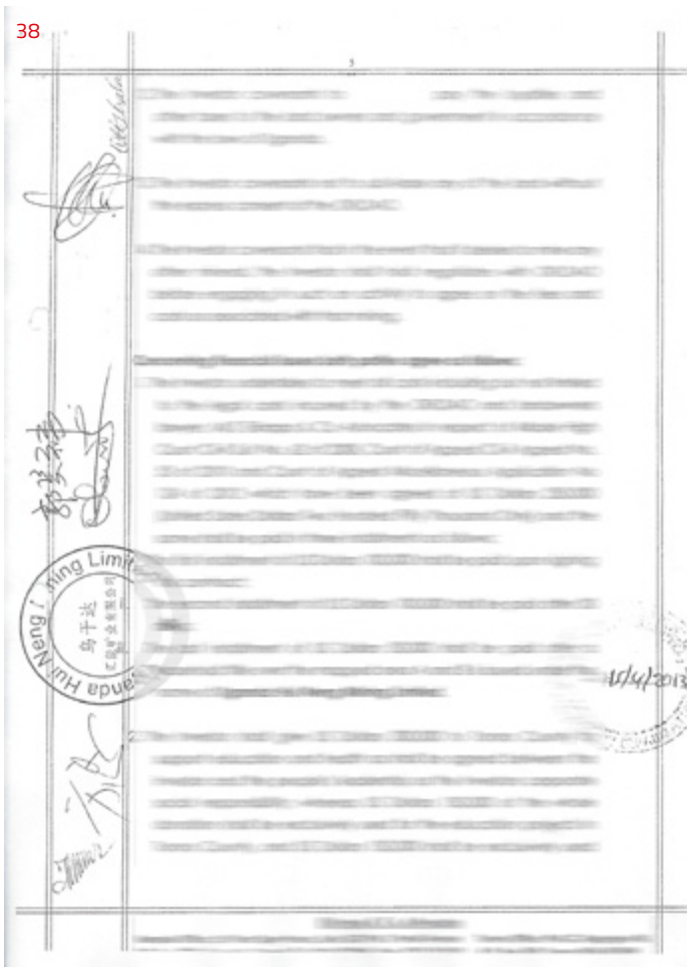
Museveni met with Guangzhou representatives on the 1st August 2016.¹⁷ The Red Pepper newspaper reported on August 8th that the IGG had been summoned to State House by an angry President Museveni who criticised her for the Sukulu report. In a letter dated January 2017, the DGSM Commissioner told Global Witness that the IGG had retracted the report following further investigations by the Ministry of Energy and Mineral Development.

This appears to be a clear illustration of how political influence undermines laws and regulations. It also raises serious concerns about whether corruption was at play. It appears that Guangzhou may have courted the government via Fang Min, a famous Kampala based Chinese fixer, and that the company invited the DGSM Commissioner's daughter to Guangzhou (China) in December 2014.

It is also notable that ABMAK, a law firm run by Henry Kaliisa, son of the Permanent Secretary (PS) to the Energy Ministry, that was previously acting on behalf of Nilefos, began acting on behalf of Guangzhou in October 2013 after the company had received its exploration licence. Nilefos raised the family relationship between Henry Kaliisa and his father in its court submissions as a possible conflict of interest. The PS told Global Witness that he had "never made any decision in favour of any clients of ABMAK Associates" and that any claims of conflict of interest were therefore false. Denis Kusaasira of ABMAK told Global Witness that there was no conflict of interest as the PS does not take part in decision making under the Mining Act.

Some local residents, who had received compensation, claimed they could no longer grow enough crops to get by and instead break rocks at the side of the road.
© Global Witness





According to documents seen by Global Witness, Guangzhou subsidiary Hui Neng paid over US\$1 million to local MP Ekanya and community group ORLDAO to help negotiate land rights on their behalf. The money never made it to community members. © Global Witness

PAYING THE LOCAL MP TO WIN OVER THE COMMUNITY

It seems that gaining support from senior government and political figures was central to Guangzhou's strategy but so was winning over the community at the site. Guangzhou knew that Nilefos had been struggling to secure land access and that resolving this issue was key to successfully gaining mineral rights. Guangzhou therefore set about ensuring that it secured the community's support for its bid and Nilefos didn't.

Guangzhou signed two agreements with local community group Osukuru Rubongi Land Development Advocacy Organisation (ORLDAO), for whom local MP, Hon Ekanya acted according to letters from ABMAK, in the months before Nilefos' licence expired. In these documents ORLDAO agreed to negotiate exclusive land rights for Guangzhou with local communities and handle compensation in return for payment by the company. Letters from ABMAK, Guangzhou's lawyers, to the Ministry of Energy and Mineral development seen by Global Witness allege that Fang Min, Executive Director of the Guangzhou subsidiary, paid over US\$1 million to ORLDAO and Hon Ekanya between April and May 2013, before the Nilefos licence expired. According to ABMAK/Guangzhou the payments were for legal costs, the "needy" of the county and administration/ consultancy costs. Ekanya

told Global Witness that he had never received any payments from Guangzhou.

The community group in turn signed agreements with community members to secure their loyalty to Guangzhou making it difficult for Nilefos to secure a mining lease.

According to the letters from ABMAK, ORLDAO and the local MP failed to keep up their side of the bargain, much to the annoyance of Guangzhou who complained to the DGSM Commissioner. Global Witness does not accuse Ekanya of corruption. However, this whole process raises serious concerns about the conduct of Guangzhou, which appears to have hoped to resolve the problem of land rights by making payments to the local MP and community representatives. The payment of hundreds of thousands of dollars by a private company to a democratically elected representative raises the question of whether this was an attempt to induce them to support their bid over that of another private company. Equally, it could be considered as a set of legitimate payments made to represent them in negotiations and secure the support of the local community. ABMAK made it clear to Global Witness that the alleged payments were made before Guangzhou became ABMAK's client and that they played no role in the payments themselves.



Residents were taken to Rock Classic Hotel and asked to sign the Surface Rights Agreements. Many of them told Global Witness they did not understand the contracts and some used thumbprints rather than signatures. © Global Witness

3.2.4. STRONG-ARMING THE LOCAL COMMUNITY

Guangzhou was granted its mining lease on 29th October 2014, however the issues with the local community (which had plagued Nilefos) were still not resolved. The company held discussions with community members, and the government established a steering committee and commenced surveying. However, after a short time the company and its lawyers decided to focus on picking individuals out and pushing them to sign contracts handing over leases for their land. This is how David, who we met in the Executive Summary, came to be plucked out of his classroom and asked to sign a contract he hadn't read.

Global Witness visited the Sukulu area in August 2016 and met over 50 villagers like David who had signed Surface Rights Agreements with Guangzhou. All of them told the same story. Local 'middlemen' had come to pick them up and take them to the Rock Hotel Classic in Tororo. When they arrived they were met by a group of company representatives, headed by ABMAK partner, Dennis Kusaasira. They were presented with UGX 500,000 (approximately US\$140) and a contract and told that if they signed they would be given the money as a goodwill gesture and further to that fair compensation for their land and crops.

Most of the people we spoke to said they were unable to either read or understand the terms of the contract, and many of them used a thumbprint rather than a signature. Many of them told us that they felt intimidated by local officials and obliged to sign or risk losing their compensation. All of them said they thought that the agreement was for 21 years not 99, and that they felt cheated by the company.

A number of landowners also complained they had not received the correct compensation for their crops. Global Witness analysed a sample of 80 of the 123 Surface Rights Agreements we got hold of and found that while the landowners did appear to receive fair to generous rates for the land itself, the compensation for crops was indeed much lower than the official 2013 District compensation rates, leaving landowners significantly poorer overall.

Denis Kusaasira has defended the compensation paid in several newspaper articles. In a letter dated January 2017 to Global Witness, he asserted that the landowners should have understood their surface rights agreements as they have a certificate of translation signed by area local authorities, which clearly indicate that the agreements were read over and explained to each landowner in a language they understand. However, the local government official who signed the relevant annex told Global Witness that the compensation was



Denis Kusaasira, a prominent Kampala based lawyer, personally signed every single one of the surface rights agreements that Global Witness has seen. © Global Witness

undervalued and that people didn't really understand the contracts. Kusaasira's letter also states that the rates used were those approved by the Chief Government Valuer which is proper practice. He pointed out that the affected communities had successfully defended themselves in the past.

In April 2015, residents submitted a petition to the Speaker of Parliament raising their concerns about the process and content of the agreements. They noted that the fact that they were dealt with individually by middlemen, rather than as a group, fundamentally undermined their ability to negotiate collectively. At the time of writing they were yet to receive a formal response and their situation grows more desperate by the day.

The CEO of prominent Kampala based law firm, ABMAK Associates, is Henry Kaliisa the son of the former Permanent Secretary to the Ministry of Energy and Mineral Development.

DENNIS KUSAASIRA AND ABMAK ASSOCIATES

One of the most remarkable things about the Sukulu case is the role of Denis Kusaasira, Managing Partner at ABMAK Associates, formerly known as Kusaasira & Co. Advocates, the law firm run by the son of the Permanent Secretary to the Energy Ministry, Henry Kaliisa.

Kampala-based, foreign educated Kusaasira is an advisor to the Ugandan Chamber of Mines and Petroleum and has been involved in some of the largest deals in the country. He took it upon himself personally to sign every single Surface Rights Agreement that Global Witness has seen which appear to have systematically under-compensated residents when compared with official district rates. Kusaasira's other business activities are covered in more detail in this report.

3.2.5. RECOMMENDATIONS

1. The government should review the legality of the compensation agreements that were signed and the rates contained in them. The government should also explain why no official rates were issued for Tororo District in 2014. Any shortfall in the compensation given to affected persons should be made up by the company and arrangements made to ensure that they are no worse off than they were before they were moved from their homes.

2. The process for negotiating compensation should also be investigated including the alleged payments made to Hon Ekanya MP and ORLDAO. This should include the role played by ABMAK.

3. The IGG's recommendations should be acted upon and Guangzhou's licence should be revoked until a thorough public investigation into how Guangzhou came to get its licence has been conducted and published.

4. Measures should be put in place to ensure that communities provide Free Prior Informed Consent for future mining projects, that companies undertake proper sensitisation and consultation process, and that communities receive fair and adequate compensation for their land, homes and crops. They should also be offered the option of resettlement.

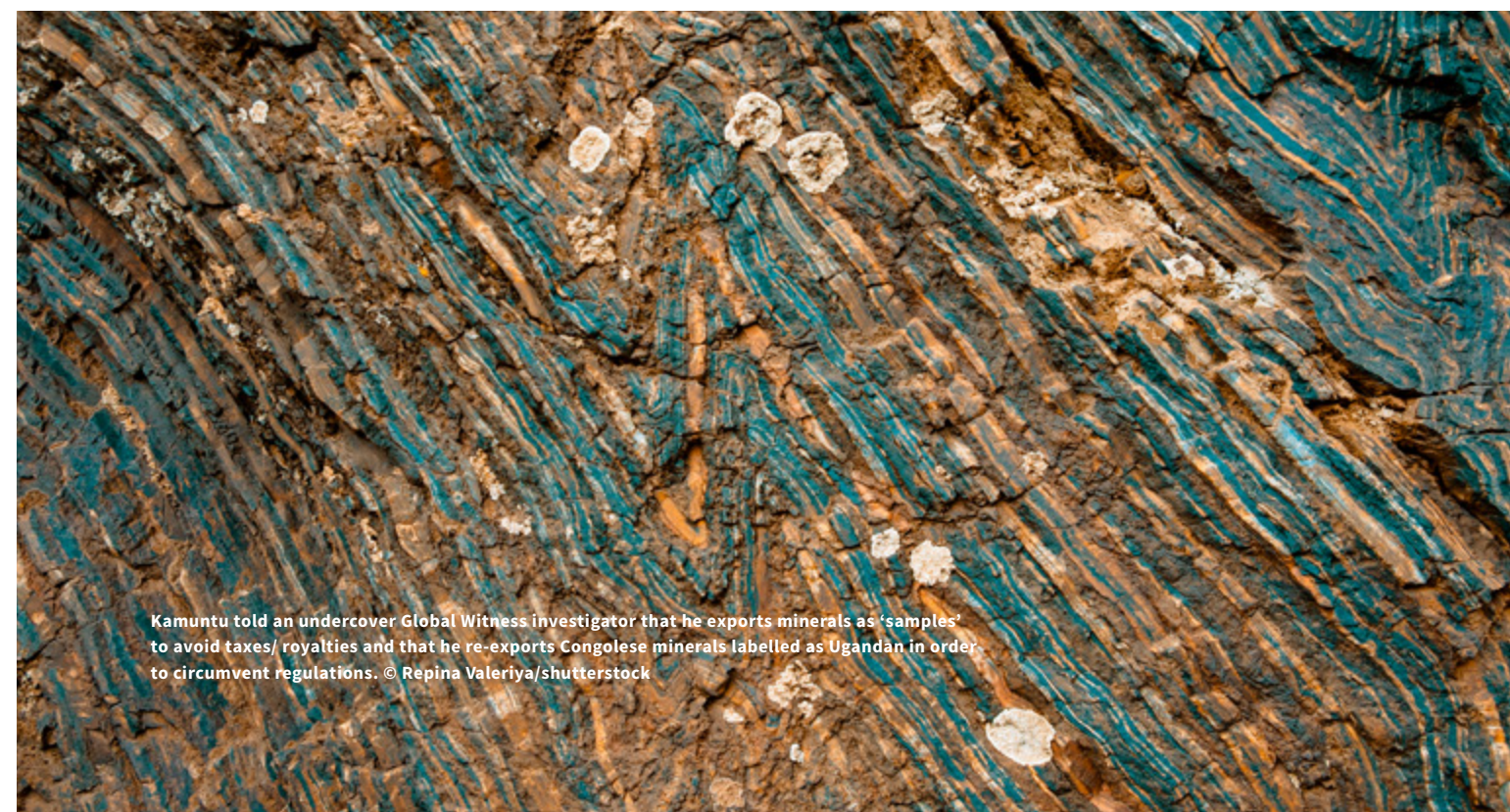
5. Plans by the government to amend the law to allow the government to take control of privately owned land, which is subject to an investor related dispute prior to compensation being granted, fundamentally undermine the right to own property and should be dropped.

3.3. MOSES KAMUNTU'S IRON ORE SCAM

"Iron ore export is limited to my company. Don't ask me how I can do that: that is personal."

– Moses Kamuntu

It is not only highly politically connected elites and major foreign investors who get access to the President and those around him as part of a strategy to circumvent official regulations. Moses Kamuntu's case shows how even Ugandans with less obvious political connections can gain the support they need to flout the law at the expense of ordinary citizens. He allegedly paid US\$10,000 to a third party to get a meeting with the President; got permission to circumvent a presidential ban on iron ore exports; avoided taxes/ royalties by exporting minerals as samples; and dodged regulations in order to re-export Congolese minerals labelled as Ugandan.



Kamuntu told an undercover Global Witness investigator that he exports minerals as 'samples' to avoid taxes/ royalties and that he re-exports Congolese minerals labelled as Ugandan in order to circumvent regulations. © Repina Valeriya/shutterstock



3.3.1. \$10,000 FOR A MEETING WITH THE PRESIDENT

Global Witness has obtained a number of documents that show that Mr. Moses Kamuntu has been able to avoid a presidential ban on iron ore exports and continued to ship out thousands of tonnes under a major international contract worth millions of dollars. He also claims to have avoided taxes/royalties by exporting minerals as “samples.” At the time the documents were signed, Kamuntu only had two location licences, which are intended for small-scale miners not international operations, and two exploration licences in his own name. This raises questions about whether he was breaching licence conditions.

It is clear from the documents that Kamuntu was operating with the full knowledge of the DGSM and other government agencies, which issued him with permits and licences. However, the DGSM Commissioner told Global Witness they had never issued Kamuntu with an export permit for samples. What is more astonishing is that Global Witness has seen a letter from the President himself granting Kamuntu permission to continue exporting in line with his contract, despite a countrywide ban on iron ore exports.

When an undercover Global Witness staff member spoke to Kamuntu in November 2016, he claimed that he continued to export 10,000 tonnes of iron ore a month out of Uganda under the waiver he received from the President. He told us he ships out minerals as “samples” in order to avoid taxes. He explained that he was the only person in Uganda able to export iron ore. He also told Global Witness that he deals in minerals originating from the DRC, labelling them as Ugandan to get around regulations. Kamuntu said that he exports tantalite from the DRC, labelling it as iron ore to pay less tax. If this is true then conflict minerals from Eastern DRC could be entering the international supply chain via Kamuntu’s shipments.

Perhaps most remarkable of all is the fact that Kamuntu told us that “as a local person” he had paid US\$10,000 to a third party to get a meeting with the President, in order to seek the permission he needed to continue with his business. (The price for foreign investors is US\$15,000, according to Kamuntu.) A letter from the President to the Mining Minister explains that the two met at a private Chamber of Mines and Petroleum event. Global Witness wrote to President Museveni and Mr Kamuntu in December 2016 but never received a response.

It is not clear from the Presidential letter, or the other documents obtained by Global Witness, that the President was aware that Kamuntu may have been avoiding taxes or whether he knew the type of licences the iron ore came from. However, the fact Kamuntu claims to have ‘bought’ time with the President and used it to oil the wheels of illicit business raises serious questions about the way Uganda’s mining sector is managed and the deleterious effect on tax collection.

Global Witness has also received information which appears to show that Kamuntu has been fraudulently using the presidential waiver to export iron ore to a different Kenyan company. Global Witness also has reason to believe that the DGSM has been made aware of this although the Commissioner told Global Witness that the “DGSM has not issued any import or re-export licenses to Mr. Moses Kamuntu and has not received any reports of illegal import or export of minerals.” Please see the annexes for further details.

RECOMMENDATIONS

- 1. All of Mr Kamuntu’s licences and permits should be temporarily revoked pending an investigation into his mining business, including the alleged export of minerals as samples and re-export of Congolese minerals.**
- 2. The government should conduct a thorough review of all ‘samples’ exports to ensure that others are not abusing this system.**
- 3. Serious steps should be taken to prevent minerals that may have funded fighting or human rights violations in the DRC from entering the supply chain registered as Ugandan. This should include tightening the processes around declaring minerals from mines sites in Uganda that could have come from elsewhere.**
- 4. Greater capacity is required at the DGSM to make sure that sites are visited regularly and taxes are collected. Better monitoring and oversight of the process is needed to ensure that officials are not unduly influenced. The current system is grossly inadequate costing the tax payer dearly.**

CHAPTER 4: MIDDLEMEN, SPECULATORS, FIXERS AND BROKERS

Between the big men who exploit Uganda's mining sector with impunity and the corrupt officials at the DGSM, sits another group taking advantage of the systemic lack of transparency and oversight. A number of fixers and brokers have been using their connections to acquire large numbers of licences and sell them on to investors leading to a problem of speculation tying up licences. These fixers and brokers act as the interlocutors between the DGSM and international investors, and offer a veneer of respectability and investment security.

The 2012 Report (discussed in chapter 2) raised a number of concerns about speculation and licences being awarded inappropriately. Even after this report was handed to the Permanent Secretary at the Ministry of Energy and Mineral Development and discussed with the President, the licences named in the report were not revoked.

This speculation puts off bona-fide investors who conduct thorough due diligence and want to avoid inflated costs. Even those that do succeed in getting a licence in an above-board manner risk losing it to investors willing to play dirty. This undermines confidence and hampers investment, costing Uganda much-needed jobs and revenue and damaging its international reputation.

'FLIPPING' LICENCES AND SPECULATING

Flipping is a term that describes the process whereby an investor acquires a contract or licence with the sole intention of selling it on quickly at a profit without carrying out any activities. 'Speculators' acquire licences that they hope will increase in value so they can make money by selling them on. In a sector where major exploration investment is needed to prove commercial viability, the risks are high. Legitimate investors are likely to be put off by the higher costs of buying licences, and the risk of extortion and corruption associated with this kind of shadow system.

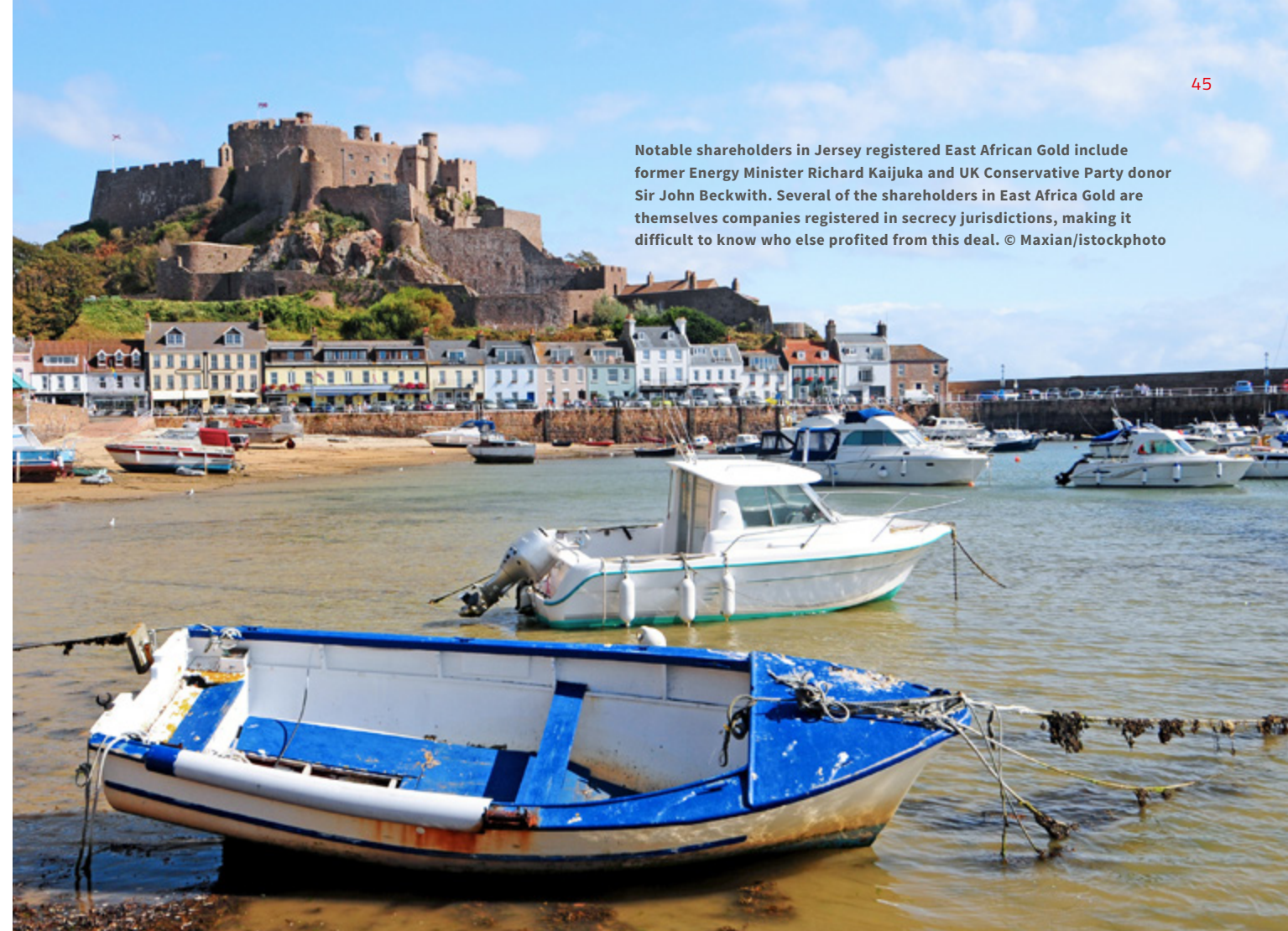
4.1. KATUMBA AND KUSAASIRA: A DEAL-DOING DUO

On a visit to the DGSM in November 2015, an investigator from Global Witness bumped into Jimmy Katumba. The renowned broker immediately boasted that if we were looking for a licence anywhere in Uganda, DRC or Burundi we were talking to the right man. Katumba and his lawyer and business partner, ABMAK's Denis Kusaasira, are some of the most prolific middlemen in Uganda's mining sector. They have used their connections at the DGSM to acquire dozens of licences before selling them on to local and foreign investors.¹⁸ At one point Katumba was so ingrained in the system that he even set up a desk at the DGSM to conduct his private business deals, "as if he were an employee," according to a source who knew Katumba's operation well.¹⁹

The two were also key figures in the attempt by little known Ugandan company East African Gold Sniffing Ltd. to secure the rights over Hima Cement's multi-million dollar cement processing plant. The scandal surrounding the affair ultimately led to the 2012 Report into licensing at the DGSM mentioned earlier in the report.²⁰ We wrote to Katumba and Kusaasira in December 2016, we received a response from the latter which we reference below and in the annexes.

4.1.1. GOLD HUNTERS AND FERRO MINERALS

On two occasions in 2011, companies associated with Katumba and Kusaasira, received 20 or more licences which were 'granted' on the same day.²¹ They did this through two companies, Ferro Minerals and Gold Hunters, both of which were incorporated by Kusaasira, and majority-owned by Katumba (Denis also owned shares in Gold Hunters).²² Kusaasira told Global Witness that approval of licences is a process and that although the licences were finally approved on the same day they would not have been assessed in a single day.²³ Both companies went on to sell the licences within months to wealthy Ugandan and foreign investors.²⁴ Several of the licences acquired by the two companies were named in the 2012 Report due to perceived irregularities.²⁵ However, Denis Kusaasira, in a letter dated January 2017, told Global Witness that while he had not seen the report himself he denied the specific irregularities and provided alternative explanations.



Notable shareholders in Jersey registered East African Gold include former Energy Minister Richard Kaijuka and UK Conservative Party donor Sir John Beckwith. Several of the shareholders in East Africa Gold are themselves companies registered in secrecy jurisdictions, making it difficult to know who else profited from this deal. © Maxian/istockphoto

In the case of Ferro Minerals the licences ended up in the hands of East African Mining Ltd (EAML), which is majority-owned by East African Gold plc in the British crown dependency of Jersey.²⁶ Notable shareholders in East Africa Gold include former Energy Minister Mr Richard Henry Kaijuka and UK Conservative party donor Sir John Beckwith.²⁷

The transfer handed over control of exploration rights for more than 1,700 square kilometres of land in the conflict-ravaged but mineral-rich Karamoja region.²⁸ Several of the shareholders in East Africa Gold are themselves companies registered in secrecy jurisdictions, making it impossible to know who else profited from this deal.²⁹ EAML told Global Witness in a letter that EAG Mauritius is wholly owned by EAG "so all shareholdings are registered at UK level" and that no Ugandans with a conflict of interest own shares.³⁰ Company documents show that Ferro appears to have got a stake in the venture via shareholdings in EAML.³¹ However, EAML told Global Witness that "Ferro received no shares in EAML and there was no request for or requirement for that as part of the transaction." EAML and Ferro told Global Witness that Ferro had "at the very least" conducted a desktop literature review, which "ordinarily forms part of exploration operations." EAML told Global Witness that

they "undertook normal due diligence on all licences" and sought assurances that the licences were in good standing.³²

In the case of Gold Hunters, corporate documents indicate Katumba and Kusaasira transferred the shares in the company, and therefore the licences they own, to Hursha Mining Limited, which is majority owned by wealthy British businessman, Mr Masrani Hasmukh Bhagwanji.³³ While transfers of licence from one company to another require the approval of the Commissioner it is not clear that this is the case for transfer of ownership of companies and therefore the licences they own.

4.1.2. GOLD SNIFFING AND HIMA CEMENT

Another company owned by Katumba and Kusaasira, East African Gold Sniffing Ltd, had only existed for three months when it was handed an exploration licence for an area that had been controlled for almost 20 years by Hima Cement, a subsidiary of French firm LafargeHolcim.³⁴ The licence also included a working factory that employed over 2000 people and fulfilled a significant proportion of Uganda's cement needs.³⁵ Gold Sniffing, as far as Global Witness is aware, employed no one other than its directors, Katumba and Kusaasira, and had never

The Hima plant produced a significant percentage of Uganda's cement needs.



conducted any mining or produced cement before.³⁶ The company formation documents were witnessed by Henry Kaliisa, CEO of law firm ABMAK where Kusaasira works.³⁷ Henry is the son of Fred Kabagambe-Kaliisa the then Permanent Secretary (PS) to the Ministry of Energy and Mineral Development.³⁸ Both Kusaasira, a partner in ABMAK, and the PS denied any conflict of interest on the basis that the PS is not responsible for decision making under the Mining Act and has not taken any decisions which favour ABMAK or its clients.³⁹

Hima's Mining Lease had lapsed for a few weeks in December 2011 and they had failed to renew it. Gold Sniffing stepped in and successfully applied for a licence immediately.⁴⁰ Lawyers for Hima allege that they had understood that their mining lease was due to expire in December 2012 and that DGSM staff did not make adequate effort to contact them before parcelling the area out to another company.⁴¹ It seems that Katumba, Kusaasira and their partners in the Directorate had seized the opportunity to get hold of the licence. Kusaasira told Global Witness that the judicial review had concluded that Hima's mining lease had expired under the law

and therefore Gold Sniffing had not committed any wrong by applying for an exploration licence.⁴² This all happened while Katumba allegedly had his own desk in the department. In practice, production at one of the country's largest cement producing sites was halted while Gold Sniffing was granted the rights to conduct exploration in an area where mineral deposits were already being extracted.⁴³

The decision by DGSM staff to issue an exploration licence to the little-known company on the site of a functioning mine makes little sense and did not seem to benefit the interests of the country. The fact that Gold Sniffing's licence was later revoked and a new one issued to Hima following a ministerial review raises questions about the way that licensing for the site was handled. Three staff members were suspended over the affair as a result of an internal review before returning to the department.⁴⁴ We wrote to them but never received a response. The former PS – Kaliisa – told Global Witness that it would have been prudent for these officers to inquire whether Hima Cement was interested in renewing its mining lease before granting Gold Sniffing's exploration license and that he interdicted the same officials.⁴⁵

Katumba and Kusaasira's failed plan to take Hima Cement's licence area in 2012, one of the largest taxpayers in the country, provides an important insight into the nature of political power in Uganda's mining sector. The two men had been hoovering up licences at the DGSM unchallenged for years, but when the government received complaints from LafargeHolcim – owners of Hima and major international investors – the President felt the need to intervene and ask questions about the way the mining sector was being managed.

This is the case that triggered the 2012 Report into licensing at the department, which exposed corruption, mismanagement and fraud at the heart of the DGSM.⁴⁶ However, as we have seen, little seems to have changed since.

4.1.3. CANADIAN INVESTORS BEHIND THE SCENES

What makes this case even more interesting is that Katumba and Kusaasira managed to strike a deal with Brandenburg Energy, whereby the Canadian company would invest US\$5 million in Gold Sniffing's operations

East African Gold Sniffing Ltd. had only existed for three months when it was given an exploration licence for a site which had belonged to Hima Cement for 20 years and contained a working factory employing 2000 people. © Peter Busomoke/Stringer

in return for 70% of the company.⁴⁷ This would leave Katumba with 25% and Kusaasira with 5%.

The deal anticipated the possibility that Gold Sniffing would lose its licence as a result of its legal dispute over the concession. In such a case, Brandenburg was promised 15% of any settlement agreed with Lafarge.⁴⁸

RECOMMENDATIONS

1. The 2012 internal government report into irregularities in the licensing sector raises a series of questions about how the licensing process is run at the DGSM. The government should look again at the internal report, alongside Global Witness's findings and recommendations, and take action in response. The report should be published so that civil society can make informed contributions.

2. Those who are found to have received licences fraudulently or those who have failed to adhere to their licence terms should have them revoked immediately to allow serious investors to come to Uganda.

3. Denis Kusaasira and Jimmy Katumba’s activities in the mining sector should be investigated further.

4. The government should collect and publish beneficial ownership information for every owner of a mining licence in Uganda so that the public can see who stands to benefit and identify any conflicts of interest.

5. A review of the deals that ABMAK has been involved with and their relationship to the Permanent Secretary should be conducted with a view to identifying if there is any conflict of interest.

4.2. INFINITY

When Ellie Barikhan, an Australian home loans broker, arrived in Uganda he appears to have had no experience of mining.⁴⁹ Despite seemingly having little technical standing as a mining investor he was quickly able to secure licences that covered over 6,000 Km2 through his three Ugandan companies: Infinity Minerals Ltd, Clear Water Mining U Ltd and Moon Mining Ltd.⁵⁰ This is the largest area that Global Witness has identified for any company or individual in Uganda’s mining sector. He went on to sell one of the licences he had acquired under what appear to be highly questionable circumstances. He was able to do all this, according to a source with close knowledge of the deal, by making payments to DGSM officials.⁵¹ He also enlisted the support of a famous Ugandan pop-star with links to Salim Saleh.

According to one government official, Ellie conducted very little exploration activity. His licences are said to have included swamp land that could not be mined, and

he soon ran into difficulties.⁵² As a result, huge swathes of Uganda were licenced to an individual who added little value. When he found his business struggling he turned to Ragga Dee, a famous Ugandan pop star with close ties to the President’s brother Salim Saleh to help him out.⁵³

Ragga Dee, whose real name is Daniel Kyeyune Kazibwe, is a popstar turned businessman, famous as much for being the first musician in Uganda to own a Hummer as he is for his music.⁵⁴ Ragga Dee does not appear on any of the company documents relating to Ellie’s companies, however while discussing his business interests in an interview with Uganda’s Observer newspaper in 2015 Ragga Dee said, “I also mine for gold under my other company, Infinity Minerals.”⁵⁵

When Global Witness met Ragga Dee in a Kampala bar he confirmed that he had worked with Ellie Barikhan. He claimed that he had helped Ellie acquire gold before he left the country. Ellie’s other business partner, Mr Charles Bukuwa, a gold dealer who owned shares in all of Ellie’s companies in Uganda, also confirmed that Ellie had been buying gold in Uganda.⁵⁶ We wrote to Ragga Dee in December 2016, we received a whatsapp message which referred to our statements quoting him saying he had helped Ellie buy gold as “false statements.”

According to a newspaper report, Ragga Dee runs the Kampala component of ‘Operation Wealth Creation,’ a nationwide government project headed by Salim Saleh, President Museveni’s brother.⁵⁷ He was made the Ambassador to Burundi in August 2016 according to newspaper articles although he does not appear on the Embassy website.⁵⁸ We wrote to Bukuwa in December 2016 but we did not receive a response.



Ragga Dee, a famous Ugandan musician [pictured centre with hat], runs the Kampala component of Operation Wealth Creation according to media reports. He stood as the NRM candidate for Kampala mayor in 2016. © Daily Monitor



Australian Ellie Barikhan was quickly able to secure exploration licences that covered over 6,000 Km2 through his three Ugandan companies: Infinity Minerals Ltd, Clear Water Mining U Ltd and Moon Mining Ltd. His licences are said to have included swamp land that could not be mined and he soon ran into difficulties. © Sam DCruz/shutterstock

Salim Saleh told Global Witness that he is not connected to Infinity, Clear Water or Moon Mining and that “save for the limited public encounters that I have had with him... there is no such political or other connection between me” and Ragga Dee. “I have not afforded him, or any other person or entity any political protection.”⁵⁹

4.3.1. SUBSEQUENT SALES

Global Witness has identified two sales of Infinity’s rights to other investors after Ellie left Uganda. In the first instance a company called Afrisam Cement Uganda Limited paid US\$75,000 for prospecting access to licence number EL1083 which was held by Infinity.⁶⁰

The same company also successfully applied for one half of EL1115 which previously belonged to Infinity but which

according to AfriSam and the DGSM Commissioner had lapsed. This became EL1537. The company made it clear in correspondence with Global Witness that they acquired this licence directly from the DGSM and did not enter any kind of agreement with Infinity for this area. However, according to the Ugandan Mining Cadastre AfriSam submitted an application for EL1537 on 29th September 2015 which was granted on 25 November 2015. According to the Cadastre EL1115 was not due to expire until March 2016 and EL1537 did not appear on the Cadastre until after this date.⁶¹

In a second deal, Sunbird Resources Limited acquired the other half of EL1115 which became EL1538. A source close to the deal said Sunbird had paid Infinity US\$150,000 for the licence. According to the Mining Cadastre Sunbird submitted an application directly to the DGSM for EL1538



The Karamoja region in North East Uganda is one of the poorest and historically most conflict-ridden areas of the country. The area, which is thought to be rich in minerals, is covered in a patchwork of mining exploration licences and mine sites. © Arjen de Ruiter

on 3rd November 2015 and it was granted 22 days later on 25th November 2015 (the same day which AfriSam's licence was granted). However, according to historical records of the Ugandan Mining Cadastre as late as March 2016 EL1115 was still held by Infinity and was not due to expire until later that month. In fact, the new licences (EL1537 and 1538) do not appear on the Cadastre until after the date which EL1115 was due to expire. It seems strange that the Cadastre would show that two companies had received their licences for the EL1115 licence area before the EL1115 licence was due to expire and that there would be such a long time-lag in the new information being uploaded to the Cadastre. It seems even stranger that Sunbird would have paid Infinity for a licence if it had applied for it through the DGSM.⁶²

A source with close knowledge of the Infinity/Sunbird deal told Global Witness that legally the department is not supposed to accept transfer of any licence unless the company has done some work, so the only way you can transfer otherwise is if you "are sharing." When we asked whether they meant that payments were made to DGSM officials or the Commissioner the source told Global Witness that in this instance infinity had "coughed like 10,000 dollars to him" to transfer.⁶³ Global Witness has not seen any evidence to suggest that Sunbird was party to, or aware of, the alleged payment. Global Witness wrote to Sunbird in December 2016 to ask for comment but never received a response.

In a letter dated January 2017, the DGSM Commissioner told Global Witness that "references to impropriety in grant of mineral rights to these Companies are false" and that DGSM records show that the eight Infinity licences expired after they had conducted some exploration and then "lost interest." He denied the allegations of bribery. Most significantly he told Global Witness that "contrary to your representations and findings EL 1115 was not cancelled but simply expired and Infinity Ltd did not apply for its renewal... Afrisam Cement Uganda Ltd applied for part of the area which was granted as EL 1537 and the other remaining part was licensed to Sunbird Resources Ltd."⁶⁴ This seems to contradict the information on the Cadastre which shows that Sunbird and Afrisam received their licences before the Infinity licence was due to expire.

AfriSam informed Global Witness that they had "good reason to believe that EL1115 had expired" at the time they made their application. They provided an incomplete licence transfer document, dated May 2015, relating to a proposed deal between Sunbird Resources and Infinity, which they told us they received from Infinity. The document states that EL 1115 was granted

on 25th March 2012, meaning that it would have expired in March 2015. AfriSam told us that at the time, in August 2015, they had been considering acquiring a licence from Infinity but when they received this document they made further enquires with the DGSM who confirmed the licence had lapsed. They applied for EL1537 (one half of EL1115) directly from the DGSM as they were "under the reasonable belief that the area was not subject to any valid exploration licence". Under Ugandan law Infinity would have been obliged to relinquish half the block even if they extended the licence for the other half.

The whole episode raises serious questions about the way that licences are awarded, the licence transfer process, and the accuracy of the mining cadastre. If the information on the cadastre is inaccurate or wilfully misrepresented this has serious impacts for the governance of the sector. While AfriSam appears to have received its licence through the proper channels at the DGSM questions remain about the way that Sunbird acquired its licence.

In a letter dated January 2017, Salim Saleh told Global Witness that the Big Picture Corporation, a company which is part owned by his wife, is "one of the companies which duly applied for, and inherited, the expired Licences previously held by Infinity Minerals Limited, under TN 2370."⁶⁵ According to the Cadastre, however, this application, which was made after the licence had expired, was rejected.⁶⁶

RECOMMENDATIONS

- 1. The relevant Ugandan government agencies should investigate allegations that the DGSM and Commissioner are receiving payments in order to approve licence transfers.**
- 2. Ugandan oversight institutions should investigate the role that Ragga Dee and Salim Saleh (and his family members) play behind the scenes in Uganda's mining sector.**
- 3. Ellie Barikhan's licences should be revoked pending further investigation.**
- 4. Ugandan authorities should investigate Sunbird and AfriSam's licence acquisition.**
- 5. A review of licences should consider whether licences were cancelled or allowed to lapse and re-issued under different licence numbers in order to obscure sales and transfers.**



Salim Saleh, the President's brother. © Eric Dominic Bukenya

SALIM SALEH AND FAMILY

Caleb Akandwanaho commonly known as General Salim Saleh is President Museveni's brother. He was an advisor to the President, and holds the rank of General (retired) in the UPDF. He is no stranger to controversy and has been at the centre of several high profile corruption scandals.⁶⁷

Saleh is often referred to as a powerful figure in Uganda's mining sector. We did not find his details as director or shareholder on any current mining company documents but several of his family members have interests in mining companies currently active in Uganda. He also has historical links to the mining sector in Uganda and DRC. Saleh told Global Witness that he had not been involved, "either personally or through other persons, in mining activities in Uganda" in over ten years. He said "there is no law that bars members of my family from engaging in private business. I also do not know of any breach of law on their part."⁶⁸

Saleh is named in the 2002 UN Group of Experts report on the illegal exploitation of natural resources as a key figure in an 'elite network' of Ugandan military, businessmen and rebel leaders who coordinated the plundering of the natural resources from the DRC on a massive scale.⁶⁹ The Ugandan government refuted the report's findings and Saleh denied the charges levelled against him pointing out that he was exonerated by the 'Porter Commission' and the Ugandan Police.⁷⁰ However, in December 2005, the International Court of Justice in The Hague ruled that Uganda should pay the DRC US\$10 billion in reparations, a ruling which Uganda is still negotiating.⁷¹

In the late nineties, Saleh was a director of Branch Energy in Uganda. According to company document he also held a 30% share in the company through Caleb International, a company which he owned at the time with his daughter.⁷² Branch Energy controlled gold exploration licences in the Karamoja region of North Eastern Uganda.⁷³

FAMILY BUSINESS

Saleh's wife, Jovial Akandwanaho was a significant shareholder in both Rift Valley Investments and The Big Picture Corporation. She was also a director in the former. (Kellen Kayonga was made a director of Rift Valley Investments on the 16th of October 2010).⁷⁴ An exploration license owned by Rift Valley is named in the 2012 Report, into licensing at the



© Eric Dominic Bukenya

DGSM, as having been endorsed by an official from the wrong district.⁷⁵ The company documents for Rift contain a letter from the Ugandan police stating that they are investigating an alleged illegal award of an "exploration contract." Global Witness has been unable to ascertain the outcome of this investigation, which was being handled by the Special Investigations Unit.⁷⁶ We wrote to Jovial but did not receive a response. Saleh told Global Witness that he has no financial stake in the businesses.

Saleh's sister-in-law, Kellen Kayonga, holds 90% of the shares in Askar Investments (U) Ltd., which had seven exploration licences according to the Mining Cadastre. She held two exploration licences in her own name and also had an application for a mining lease in progress.⁷⁷ Further to this she is the largest shareholder in Marubeg Mining, which has held a single mining lease since 2003.⁷⁸ She is also a member of the Uganda Chamber of Mines and Petroleum.⁷⁹ We wrote to Kellen Kayonga but did not receive a response. Saleh told Global Witness that he does not participate or benefit from the activities of these companies.

Salim Saleh told Global Witness in April 2017 that "I am reliably informed by Barnabas Taremwa [his brother-in-law] that his company West Corp has exploration licences in Uganda and even to date it's doing exploration in Eastern Uganda. West Corp Company is a registered entity with Ugandan mineral dealers' licenses and does not extend beyond borders."⁸⁰ The Mining Cadastre does not show any licences under the name "West Corp," West Corp was named in a 2014 UN Group of Experts report for its trading of gold from South Sudan to the UAE.⁸¹ Tarwemwa is also personally named in a 2015 UN Group of Experts report for trading in gold illegally exported from DRC and illegally imported into Uganda. For further information, and references, see chapter 3.1 on African Gold Refinery.

CONCLUSION

It is clear from the case studies in this report that corruption, mismanagement and undue political influence in Uganda's mining sector are rife. Low-level government officials right up to senior political elites are all implicated, with predatory investors, fixers and brokers in between. These examples paint a broad and detailed picture of the different levels of corruption and mismanagement, but we have only begun to scratch the surface of the shadowy system.

Bwindi Impenetrable National Park. © Global Witness

It is ordinary Ugandans that suffer most. Companies which received their licences corruptly, and the officials who grant them, have little incentive to uphold the laws. Impunity perpetuates the cycle. Legitimate investors are deterred from entering, stunting the sector's development and depriving Uganda of jobs and revenues. Taxes are waived or go unpaid, health and safety laws are flouted, and human rights and environmental protections are ignored, putting Ugandans and their environment at risk.

The licensing process is at the heart of the problems and must be reformed. Politically connected investors use their connections at the DGSM and in the ruling party to over-rule the legitimate licensing process, and staff in the DGSM are breaking the law for their own personal gain.



Mining could be a key source of revenue and jobs for Uganda but the sector is being stifled by corruption and political patronage, leading to human suffering and environmental damage. © Global Witness

Many of the figures named in this report are members of the Chamber of Mines and Petroleum, the public face of mining in Uganda.

The World Bank and the Government of Uganda are in the process of revising Uganda's mining laws. If the government is serious about making mining a priority development driver it needs to take urgent and credible steps to reform the sector. This should include prosecuting those that disregard the law and profit at the expense of others. Civil society has produced its own recommendations for legislative reform, which are available on our website.

Better oversight mechanisms should be put in place to break the monopoly that the Mines Department and the

Commissioner have over key decision-making. Action should be taken against speculation, under-declaration and smuggling. Tax laws should be enforced. Capacity must be increased in relevant agencies to ensure that mine sites are regularly inspected and environmental and health and safety laws upheld.

Mining could be a key source of revenue and jobs for Uganda but the sector is being stifled by corruption and political patronage, leading to human suffering and environmental damage. The government, parliament, civil society, international donors and the private sector should come together to seize the opportunity to reform the sector for the benefit of all Ugandans.

RECOMMENDATIONS

GOVERNMENT OF UGANDA

- **1.** Support the OAG and IGG and implement their recommendations.
- **2.** Support the work of the UN Group of Experts and the OECD including facilitating their investigations and implementing their recommendations. Introduce domestic supply chain due diligence legislation in line with the ICGLR framework and internationally recognised OECD Due Diligence Guidance.
- **3.** Hold relevant officials, lawyers and businesspeople to account for their involvement in the corrupt and illegal activities detailed in this report.
- **4.** Ban Ministry of Energy and Mineral Development employees from working for mining companies to avoid conflicts of interest. This ban should stay in place for at least two years after employment has ceased to prevent conflicts of interest.
- **5.** Collect and publish beneficial ownership information of all shareholders in companies that own exploration licences, mining leases and location licences so that Ugandans know who is benefiting from their resources.
- **6.** Overhaul the DGSM to ensure that power over key decisions is not over-centralised in one department. Licensing decisions and mining company returns should be reviewed and overseen by another agency not simply the Commissioner.

- **7.** Review all existing licences to ensure that:
 - > **a)** the licences were acquired fairly and through due process;
 - > **b)** that there is no conflict of interest in their ownership or control;
 - > **c)** the companies that own them have the capacity and financial backing to fulfil their work plans and;
 - > **d)** that they are carrying out the activities on the ground in line with their licences or have legitimate reasons for not doing so.
- **8.** Digitise Uganda’s company registry and make it available online so that citizens can easily view information about who owns companies and mining licences.
- **9.** Make Uganda’s mining licences easily accessible online so that the public can view them.
- **10.** Refrain from passing legislation or a constitutional amendment which undermines landowners’ fundamental rights to property.
- **11.** Ensure that landowners, including customary landowners, are properly consulted and compensated for their land when they make way for mining projects. This should include the principal of Free, Prior and Informed Consent.

- **12.** Ensure that the DGSM and all other government agencies responsible for monitoring the sector receive the funding they require to ensure that mining companies pay the taxes they owe and adhere to environmental, and health and safety standards.
- **13.** Review the first come first serve licensing system and introduce transparent, open and fair competitive bidding where possible.
- **14.** Urgently consider the artisanal and small scale mining sector with a view to improving revenue collection, environmental protection, and health and safety.
- **15.** Cancel all licences in protected areas and prohibit mining in protected areas by law.
- **16.** Take urgent steps to prevent conflict minerals transiting through Uganda including implementing the commitments under the 2010 Lusaka Agreement which includes introducing a domestic supply chain due diligence law.
- **17.** Join the Extractives Industry Transparency Initiative.
- **18.** Adopt the recommendations contained in the NGO comments on Uganda’s mining policy and act available on our website.

TO THE INSPECTOR GENERAL OF GOVERNMENT (IGG), AND THE LAW ENFORCEMENT AGENCIES

- **1.** Publish the outcomes of the investigations detailed in this report.
- **2.** Investigate further the evidence of wrongdoing presented in this report.
- **3.** Hold relevant officials, lawyers and business people to account for their involvement in the corrupt and illegal activities detailed in this report.

THE OFFICE OF THE AUDITOR GENERAL (OAG)

- **1.** Continue to conduct detailed, routine and systematic reviews into Uganda’s mining sector. This should include sector-wide reviews as well as detailed investigations and site visits at specific mines.

RECOMMENDATIONS

THE UN GROUP OF EXPERTS AND THE OECD

- 1. Conduct further detailed investigations into the instances of gold, tin, tantalum, tungsten and other minerals from DRC being passed off as Ugandan. The UN should continue to name the companies and individuals who are responsible.
- 2. Seriously consider the impact of gold from South Sudan entering the international supply chain via Uganda, as has been done for the DRC already.
- 3. Ensure that the Ugandan government, and companies operating in Uganda, implement existing frameworks and commitments aimed at good practice in the mineral sector.
- 4. Work with the international community to ensure that companies and individuals are held to account.

INTERNATIONAL DEVELOPMENT PARTNERS

- 1. Support the government agencies named above, as well as the media and civil society, to implement the recommendations in this report by providing additional funding and technical support.
- 2. Challenge vested interests in the mining sector and support the work of the IGG, OAG and other oversight bodies.
- 3. Work together with other development partners to put pressure on the government to ensure that the issues raised in this report are properly investigated, those responsible are held to account and the management of the sector is reformed.
- 4. Seriously consider the role that Uganda plays as a transit country for conflict minerals and take steps to mitigate it including holding Uganda to its international obligations.
- 5. Raise the issue of environmental protection and the impact of mining on tourism directly with the government.

INVESTORS

- 1. Make it clear to the government, politicians and fixers that you will not pay bribes or middlemen for services that should be free of charge.
- 2. Conduct careful due diligence to ensure that licences that you acquire were obtained legally through due process.
- 3. Implement best practice health and safety, and environmental protection standards.
- 4. Publish details of all payments made to government agencies.
- 5. Conduct careful supply chain due diligence on all minerals sourced in Uganda to ensure that they are not fuelling conflict or human rights violations in neighbouring countries. And demand the same, including detailed public reporting, from any companies they invest in.
- 6. Report any issues regarding corruption, wrongdoing or harmful practice to the relevant government agencies and/or the media.

CIVIL SOCIETY AND THE MEDIA

- 1. Bring the issues and recommendations in this report to the attention of the public, government, development partners and the Ugandan parliament.
- 2. Conduct further investigations into the corruption and mismanagement documented in this report to ensure that the truth is exposed and the corrupt are held to account.
- 3. Publicly campaign for the changes that are needed to reform the mining sector including amending the mining law.

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ANNEXES

METHODOLOGY

Global Witness conducted its investigations from late 2015 to early 2017. We used public structured data from the online Ugandan Mining Cadastre collected on a bi-weekly basis. This data was archived for the purposes of analysis allowing researchers to track changes to mining license allocation in that period and prior to it. In addition Global Witness requested over a hundred company records to identify ownership of companies with licences. We conducted well over a hundred interviews with industry insiders, NGOs, government officials, MPs, donors and others. We visited several mine sites in Central, East and South West Uganda and met with project affected persons. We conducted extensive internet based research on specific deals, companies and individuals. We also approached two individuals under cover in order to gain further information about their business activities.

We contacted all of the companies and individuals named in the report and we have referenced and referred to their responses throughout the main text of the report and in the annexes.

The focus of the investigation was on the licencing process – that is how licences are acquired, sold and cancelled in the mining sector. While we do cover other issues such as land rights, working conditions and smuggling of minerals this research is not exhaustive.

LICENCING IN UGANDA'S MINERAL SECTOR

Uganda currently operates a 'first come first serve' licencing system. Prospective investors can visit the Department of Geological Survey and Mines (DGSM) in Entebbe and access available geological data. If an area is unlicensed a company or Ugandan citizen, with the required technical capacity and financial backing, can apply for a licence for this area and pay a small processing fee. The intention of this kind of system is to enable a country like Uganda, that has historically had limited data about its mineral deposits, to attract investors who will conduct exploration activities, acquire data and either commence commercial mining operations or sell the licences and pass on the new data to those that will. The problem with this kind of licencing arrangement is that it gives an enormous amount of discretion to staff in the department to; access and

restrict access to data; acquire licences themselves or for their associates; fraudulently approve licences and licence extensions; fraudulently approve returns; fraudulently cancel licences; and to extort money for services.

There are several different types of licence in Uganda:

- **Prospecting Licence:** This gives the holder of the licence non-exclusive rights to carry out basic testing for minerals country wide except in areas where other rights have already been granted.¹
- **Exploration Licence:** This gives the owner of the licence three years of exclusive rights to conduct exploration activities in a defined geographical area to identify commercial deposits of minerals. Companies must submit work plans, setting out the activities they plan to undertake and associated expenditure as well as evidence in support of the existence of minerals, as part of their application. They are also required to file regular reports detailing their progress against these work plans. The intention is to ensure that companies and individuals add value to the sector rather than sitting on assets in the hope that they will be able to 'flip' them on later at a profit. At the end of the three years the company may apply to renew for a maximum of two more terms, at two years each. On each renewal, at least half of the license area is relinquished to enable other interested parties to explore the ground. The holder of an Exploration Licence can also apply for a 'Mining Lease' for some or all of the licence area or a retention licence for an additional three years with a view to future commercialisation.²
- **Retention Licence:** This is granted to a holder of an Exploration License when a mineral deposit has been identified in the designated area but, due to temporary factors beyond reasonable control, commercial exploitation is not possible at the time. It is granted for three years and can be renewed once for a period of two years. Once mineral development has become possible, the license holder can then apply for a Mining Lease.³ This kind of licence is particularly open to abuse given the degree of discretion afforded to the DGSM.
- **Location Licence:** This kind of licence is aimed at artisanal and small scale miners (individuals must be Ugandan and companies must be 51% Ugandan

owned) where expenditure to achieve production will not exceed 500 currency points (equivalent to less than US\$3,000), or include the use of specialised technology. It gives the holder the exclusive right to conduct exploration and mining activities in the area on a small scale.⁴ It is clear from the evidence in this report that location licences are held by those that exceed its limitations.

- **Mining Lease:** Gives the holder exclusive rights to commercially exploit the minerals specified in their licence within the given area for up to 21 years.⁵

These licences do not grant the owner's rights to access the land in the licence area. They must negotiate 'surface rights' with the land owners separately. However, the government has said that it intends to amend the law so that mining companies negotiate directly with the government rather than the landowner.⁶ This raises concerns that landowners in mining areas will effectively lose control of the land they legally own.

Companies can sell their licences (except prospecting licences) to another party with the approval of the Commissioner. In practice Global Witness has discovered that almost all of these rules are routinely broken and exploited.

SMUGGLING

According to a New Vision article from 2014 Uganda is losing billions of shillings in lost revenue from under-declaration, illegal mining and smuggling across its porous borders each year.⁷ Several government employees told us that smuggling of minerals is an endemic problem across all of Uganda's borders. One with first-hand experience in the South West told us that it was not unusual to discover shipments of tens of tonnes being illegally smuggled across the border. The official told us that even when they were intercepted by the authorities they would sometimes go missing again.⁸ The minerals mentioned include wolfram/tungsten and coltan/tantalite.

One mining company owner told us she was able use her mining licences to certify tantalite illegally smuggled across the border from DRC as Ugandan. She claimed that DGSM officials would sometimes put her in contact with Ugandans who wanted to sell coltan but did not have a licence. She even told us that she had sold to

US customers via "Brazilians," or through Rwanda, to avoid international efforts aimed at preventing conflict minerals entering the supply chain.⁹ Moses Kamuntu, whose activities are detailed in chapter 3.3, also told a GW researcher posing undercover, that he was buying tantalite from the DRC via his mining licence on the Ugandan side of the border and that he was then able to re-export it as Ugandan. The DGSM told Global Witness that it is the Ugandan Export Promotion Board which is mandated to issue certificates of origin rather than the DGSM and that the respective departments are required to ensure minerals are accompanied by import and export permits.¹⁰

If what we have been told is true, this is worrying evidence that minerals are being smuggled across the border from DRC, certified as Ugandan, and sold on circumventing rules aimed at preventing conflict minerals entering the supply chain and perpetuating violence. Edwards Katto the DGSM Commissioner told Global Witness that the DGSM works in conjunction with the Uganda Revenue Authority and the police to prevent illegal import and export of minerals and that regional offices monitor and inspect mineral related operations and trade "within their resources."¹¹ Global Witness did not conduct detailed investigations into smuggling, however it is certainly an area that warrants further attention.

CHAPTER 1:
THE DAMAGE DONE

THE THREAT TO UGANDA’S
ENVIRONMENT

The corruption and political interference that characterises Uganda’s mining sector is undermining investor confidence and leading to lost revenues. It is also undermining human rights and threatening Uganda’s environment. Not only is the Mining Directorate handing licences to unscrupulous companies, which are less likely to protect the environment, it is doing so in highly sensitive and environmentally protected areas including UNESCO World Heritage sites.

Agencies such as the National Environment Management Agency (NEMA) and district level environment officers charged with overseeing the mining sector are overstretched and underfunded making it very difficult for them to effectively monitor the country’s valuable ecosystems. The 2012 internal government report into licencing (the ‘2012 Report’) noted that companies with licences in environmentally sensitive areas have not always shown evidence of exemption from the relevant environmental bodies - Uganda Wildlife Authority (UWA), The National Forest Authority (NFA) or the National Environmental Management Authority (NEMA) as required by law.¹² The report also stated that “most EL [Exploration Licence] holders don’t rehabilitate land in accordance with approved work plans, conditions of the EL and to the satisfaction of DGSM” meaning that land destroyed by exploration is left permanently damaged.¹³ This creates the conditions in which the abuse of environmental laws by companies can go unmonitored or penalized.

The DGSM denied the department was in breach of the UNESCO convention and told Global Witness that the government’s “multi-Departmental controls and measures constitute sufficient safeguards to protect plant and animal species from undue intrusion... it is simplistic to presume that grant of a mineral right in a protected or other designated area implies impropriety.”¹⁴

BWINDI WORLD HERITAGE SITE

According to UNESCO, Bwindi National Park “represents a conservation frontline as an isolated forest of

outstanding biological richness,” which is under threat from a number of factors.¹⁵ Mining used to take place here before the park was established and there is known to be gold and minerals under its soil.¹⁶ Bwindi forms part of the Greater Virunga Landscape an area which is also under threat from oil extraction.¹⁷

According to the government’s online Mining Cadastre over twenty companies and individuals have held mining exploration licences which lie at least partially inside the Bwindi World Heritage site or immediately adjacent to it. At the time of writing there were another four applications pending.¹⁸

1.1 ELIZABETH KARUNGI

The owner of one such exploration licence, which lay almost entirely inside the World Heritage site, was Elizabeth Karungi – the MP for Kanungu District.¹⁹ She was granted her licence on the 5th of August 2013 and held a prospecting licence before that. Her licence, seen by Global Witness, contains a work programme for mining exploration in Bwindi approved by the DGSM including the possible creation of roads and tracks, and drilling.²⁰ It also appears to show that prospecting had already taken place in the national park.²¹ The area is home to numerous globally threatened species including high-profile mammals such as mountain gorilla, chimpanzee, l’Hoest’s monkey and African elephant.²²

In a letter to Global Witness dated January 2016, Edwards Katto, the head of the DGSM, explained that prospecting and mining in protected areas is at the discretion of the relevant authorities (NEMA, NFA, UWA, etc).²³

Global Witness staff met with Karungi in November 2015 and asked her how she acquired permission to operate in the area. She said that although mining activities in the park are “illegal” the then Tourist Minister, Maria Mutagamba, was a “good good friend” of hers and as such she was able to arrange activities in the park through her and the Executive Director of UWA. She said she intended to continue with exploration in January (2016) and she could not foresee any problems as long as the Minister and the head of UWA were still in place. She also said she deals directly with the Commissioner at the DGSM.²⁴ The Commissioner told Global Witness in a letter that the “DGSM is not aware of any mining activity” taking place under the licence and that any such activity must be preceded by an EIA and certificate of approval by NEMA. Prospecting is entirely at the discretion of NEMA, NFA and UWA.²⁵

Global Witness received an email from Maria Mutagamba in December 2016 in response to a letter we sent putting these allegations to her. She denied knowing who Karungi MP was and did not address the other allegations. We also contacted Karungi MP in December 2016 but did not receive a response. The end result is that an MP claims to have been undertaking mining activities in Uganda’s most precious natural habitat which should be protected by international convention. This case raises serious questions about whether she was able to use her political power to influence decision making. Karungi’s exploration licence has been removed from the online Mining Cadastre.²⁶

OTHER ACTIVITIES IN BWINDI

Another company with interests in Bwindi is Berkeley Reef, a company owned by businessman and former Energy Minister Richard Henry Kaijuka.²⁷ The company has an active mining lease on the edge of Bwindi (outside the park) at Ruhija – a popular spot for tourists wishing to visit the gorillas. Richard Kaijuka also had two pending applications for exploration licences in the immediately adjacent area inside the park in his own name.²⁸ When Global Witness visited the mine in Ruhija in November 2015, on the site of a large abandoned mine, his mining activities had ceased. Mr Kaijuka told us in January 2017 that he had full approval from NEMA for the limited operations he did carry out and that he is considering surrendering these minerals rights if he does not find a serious investor by the end of the year.²⁹ As such, it looks like the park may be safe for now but the interest expressed by mining companies in this area illustrates the pressure to open up the area for mineral extraction.

1.2 THE KILEMBE MINE AND MINING
LICENCES INSIDE THE RWENZORI WORLD
HERITAGE SITE

The Rwenzori Mountains National Park in Uganda is a UNESCO World Heritage site and also a part of the Greater Virunga Landscape.³⁰ Any mining activities carried out in the park would be considered a breach of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, to which Uganda is a signatory.³¹

EXPLORATION IN RWENZORI WH SITE

Tibet Hima is a Chinese company which won the right to re-open the Kilembe Copper Mines in September 2013.

The mine site runs right up to the border of the park and Tibet Hima’s two corresponding exploration licences surround the mine site and cover large sections of the Rwenzori park itself.³²

The Kilembe mine used to be Uganda’s largest copper mine, it lies right on the edge of the Rwenzori Mountains World Heritage site but has laid dormant since the early 80s.³³ Significant copper and cobalt deposits still lie beneath the surrounding area – including underneath the Rwenzori’s themselves.³⁴ According to the state-owned newspaper New Vision Tibet Hima paid US\$4.3 million up front and will pay a further US\$1 million every year to the Ugandan government for the Kilembe mine concession.³⁵ After they won this concession they were also transferred the two exploration licences covering a significant portion of the Rwenzori National Park right up to the DRC border in January 2014. The two licences had been issued to Kilembe Mines Ltd. shortly before.³⁶

Global Witness has seen a letter from Tibet Hima addressed to the Chief Warden of Rwenzori National Park dated 30th January 2015 in which they ask the park authorities for cooperation with their exploration efforts including allowing them to work inside the national park.³⁷ A senior park official told us that their request was refused.³⁸ Tibet Hima said in a letter to Global Witness that minerals are presumed to exist deep under the park.³⁹ They were seeking access to conduct sampling in their exploration licences to establish the mineral deposits. The letter to the warden implies that these minerals are vital to the long term viability of the Kilembe mining project. In fact, the previous investor in Kilembe Mines licence pulled out when they discovered they did not have exploration rights in the five kilometre area surrounding the mine, on the grounds that they could not secure the capital to go ahead with the project without it.⁴⁰

Ugandan law does allow for mining to take place within a national park with the permission of the Ugandan Wildlife Authority (UWA).⁴¹ However, as the Rwenzori’s are a World Heritage site all such activity should be prohibited. Tibet Hima should not be seeking permission to carry out this work. It is not clear why the DGSM has been granting licences inside World Heritage areas when they cannot be used without breaching an international convention. Two DGSM staff told Global Witness that the President instructed the government to give the concession to Tibet Hima.⁴² Global Witness wrote to President Museveni in December 2016 but has not received a response. The DGSM Commissioner told

Global Witness that Tibet Hima had been awarded the concession through a competitive bidding process administered by the Ministry of Finance, Planning and Economic Development.⁴³

DGSM officials have expressed serious reservations about the capabilities of the company and its adherence to basic environmental rules.⁴⁴ According to Ugandan media, government officials have been disappointed with the environmental problems at the site.⁴⁵ Global Witness was also told by a source at the DGSM that the President’s office was frustrated by slow progress at the site.⁴⁶ Tibet Hima told Global Witness in a letter dated January 2017 that it had “not received any communications from the President’s Office in regard to your disappointment allegations.”⁴⁷

1.2.1 OPERATING WITHOUT AN EIA

Aside from holding two potentially highly lucrative exploration licences partly in a World Heritage site, Tibet Hima also appears to have been operating one of the largest mines in the country without the correct Environmental Impact Assessment (EIA). EIAs are a cornerstone of environmental protection as they ensure that companies both take note of environmental and social risks, and put in place adequate mitigation measures.

On a visit to the mine in November 2015 Global Witness staff were given a tour of activities at the mine including processing of copper tailings. However, it appears that at the time of the visit Tibet Hima did not have an adequate EIA in place. The company had completed a ‘Project Brief for Kilembe Mines Access Opening and Explosives Use’ in February 2015 as well as an environmental audit in June 2014. However, when Global Witness explained the processes they had observed at the mine site alongside the Project Brief to an EIA expert, we were told that in their opinion the Project Brief did not cover the activities being carried out at the mine.⁴⁸

Tibet Hima told us in a letter dated January 2017 that they had submitted a full EIA report to the government in April 2016. They also told us that our allegations about activities which had taken place without a proper EIA were not true “since no prosecution by the authorities have been instituted.” It was reported in an Oil in Uganda article dated 13 February 2017 that the government halted activities at the mine over safety concerns following an official investigation.⁴⁹ Two people died at the mine in separate accidents in late 2015 shortly after Global Witness’ visit to the site.⁵⁰

Both the Senior District Environment Officer and the Chief Warden of the Rwenzori Mountains National Park raised concerns to Global Witness about the impact the mine could have on water quality downstream in Lake George.⁵¹ A study from 2003 found that contamination from the mine, prior to Tibet Hima taking over the site, continued to have significant impact on fish in the Lake even decades after operations had ceased.⁵²

Several thousand people live in and around the mining lease area while many more depend on the water downstream and the fish that swim in it. However, the Senior District Environment Officer told Global Witness staff in November 2015 that while the authorities are supposed to test the water they did not have the techniques or equipment necessary to monitor the impact of the mine on water quality.⁵³ Tibet Hima told Global Witness that water pollution pre-dated their presence at the site and that they conducted regular tests that show that the water leaving the site is not a threat to the water system or human health.⁵⁴

This case raises serious concerns about whether EIAs are always produced in a timely manner to cover all relevant activities and if district level officials have the capacity to monitor mining sector pollution and compliance effectively.

1.3 AFRICAN PANTHER

In 2014, African Panther Resources Uganda (APRU) gained control of a tin mining area in South Western Uganda. They were awarded an exploration licence for the site just three days after having applied for it.⁵⁵ Their licence covered an area that had only one week previously been held by a rival company, First Mining.⁵⁶ This led to complaints at the time from First Mining’s lawyers, to the Minister of Energy and Mineral Development, that members of First Mining’s management and staff, who were connected to African Panther, had acted to ensure that First Mining lost its mining lease. They stated that African Panther had colluded with the DGSM to secure the exploration licence for the same area.⁵⁷ The former managers of First Mining/Starfield Metals, Evan Cross and Mark Patzelt, have since denied the allegations made in the official appeal at the time.⁵⁸ We wrote to them in April 2017 asking them to explain the contradiction between the appeal and their letter to us. We did not receive a response.

Since gaining control of the site the company has been buying tin from ASM miners which work within its exploration licence area without employing them. On a visit to African Panther’s exploration licence area in 2016

Global Witness found miners working without safety equipment which they claimed the company failed to provide free of charge. We also found several children working within the exploration licence area.⁵⁹ Evidence of children working within the exploration licence area does not constitute evidence that African Panther has employed child labour and we do not allege that. According to a report by the Auditor General in 2015 the company also failed to declare 3.5 metric tonnes of tin stockpiled at its site.⁶⁰

In May 2016, British company, Consolidated Tin Smelters Ltd, a subsidiary of Amalgamated Metal Investments Holdings Ltd. converted a loan they had made to African Panther and made a further investment which resulted in the company owning a 30% stake in the company.⁶¹ The rest of the company is owned by African Panther Resources AG a company registered in Switzerland, of which Christoph Eibl, CEO of international commodity investor Tiberius Asset Management, is a director.⁶²

African Panther AG also shares a physical address with Tiberius in Switzerland. Tiberius’ mining focuses on the 3T’s (Tin, Tungsten and Tantalum) and, according to Eibl, the group is one of the world’s largest tin traders which also operates its own mines.⁶³ Eibl is also a director of the Ugandan subsidiary, APRU, and a member of the board of directors of metals trading firm TMT Metals AG and TMT Holdings AG both of which share the same physical address as Tiberius.⁶⁴ TMT Holdings held shares in the Ugandan registered African Panther Resources until they were sold to Tiff Burns – see further information below.⁶⁵ African Panther told Global Witness that there is no legal relationship between African Panther Resources AG and Tiberius Asset Management.⁶⁶

THE DEAL: HOW AFRICAN PANTHER CAME TO GET THE KIKAGATI SITE

The Kikagati tin project is located in Isingiro district in South Western Uganda on the Tanzanian border. The site sits on a tin deposit which is thought to span Rwanda, DRC, Tanzania and Uganda.⁶⁷ Ugandan registered company First Mining gained control of the area in 2007. First Mining was owned by Australian company Starfield Metals since at least 2012 according to corporate documents.⁶⁸ Around the first half of 2014 Starfield had begun the process of selling First Mining onto an Australian listed company - Kasbah Resources.⁶⁹ However, this deal never went through.

On the 8th May 2014, according to company records, Mr. Dorde Grujic was replaced in his role as a company account signatory for First Mining by Paul Huckstep

(who later became the liquidator for First Mining). The decision was filed on the 9th.⁷⁰ On the same day Grujic reserved the name African Panther Resources (U) Ltd with Uganda’s company registry, beginning the process of forming the company.⁷¹ The following month, thousands of miles away in Switzerland, Matthias Banzhaf a former employee of Tiberius Asset Management, changed the name of a company he was a director of “Sotrada Asset Management AG” to “African Panther Resources AG”.⁷² This Swiss entity, which shares a physical address with Tiberius Asset Management, would ultimately go on to control the Kikagati Tin Project. Banzaf went on to be a Director in African Panther Resources Uganda in March 2015. Global Witness wrote to Grujic, Huckstep and Banzaf in December 2016 but did not receive a response.

Before Starfield could complete its planned sale of First Mining to Kasbah Resources, the Ugandan company had its key mining lease revoked by the DGSM on 18th September 2014.⁷³ The government revoked the licence on the grounds that First Mining failed to secure land rights, pay mineral rent and to notify the mines department of changes to their mining plan.⁷⁴ First Mining strongly contested these charges in the immediate aftermath, in an appeal to the Minister of Energy and Mineral Development from their lawyers, but soon after withdrew its opposition and went into liquidation.⁷⁵

Global Witness has seen correspondence between First Mining and the Ugandan government, including numerous letters and company reports, which detail the surface rights problems the company had faced at the site as well as the steps it had taken to resolve them. Local residents had raised official complaints and the Inspector General of Government (IGG) had intervened but it is clear that there had been communication between the different parties and that some steps had been taken to resolve the surface rights problems. At the time First Mining claimed to have taken steps to tackle them.⁷⁶ The DGSM Commissioner told Global Witness that the mining lease had been revoked on the grounds of non-compliance with the Mining Act. This was confirmed by First Mining’s former managers, African Panther and Amalgamated Metals in letters dated January 2017. They went as far as to spell out the specific reasons given for the cancellation and pointed out that First Mining did not have the funds to resolve the problems. It is unclear therefore who instructed First Mining’s lawyers to appeal at the time making serious allegations against some former members of its management and staff, and African Panther in the process.

Less than a week after First Mining had its mining lease cancelled African Panther was granted an exploration

licence covering the same area.⁷⁷ Global Witness obtained a copy of their application which shows it was granted in just three days.⁷⁸ Global Witness has been told by DGSM officials that this is an abnormally short length of time for a grant of licence. Time is needed to evaluate an applicant’s work plan, financial status and technical standing. One DGSM employee told Global Witness that this time frame was “impossible.” They said that two staff members at First Mining had convinced the Commissioner to cancel the licence so that African Panther could obtain an exploration licence for the same area.⁷⁹ Global Witness also spoke with a source with close knowledge of the company who outlined a very similar version of events.⁸⁰ Corporate filings show that staff from First Mining did go on to hold senior management positions and shareholdings in African Panther.

In the appeal letter from First Mining’s lawyers dated 15 October 2014 to the Minister of Energy and Mineral Development they complained that “the fact that an exploration licence was issued to African Panther Ltd. over the same mining area covered by ML.1047 within a few days of cancelling ML.1047 is clear evidence of fraudulent and under-hand dealings between African Panthers Ltd. and officials at the department, more so because the people behind African Panthers were involved in First Mining Ltd.” They also claimed that officers from African Panther were “involved in and responsible for” the cancellation of First Mining’s licence. In the same letter they argue that the rapidity of the decision to issue a new licence in the area deprived them of the opportunity to challenge the revocation of the licence within the allotted 30 days.⁸¹

Global Witness received a letter from the former Chairman of Starfield Metals Ltd. (First Mining’s parent company), Evan Cross, and the former CEO of Starfield/ First Mining, Mark Patzelt, in January 2017. In the letter they deny that former employees were responsible for the loss of the mining lease. They state that ‘accusations of intimidation or foul play, supporting the cancellation of ML 1047 [the mining lease] – potentially made by third parties on behalf of FMC [First Mining] – were unfounded and false.’ This contradicts the allegations made in the letter sent by their lawyers to the Minister at the time. We put this to Mr Cross and Mr Patzelt in a letter in early April 2017 but never received a response.

Some employees of First Mining did move to African Panther. Richard Gunn was previously an employee of First Mining according to his LinkedIn.⁸² He went on to be a director in African Panther Uganda, and its Swiss parent company. Dorde Grujic went on to be a shareholder in African Panther Uganda and a director in its subsidiary

Tin Trade after he left First Mining. Paul Huckstep was a secretary in First Mining and also a shareholder and director in African Panther’s subsidiary Tin Trade Ltd which itself owns a number of exploration licences in the same area.⁸³

African Panther Ltd. Amalgamated Metals, and African Panther’s directors at the time the licence was granted, Evan Cross and Mark Patzelt, deny any allegations of wrongdoing. In letters to Global Witness they said the decision to cancel First Mining’s mining lease and the decision to grant an exploration licence to African Panther were both based on due process and conformed to the law. Amalgamated Metals sent us excerpts from a due diligence report, carried out by a Ugandan law firm on their behalf, into the granting of several licences, including the exploration licence in question, which stated that the paperwork was all in order and there was no indications of irregularities.⁸⁴

AFRICAN PANTHER’S DIRECTORS – WHY THE CHANGES?

African Panther Resources (U) Ltd (APR UG) was incorporated in May 2014. Its directors were Dorde Grujic, Christoph Eibl and Richard Gunn, an accountant who according to his LinkedIn previously worked at First Mining. African Panther Resources (U) was owned by Hathor Investments and TMT Holdings – companies in which Eibl, Gunn and Grujic were also directors.⁸⁵ On 21st of August 2014, shortly after the incorporation of African Panther Resources (U) and less than a month before First Mining’s licence was cancelled, all three resigned as directors of African Panther Resources (U) to be replaced by a pair of twenty something London residents apparently with no previous mining experience - Tiff Burns and Madeleine De Bois.⁸⁶ The pair also bought the company shareholdings from the original holding companies – Hathor and TMT. According to their online LinkedIn profiles Burns was a management consultant at the time and De Bois was a recruitment consultant – both in London.⁸⁷ According to their LinkedIn profiles Gunn, Burns and De Bois all appear to have attended the same university.⁸⁸

Burns and De Bois held the company for a brief seven months before control and ownership moved again this time to ‘African Panther AG’ in Switzerland a company in which both Eibl and Gunn are directors.⁸⁹ The seven months during which Burns and De Bois were nominally at the helm of African Panther were critical, as it was during this time that the company was granted the controversial licences.⁹⁰ Why the DGSM saw fit to grant a highly valuable exploration licence and mining lease

to a company run by two such individuals is not clear. The fact that Eibl, Gunn and Grujic, men who between them had extensive experience of mining and metals trading, decided to hand over control of APRU to De Bois and Burns just as it was set to gain control of a valuable asset, only for Eibl and Gunn to retake control of the company seven months later suggests that this was a deliberate attempt to hide their identities at the time of the licencing.

Global Witness wrote to all of the individuals and companies named above. De Bois and Burns’ lawyers did not provide reasons why their clients took control and ownership of the company for such a short period or about their suitability to receive the licences they did. They argued that they did not need to provide further information about their clients or their affairs given that they had received the exploration licence lawfully and through due process and that there was no evidence of corruption or wrongdoing. They also provided a detailed explanation of the legitimate reasons why First Mining’s mining lease was cancelled including a lack of funds. African Panther suggested that it was “inconsistent and wrong to suggest that Tiff Burns and Madeleine De Bois were employed as ‘sham directors’” on the grounds that the company had worked hard to establish its brand in the region but offered no further explanation for the changes in ownership or control of the company. Consolidated Tin/ Amalgamated Metal Corporation told Global Witness that they had “made further enquiries and discussed with Christoph Eibl and Richard Gunn the rationale for the change of ownership and directors of APRU during 2014 and are satisfied that there was a commercial rationale for the actions taken.” Global Witness wrote to Richard Gunn but never received a response.

SALE OF SHARES AND DORMANT ACCOUNTS

The sale of African Panther shares to Madeline De Bois also raises further questions. On the 21st of August 2014 Madeleine De Bois purchased a 30% stake in APRU from Hathor Investments.⁹¹ Subsequently Hathor Investments, a UK registered company, declared dormant accounts for the year ending Oct 2014, despite having sold its shareholding in APRU earlier that year.⁹² The sums paid by Tiff Burns and Madeline De Bois for shares in APRU and the value at which they sold those shares seven months later raise serious doubt over the legitimacy of their ownership and directorship of APRU.

Company documents for APRU show that on 21 August 2014 Tiff Burns and Madeline De Bois purchased the shares in APRU for UGX 17,500,000 and UGX 7,500,000

respectively.⁹³ On the 10th of March 2015 the pair sold all the shares they held in APRU for the same Shilling value at which they purchased them.⁹⁴ This was despite the fact that in the seven months they were nominally in control of APRU it had been allocated to highly valuable mineral assets EL1380 and ML1433, thereby significantly increasing the value of the company.

1.3.1 CURRENT WORK AT THE SITE

African Panther Resources Uganda is also 30% owned by a subsidiary of a well-established British metal trading firm, Amalgamated Metal Investments Holdings Ltd.⁹⁵ Amalgamated Metals only became a shareholder in May 2016 after control of the Kikagati mine had moved into the hands of the Swiss African Panther entity.

When Global Witness visited the Kikagati area we met three children aged between 13 and 16 mining on the African Panther exploration licence area, it is not clear that they were working in the African Panther mining lease area. The ‘exploration licence’ is a 24 square kilometre area where African Panther has the exclusive rights to explore for minerals. The ‘mining lease’ area is a smaller two square kilometre area inside the exploration licence where the company has the right to mine. The children told us that their parents could not afford the school fees and that they worked there to support their families. Local officials have taken steps to prevent children working at the mine but a local resident raised concerns that the numbers of children mining in the area increases on weekends and during school holidays. African Panther and Amalgamated Metals told Global Witness in letters dated January 2017 that they do not allow children to work on site and that they regularly inspect the site to ensure compliance with this policy. Evidence of children working within the exploration licence area does not constitute evidence that African Panther has employed child labour and we do not allege that.

A local miner told Global Witness that if miners are caught selling tin to anyone outside the company the agents alert the police charged with guarding the mine who chase them away or arrest them. They are warned never to come back to the mine again. The miners within the exploration licence area during our visit were working without safety equipment. They told Global Witness that the company did not give it to them for free and requested that they pay for it themselves – something which the miners told us they could not afford. The miners told Global Witness that First Mining had given them safety equipment free of charge prior to them losing their licence. Global Witness photographed the general

field operations procedures displayed at the mine which state that miners should come and pick up their helmets and vests at 7.30am each working day. African Panther, and Amalgamated Metals Corporation, claimed in communications with Global Witness that they did provide safety equipment to the miners free of charge.

Artisanal mining is taking place across this district and it is possible that other mining companies are also profiting from artisanal labour without employing staff directly. This warrants further investigation.⁹⁷

African Panther wrote to Global Witness in January 2017 and stated that they are fully compliant with all of their obligations under Ugandan laws and regulations. They set out in detail the efforts and processes they have in place to protect people and the environment. They also pointed out that a three day on-site visit by a team of independent contractor PACT under the iTSCi scheme had found the company to be in full compliance with the scheme. Amalgamated Metals told Global Witness that they had made specific enquiries and site visits and had not observed child labour or evidence that workers were being charged for safety equipment which they said was free of charge.⁹⁸

CHAPTER 2: A CORRUPT DEPARTMENT

2.1.2 FLEMISH INVESTMENTS

Zachary Baguma was a director in Flemish Investments Ltd. between 2004 and 2011.⁹⁹

Mr Baguma has been the Principle Geologist at the DGSM, the department responsible for licencing decisions, since at least 2003. While Mr Baguma was employed simultaneously by the DGSM and Flemish the company acquired 21 licences and signed a contract to sell 15 of them¹⁰⁰ in a deal worth hundreds of thousands of dollars.¹⁰¹

Mr Baguma and Mr. Dixon, the other Director in Flemish, both claim that Mr Baguma received no money or benefits at all for his work as director of Flemish.¹⁰² Mr Baguma told Global Witness that he had never been paid and took the role in Flemish as a “volunteer to promote mineral investment.” However, in so doing he has left himself open to accusations of a significant and corrupt conflict of interest. According to company documents Mr Baguma resigned as Director of Flemish on the 12th of December 2011.¹⁰³

Mr Baguma handed over the director position in Flemish to former Commissioner Joshua T. Tuhumwire (and others) in December 2011 a little over a year after Tuhumwire left his post as Commissioner of the DGSM in June 2010.¹⁰⁴ The Commissioner of the DGSM is responsible for approving all exploration licences and mineral leases in Uganda (although under the Mining Act 2003 he is entitled to delegate his responsibilities).¹⁰⁵ Tuhumwire left his official government position and walked into a directorship with a company over whose licence applications he had responsibility while he had been in his government role. Though not illegal this raises serious questions about the ease with which civil servants pass from government to business and the potential effect this could have on their decision making. This pattern is not unusual in other countries. In a letter dated January 2017, Tuhumwire stated that while he was “responsible for final approval of all mineral licence applications” other officials would also have to approved them as part of the process. Tuhumwire resigned from his position in Flemish in December 2015.¹⁰⁶

John Dixon, the former director of Flemish, told Global Witness that “there was no need to attempt to gain unfair influence or advantage” as the areas in question were unlicensed at the time and had been for years. He also told Global Witness “I don’t pay bribes of any sort or magnitude and hence the reason why we have lost several of our licenses in Uganda at a considerable loss.”¹⁰⁷

WHO PROFITED FROM FLEMISH?

A contract between African Mineral Fields (AMF) and Flemish Investments Limited dated the 8th of November 2007 details the sale of 15 licences by Flemish to AMF. It stipulates that as part of the deal AMF must pay US\$290,000 to the company that owns Flemish Investments - East African Mineral Resources Limited (EAMR).¹⁰⁸ The previous year EAMR was also issued one million shares in AMF.¹⁰⁹ EAMR is registered in the Isle of Man, run by nominee directors, and owned by another Isle of Man registered nominee company. These layers of ownership obscure who the ultimate beneficial owners of EAMR actually are. In an email of December 2016 to Global Witness, John Gordon Patrick Dixon told Global Witness that he is the sole beneficiary but it is not possible to verify this information.¹¹⁰ Flemish sold the other six licences it acquired to Pearl Mining in 2010.¹¹¹

This case raises serious concerns about conflicts of interest with DGSM staff working for private companies either during or after they had worked in the department that is responsible for issuing licences. Flemish acquired

licences from the DGSM and sold them for hundreds of thousands of dollars but due to its incorporation we have to rely on John Dixon’s account of who stood to profit from the sales.

It is illegal under the mining law for a DGSM staff member to hold any share in a company with any rights in the mining sector or which carries out mining activities. This rule should be extended to include holding a director position in a mining company, or being otherwise employed by one, and for a period after staff leave their official position.

2.2.2 TMT MINING

TMT LICENCES

African Quest Resources (AQR) is a Ugandan registered company that holds several exploration licences in the country. It is 92% owned by John Michael Cross and 8% by TMT Mining.¹¹² In September 2014, when AQR was issued with two exploration licences Jackson Mayanja and Morris Tabaaro, both employees of the DGSM, were shareholders in TMT and thus in AQR’s licences.¹¹³ It is illegal for department officials to own shares in mining licences under section 17 of the Ugandan Mining Act 2003.¹¹⁴

AQR recently entered into an agreement to begin negotiations to sell its shares to an Australian company called Consolidated Africa Limited (CAL). The value of the deal CAL is negotiating with African Quest Resources is not yet confirmed. However, in a related deal CAL has recently paid John Michael Cross and his colleague the equivalent of over US\$200,000 according to a share prospectus.¹¹⁵ This suggests the AQR deal could be of significant value.

OTHER SERVICES

TMT provides a range of services including exploration, negotiation of surface rights agreements and licence acquisition. For a monthly retainer the company even offers to ‘Draw up, document and file the necessary mining returns with the DGSM.’¹¹⁶ These returns will ultimately be reviewed by the department in which Mayanja and Tabaaro work.

TMT lists the price for acquiring a licence as between US\$100,000 and US\$150,000.¹¹⁷

GOLD LEACHING PLANT

When we met in August 2016, Jackson told Global Witness that TMT owned a gold leaching plant in Mubende near three location licences held by artisanal miners. As a member of the Mines Department Jackson works in a department responsible for vetting applications for location licences and approving their returns.

Gold leaching plants take the tailings from artisanal mining operations and process them to extract more gold. Jackson claimed the plant’s “production each month is around 1.2kg, at least one kilogram.”¹¹⁸ When Global Witness visited the location licences in Mubende we observed Jackson’s car parked outside what we were told was TMT’s leaching plant.

When Global Witness enquired at the DGSM how much gold production had been recorded in the first six months of 2016 for the whole of Uganda we were told that only 3.2Kg of gold had been reported to the department during that period.¹¹⁹ This means that, if what Jackson said was true and they were processing one kilogramme a month, TMT’s single plant would have processed more than double the amount of gold during the first half of 2016, than was officially recorded for the whole of Uganda.

We wrote to Mayanja, Tabaaro and John Michael Cross for comment in December 2016 but never received a reply. Edwards Katto the DGSM Commissioner told Global Witness that the ‘DGSM is not aware of any conduct of private business in its office’ or of ‘employment of any staff outside of its Public Offices.’¹²⁰

CHAPTER 3: THE BIG MEN – POLITICAL POWER RULES IN UGANDAN MINING

3.1 AFRICAN GOLD REFINERY

WHERE DOES THE GOLD COME FROM?

For the first time in many years, in 2015/16 gold ranked as Uganda’s second largest export after coffee with a value of over US\$200 million, an almost 900 times increase on the previous year.¹²¹ This has raised serious questions about where this gold is mined and who is profiting from it.¹²² The OECD has previously documented how Uganda operates as a transit country for gold which is smuggled to Dubai via the airport in Entebbe but undeclared domestic production has also been on the rise.¹²³ It seems that the gold trade has now been largely

consolidated and made public by a small group of politically connected businessmen.¹²⁴

African Gold Refinery (AGR), run by major international gold dealers Alain Goetz, is processing and exporting hundreds of millions of dollars’ worth of gold out of Uganda but paying barely any tax. A former director told Global Witness that they are receiving gold from Congo and South Sudan but the company has declined to provide precise figures on origin.¹²⁵ This has raised concerns that gold which is being smuggled in from Eastern DRC, and gold which is supporting unlicensed and dangerous mining in Uganda, could be making its way into the supply chain.¹²⁶ Ugandans benefit little from the trade as the refinery is foreign owned, employs only 75 Ugandans and the government has given it major tax exemptions.¹²⁷

WHERE DOES THE GOLD GO? – AFRICAN GOLD REFINERY

In August 2016, the state-owned Sunday Vision newspaper¹²⁸ reported that African Gold Refinery Ltd. (AGR) had exported 282.6 billion Shillings (Approx. US\$85 million) worth of gold since 2014 without paying the required taxes and levies.¹²⁹ In February 2017, African Gold Refinery confirmed that they had processed over 9 tons in 2016 and currently process 1 ton per month.¹³⁰ Global Witness has also seen official export figures from the Uganda Revenue Authority which show that AGR was responsible for US\$218 million worth of exports during 2014 -2016 with the vast majority destined for the United Arab Emirates.¹³¹ Yet the company has only paid US\$515,000 in taxes to date and it is unclear where the gold for the refinery is coming from.¹³²

In a letter dated January 2017, AGR told Global Witness that “AGR is not a trading company but a service providing industrial services such as assaying, melting, refining, and the shipment and delivery of precious metals. AGR does not trade in any precious metals.” However, Global Witness analysis of the URA export figures show that for the vast majority of official exports, while the “company name” is ‘African Gold Refinery Limited,’ the “exporter name” recorded is ‘Goetz Gold LLC’ and ‘AGOR DMCC.’ Other exporters include ‘Belgian Precious Metals Indust,’ ‘Jamal Nasir’ and ‘Alain Goetz.’ According to Orbis records; Goetz Gold is registered in Dubai and 51% owned by Mr Amr Hasan al Attar; AGOR DMCC is also registered in Dubai but no further information was available; Belgian Precious Metals Industries is registered in Antwerp in Belgium – Alain and Sylvain (Alain’s brother) Goetz are directors in the company.¹³³

Global Witness was told in a phone call in November 2016 with Barnabas Taremwa, who, according to an email from Alain Goetz, has served as a board member and, according to a letter from AGR, “consultant” at AGR and is also Salim Saleh’s brother in law, that the gold came from across the region including Tanzania, Ghana, South Sudan, DRC and Uganda.¹³⁴

In August 2016, AGR was being investigated by the Inspector General of Government for non-payment of taxes.¹³⁵ The state-owned Sunday Vision newspaper quoted sources saying that the company had failed to submit a single proof of importation for any of the gold raising the concern that gold had either been smuggled into the country illegally or that no royalties had been paid if it was domestically produced.¹³⁶ The Ministry of Energy and Mineral Development has not published up to date figures for imports or production of gold on its website. We asked AGR to provide us with due diligence reports and proof of origin for the gold which it had been refining and exporting. The company did not provide this information however they did state that they only accept gold from government registered miners or mineral dealers who “sign a statement that it is non-conflict gold.” They also said that they use compliance databases to check that suppliers are not on formal and approved sanction lists. AGR told Global Witness in a letter that the New Vision did not contact AGR during its research and published “mostly incorrect and potentially libellous information.”¹³⁷ According to AGR the IGG conducted their audit of AGR in September 2016 and “recorded no adverse or negative issues with their business.”¹³⁸

In a letter dated January 2017, Edwards Katto the DGSM Commissioner told Global Witness that the “DGSM has not issued any Export Permits to African Gold Refinery (AGR) Ltd.” The letter goes on to say that the “DGSM is part of the recently instituted Inter-Ministerial Committee that is in the process of streamlining the operations of the African Gold Refinery, specifically emphasizing that export of minerals should not happen without Export Permit duly authorized by DGSM.”¹³⁹

Global Witness has seen documents dated April 2014 that show that African Gold Refinery was granted a tax exemption by the Ministry of Finance on all imported and locally sourced minerals, and all exports of processed minerals.¹⁴⁰ This was estimated by the Sunday Vision in August 2016 to have cost the tax payer 84bn Uganda Shillings (almost US\$25 million) in lost revenue.¹⁴¹ The company also negotiated a tax break on the plant and machinery and requested a 10 year corporate tax holiday.¹⁴²

Mr Taremwa told Global Witness over the phone that he had arranged the tax exemption with the government and helped set up the supply routes for the refinery.¹⁴³ He appears on the list of attendees at the meeting at which the tax exemption was agreed. Global Witness has also been told that this tax exemption is currently under consideration by the authorities. A government source told Global Witness in 2017 that AGR had promised to pay royalties after reconciliation meetings between AGR, URA and Ministry of Energy Officials.¹⁴⁴

AGR has been granted a Mineral Dealers Licence, export certificates and a Trading Licence by the relevant government agencies, which Global Witness has seen.¹⁴⁵

3.1.2 WHO IS BEHIND AFRICAN GOLD REFINERY?

What makes African Gold Refinery all the more interesting is its owners and senior managers. According to Ugandan company records dated 2014 ‘Tony Goetz’ is the main beneficiary of the company with 99% ownership although a February 2017 AGR press release Alain Goetz is the 100% owner.¹⁴⁶ **Alain Goetz**, who is also the CEO of the company,¹⁴⁷ a Belgian national, is one of the most famous dealers of Congolese gold in recent history. During the 90s the Alain and his father Tony, who died in 2005, were reported as dominating gold exports from the Congo through their networks to Belgium and later Dubai.¹⁴⁸

Mr Barnabas Taremwa, who previously worked for AGR is the brother in law of Salim Saleh, the President’s brother.¹⁴⁹ AGR told Global Witness in a letter dated January 2017 that Taremwa’s sister and Salim Saleh had divorced three years ago, seemingly in an attempt to distance themselves from the General. However, Salim Saleh told Global Witness that “Barnabas Taremwa is still my brother in law and it is false and an insult to me for you to state that I divorced his sister.”¹⁵⁰ Taremwa is also the owner of West Corp a company which was named in a 2014 UN Group of Experts report for its trading of gold from South Sudan to the UAE. He is also personally named in a 2015 UN Group of Experts report for trading in gold illegally exported from DRC and illegally imported into Uganda.¹⁵¹ In a newspaper article which followed the report he was quoted as saying that the gold was not from Congo and was in fact from Uganda “Uganda has plenty of gold all over the country; from Karamoja to Buhweju in Western Uganda.”¹⁵² He is now in court with the owners of AGR claiming that he should have been given a shareholding in the company for his work.¹⁵³ Mr Taremwa is also the contact person for The Mineral Group Co. Ltd. which is a silver member of the Uganda

Chamber of Mines and Petroleum.¹⁵⁴ Global Witness wrote to Taremwa in December 2016 but never received a response. Saleh told Global Witness that “to the best of my knowledge Barnabas Taremwa has never been a consultant for AGR but only had a business partnership with the company’s managing Director Mr. Alain Goetz.”¹⁵⁵

Salim Saleh fought alongside his brother, President Museveni, against the Ugandan dictators Idi Amin and Milton Obote and he has remained his number two ever since. He has held several senior military and government positions and as a trusted advisor to the President. He has also been linked to several high profile corruption scandals and he was named in the 2002 UN Group of Experts report for playing a key role in an “elite network” of Ugandan’s who were systematically looting Congolese resources from the area under Ugandan control.¹⁵⁶ AGR told Global Witness that neither Alain Goetz or any other AGR employees have any ties with Gen. Salim Saleh. Salim Saleh denies the allegations made against him in the Group of Experts report and points out that he was exonerated by the ‘porter commission’ and the Ugandan Police Force. He told Global Witness that he has “no dealings whatsoever with AGR.”¹⁵⁷ More details on Salim Saleh can be found in the box on page 53 of the main report.

Salim Saleh also told Global Witness “I am reliably informed by Barnabas Taremwa that his company West Corp has exploration licences in Uganda and even to date it’s doing exploration in Eastern Uganda.”¹⁵⁸ However, the Mining Cadastre does not show any licences belonging to West Corp.¹⁵⁹ Global Witness did not have time to investigate further prior to publication. Saleh also told us that West Corp has a mineral dealers licence but does not “extend beyond borders.”

Richard Henry Kaijuka is the Chairman of AGR.¹⁶⁰ According to an article in Africa Energy in June 2011, Mr Kaijuka is “a childhood friend of President Yoweri Museveni, who fell out with the regime after he opposed a controversial constitutional amendment in 2005 that removed presidential term limits.”¹⁶¹ He held several key government positions prior to 2005, including Minister of Finance and Planning and Minister of Energy and Mineral Development.¹⁶² He was also an alternate Director at the World Bank until he resigned in 2002 following the widely reported scandal over an alleged bribe paid to him in connection with the Bujagali dam project.¹⁶³ Kaijuka told Global Witness that such allegations were “conclusively dismissed by investigating agencies.”¹⁶⁴

He is currently Vice Chair of the Uganda Chamber of Mines and Petroleum and he was Chairman of East African Gold Ltd.¹⁶⁵ According to a company brochure East African Gold once wholly owned “25 [gold] exploration licences with a total area of 674 square miles (1,746 square kilometres) in the Kaabong, Kotido and Moroto districts of northeast Uganda’s Karamoja region.”¹⁶⁶ Kaijuka told Global Witness the company ceased operations three years ago. He also owned 13 mining licences through Berkeley Reef (3) and in his own name (10).¹⁶⁷ The majority of these exploration licences are for gold, and he has several licences on the border with DRC.

Global Witness met Mr Kaijuka in his office in the corner of the top floor of a Chinese furniture shop in downtown Kampala in August 2016. He told us that he was not yet buying gold from ASM in Uganda. When we asked him where the gold came from he told us “wherever it comes, it is not our business.” “But they bring it on our doorstep” he swiftly added “with all the documents that may be required.” He said he wants to make the refinery a regional hub taking gold from across the region including the Congo and Tanzania. We were told by one prominent artisanal miner that he had a meeting with Mr Kaijuka to discuss supplying the refinery in future.¹⁶⁸

Kaijuka told Global Witness in a letter dated January 2017 that we are “absolutely wrong to State that AGR is operating because of my friendship with the President or because Salim Saleh (a brother in law of Barnabas Taremwa) was involved.”¹⁶⁹

WHERE DOES THE GOLD COME FROM? PRODUCTION, UNDER-DECLARATION AND SMUGGLING

It was thought that low official export figures in previous years were a product of international sanctions on Congolese gold and tax policy driving the sector under-ground.¹⁷⁰ That has now changed with significant volumes of gold being declared to the tax authorities but there are still major discrepancies in official figures.

The latest OAG report noted that during the financial year 2015/16, the DGSM assessed royalty and awarded export permits for only 93kgs of gold worth just over US\$3 million. However, reports from the Customs and Excise Department of Uganda Revenue Authority indicated that 5,316 kgs of gold had been exported with a total value of US\$195 million. Accordingly, Government should have collected between US\$2 million and US\$9.7 million in royalties depending on the applicable rates of 1% and 5% for the imported or locally mined gold respectively.

The most up to date figures from the Ministry of Energy and Mineral development website show that 20Kgs of gold were produced in Uganda in 2014, while only 17Kgs were exported.¹⁷¹ When Global Witness visited the DGSM in August 2016 we were told that the department had registered 3.2Kgs of gold produced in country so far for the first six months of the year.¹⁷²

According to analysis by the Dutch research company Somo and the Stop Child Labour coalition, based on an estimate of 50,000 artisanal miners, gold exports from artisanal mines in Uganda amount to up to 2.8 tonnes.¹⁷³ This is likely to be a conservative estimate.

“YOU CAN EVEN BE A BILLIONAIRE ONE DAY IN THIS PLACE” ARTISANAL MINERS AND GOLD PRODUCTION

Global Witness visited two sites in Mubende, one unlicensed mine site where miners from across the region had gathered to take their chances, and another where the ASM association, along with two companies, had secured a location licence formalising the site.

The differences between the two were clear. In the licensed site miners and the companies and individuals that own the mines, had invested in permanent structures, engineers and better supported mine shafts. Bars with large TV screens, cinemas and even a petrol station have sprung up in the makeshift city. Private security and police patrol the site and popular musicians from Kampala regularly play. Miners talked of better job security, monthly wages and improved safety. Many different agents seemed to be making money from those that owned generators or rented “machetas” (hand held drilling devices) to mine owners and bar/ brothel keepers. However, it is clear that those that own the location licence and the mines take the largest share of profits. When we asked if production was either declared or monitored by the DGSM the miners simply laughed.

In the unlicensed mine sites by contrast residents live in fear of eviction, at the bequest of those that hold licences for the same area, and make do in makeshift tents. Mine shafts are completely unregulated and processes for extracting gold are more rudimentary. Miners tend to work for those that own pits rather than larger companies. There was very little safety equipment used in either site and drinking was extremely prevalent. Miners wore flip-flops and no hard hats. They openly talked of their fear of death and lost colleagues but their ability to earn money and support their families drove them on. A network of gold buyers operate in the mining areas selling to larger dealers who bring the gold

to Kampala. Global Witness was told that they sell it to “Indians” before it is exported to Dubai.

3.2 THE SUKULU PHOSPHATE MINE – WHEN THE ELEPHANTS FIGHT

As is described in the main body of the report the Sukulu phosphate mine provides one of the most striking examples of the tragic outcomes of company and political infighting. When Nilefos failed to acquire a mining lease there was fierce competition for the licence but it was Guangzhou Dong Song (henceforth Guangzhou) that had won the favour of the politicians and community leaders allowing them to take the licence by “apparent fraudulent” process. Both Nilefos and Guangzhou’s competitor Frontier cried foul and their complaints were upheld by the courts and Inspector General of Government (IGG) respectively. But it was the poor residents who lost out when they were allegedly tricked into accepting inadequate compensation for their land driving them into worse poverty. They are still seeking justice.

NILEFOS – FAILS TO RESOLVE LAND DISPUTES

Nilefos Mining Limited, a company with close links to the Madvhani family, first received an exploration licence for the Sukulu phosphate area in August 2005.¹⁷⁴ Aside from phosphates, which could provide a vital source of fertiliser for Uganda’s agricultural sector, the area is now known to contain niobium, rare earth metals and iron ore (and even potentially uranium).¹⁷⁵ This makes it a key strategic asset for the government and one of the president’s top priorities.

Nilefos was never able to resolve long running land disputes with local communities. According to a submission by the project affected persons (PAPs) to the Speaker of Parliament the company originally argued that the land belonged to the government rather than the people in an attempt to avoid compensating them. With the support of the Osukuru Rubongi Land Development Advocacy Organisation (ORLDAO) the PAPs began a court case as far back as 2008.¹⁷⁶ Nilefos did successfully apply for a retention licence in June 2008 and did make some headway but ultimately failed to win over the community.¹⁷⁷ We wrote to Nilefos in December 2016 but did not receive a response.

COURTING SENIOR GOVERNMENT OFFICIALS

According to an internal government memo written by Edwards Katto, the DGSM Commissioner, and seen by Global Witness, the deal with Guangzhou Dong Song “originated from the common consensus reached” in a meeting between President Museveni and China’s President, Xi Jinping, at a BRICS meeting in Durban in March 2013, almost three months before Nilefos’ licence expired.¹⁷⁸

In its court submissions Nilefos’ claims that Guangzhou initially led Nilefos to believe that it was interested in partnering on the Sukulu project and instead went to State House and lobbied the President for the project which was at that time still under licence to Nilefos.¹⁷⁹ Nilefos’s lawyers argued that the decision to reject their mining lease application was made 16 months before it was even presented to government. Nilefos refers to the minutes of a cabinet meeting on 10th February 2012 chaired by the then Rt Hon Prime Minister Mbabazi. In which the Attorney General resolved that “since the Madhvani lease period is lapsing in June.... Government could wait until the agreement collapses naturally” before handing the rights to the Chinese.¹⁸⁰

Guangzhou Dong Song, the parent company, registered its Ugandan subsidiary – Hui Neng - on 15th Feb 2013 five months before Nilefos’ licence was due to expire.¹⁸¹ The company listed amongst its shareholders Chinese businesswoman Fang Min.¹⁸²

FANG MIN

Fang Ming is a Chinese national who arrived in Uganda in 1989 and quickly established the Fang Fang Group.¹⁸³ The Fang Fang Group’s website claims that she has acted as a Ugandan diplomat, visiting “Mainland China, Thailand, Ethiopia, Australia and many other countries in the world and built sound ties with governments as well as business institutes of many countries.” According to the same website she even visited China with President Museveni in 2004.¹⁸⁴ She chairs the Confederation of Chinese Uganda Organizations (CCUO) and, according to the New Vision, has even been given the honour of appearing on the special edition Olympic Games Chinese postage stamps.¹⁸⁵ We wrote to Fang Min in December 2016 but did not receive a response.

According to Guangzhou Dong Song’s vice-president Mao Jie, the project was ‘set to be accelerated by China’s strategy of “One Belt and One Road.”¹⁸⁶ ‘One Belt and One Road’, known also as OBOR, is President Xi’s ambitious flagship foreign policy programme to stimulate trade and economic growth with countries in Asia and beyond. As will be set out below, the way in which the Sukulu project has been implemented by Guangzhou raises questions about whether it is living up to the underlying principles and goals of OBOR including: managing the natural resources in an equitable and sustainable manner,¹⁸⁷ “ensuring that the government performs its proper role and highlighting the importance of open, transparent, and non-discriminatory procurement procedures,”¹⁸⁸ and “improving people’s quality of life.”¹⁸⁹

3.2.3 INSPECTOR GENERAL OF GOVERNMENT (IGG) REPORT

The Inspectorate of Government is, according to its website, an independent institution charged with the responsibility of eliminating corruption, abuse of authority and of public office.¹⁹⁰ According to the state-owned New Vision newspaper the IGG wrote to the President on the 20th of July 2016 to alert him to the flaws discovered in the award of an exploration licence to Hui Neng which are detailed in a report.¹⁹¹ Global Witness has obtained a full copy of the IGG report, which came to public attention in August 2016 but which was never published. It details a number of comprehensive failings amounting to fraud. The report states that the Commissioner DGSM [Edwards Katto] and another local official “should show cause as to why they should not face disciplinary action for knowingly facilitating the apparent fraudulent processing” of Hui Neng’s exploration licence application.¹⁹² In a letter dated January 2017, Edwards Katto told Global Witness that the IGG had since retracted the report following further investigations by the Ministry of Energy and Mineral Development which had “established that the conclusions of fraud by the IGG were erroneous.”

According to the IGG report, Frontier, which counts former Commissioner Joshua Tuhumwire among its senior management, sent two of its staff to file an application for an exploration licence at the DGSM on 26 June 2013.¹⁹³ According to the IGG report staff turned them away allegedly citing an instruction from the Commissioner Edwards Katto not to accept any applications for the Sukulu project.¹⁹⁴ They complained to the IGG about the process. As a result the IGG published a number of concerns relating to Guangzhou’s successful application (through its subsidiary Hui Neng).

- 1. The district stamp on Hui Neng’s application for the exploration licence, according to the Tororo Chief Administrative Officer (CAO), “was not the official stamp used by the District”.
- 2. The Tororo CAO did not approve the application himself, as he claims he should have under the law. Rather it was approved by his deputy – allegedly without the CAO’s permission.
- 3. There was no copy of the application in the Tororo district office, contrary to normal practice.¹⁹⁵
- 4. The application process requires various steps, such as filing documents and making payments, to be taken in different physical locations. The timings of these different actions in the Guangzhou application are such that physical travel between the locations would simply not have been possible. The IGG concludes that “the application in question is therefore likely to have contained falsified dates and times to facilitate its clearance at the DGSM.” She goes on to state that the irregularities in the application “strongly suggests that both the Ag. Commissioner in charge of the DGSM at the time and the D/CAO (Deputy Chief Administrative Officer) in Tororo were complicit in fraudulently facilitating the processing of the application of M/S Uganda HuiNeng.”¹⁹⁶
- 5. The Minister of Energy failed to respond to written requests by Frontier for an administrative review of the decision.¹⁹⁷

It seems highly likely then that senior government officials acted to ensure that Guangzhou won the contract at the expense of both Nilefos and Frontier, bending the DGSM to their will and undermining due process.

According to the Mining Cadastre the Guangzhou exploration licence was applied for on the 24 June 2013 and granted on the 1st of August 2013. Their mining lease was granted on the 29 October 2014.¹⁹⁸ In December 2014, after Guangzhou had received its licences Edwards Katto’s daughter was sent an invite for her to visit Guangzhou’s headquarters, with accommodation at their expense.¹⁹⁹

Nilefos also raised concerns in court that the legal firm, ABMAK, is headed by the son of the then Permanent Secretary to the Ministry of Energy and Mineral Development – Henry Kaliisa which it considered to be a conflict of interest.²⁰⁰ ABMAK had previously acted on

behalf of Nilefos, at the time at which it’s mining lease application was rejected,²⁰¹ but was acting on behalf of Guangzhou by October 2013. ABMAK is also Denis Kusaasira’s firm, a man who features in several chapters of this report.²⁰² In a letter dated January 2017 Kusaasira told Global Witness that “Conflict of interest under the Mining Act would arise only if Dr. Kabagambe Kaliisa was acting contrary to the provisions of section 17 of the Mining Act” and pointed out that the PS does not take part in decision making under the Mining Act.²⁰³ The PS told Global Witness that he had “never made any decision in favour of any clients of ABMAK Associates” and that any claims of conflict of interest were therefore false.²⁰⁴

PAYING THE LOCAL MP TO CLEAN UP LAND RIGHTS

On the 15th of April 2013, almost one month before Nilefos submitted its application for a mining lease,²⁰⁵ Hui Neng entered a legal agreement with Osukuru Rubongi Land Development Advocacy Organisation (ORLDAO). The community based organisation had previously acted on behalf of the Project Affected Persons (PAPs) in their negotiations and disputes with Nilefos. Another similar agreement was signed on the 17th of April.²⁰⁶

The agreements state that ORLDAO represents the community and that it will handle land titling, community sensitisation and compensation requirements on behalf of Guangzhou and secure a 49 year land lease for the company. The contracts also prohibit ORLDAO from entering into an agreement with any company besides Guangzhou effectively blocking Nilefos’ application for a mining lease. In return the company agrees to cover all costs associated with the land rights activities, make social fund payments of several hundred thousand dollars to the “needy” of the district and pay ORLDAO at least half a million dollars. The agreements also secure some favourable terms for the community including providing jobs and free fertiliser for local people.²⁰⁷

As early as March 2013, Hui Neng had begun signing documents with local land owners for 49 year leases and offering them UGX100,000 on execution of the agreement. The Agreement is marked ‘strictly confidential.’²⁰⁸ Guangzhou’s strategy, of engaging with ORLDAO to ensure that PAPs negotiated with them rather than Nilefos, was successful. Nilefos’ 7 May application for a mining lease was rejected paving the way for Guangzhou to acquire its licence.²⁰⁹

However, it seems that Hon Ekanya the local MP for Tororo, as well as some members of ORLDAO may have failed to live up to their agreements to Hui Neng and the community they claimed to serve. Global Witness has seen several agreements between ORLDAO and PAPs dating back to May 2013. The agreements hand sole responsibility to ORLDAO to negotiate on behalf of the land owner. ORLDAO agreed to secure freeholds and fair compensation on their behalf in return for no more than 10% of the compensation received. However, Hui Neng had already agreed to cover ORLDAO’s costs.²¹⁰ It seems therefore that ORLDAO, or members of it, were intending to take a cut of each and every PAP’s compensation on top of the deal they had negotiated with Hui Neng. Global Witness wrote to ORLDAO in December 2016 but never received a response.

THINGS TURN SOUR

Documents obtained by Global Witness show that Guangzhou, through its lawyers ABMAK, had complained to the Permanent Secretary of the Ministry of Energy and Mineral Development that Hon. Ekanya and ORLDAO had conned the company and failed to support the communities. On 17 March 2014, ABMAK wrote to the Permanent Secretary at the Ministry of Mines and Energy claiming that Fang Min, a director of the Guangzhou subsidiary, had paid a total of US\$ 1,060,000 to ORLDAO and Hon Ekanya between April and May 2013, before the Nilefos licence had expired. However, according to ABMAK letters the money was never used for its intended purposes.²¹¹

According to the letters; US\$ 500,000 was paid to Hon Ekanya in April and May 2013 for the “needy for education and health of the people in Tororo County” – the money was neither declared by the MP or used for the purpose it was intended. The company paid a further US\$250,000 for legal costs in the court battle with Nilefos– which ABMAK later asserts were inflated and in any case were not the liability of Guangzhou.²¹² According to the documents, Ekanya also demanded US\$50,000 a month as his fee. Community representatives in the Sukulu area told Global Witness that community members had not received the funds mentioned above and while some attempts had been made by ORLDAO to conduct some surveying they had done a poor job and it had not been completed.²¹³ As a result some community members turned against ORLDAO and signed documents with local government officials in November 2013 revoking their permission for ORLDAO to negotiate on their behalf.²¹⁴

When we approached him for comment Ekanya acknowledged the existence of agreements between ORLDAO and Guangzhou’s subsidiary which he told us were handled by ORLDAOs law firm. He denied ever having received money from Guangzhou and claimed that the allegations had been investigated by the police after ABMAK had raised them.²¹⁵ Global Witness wrote to Guangzhou Dong Song in December 2016 but never received a reply.

GUANGZHOU DONG SONG TURNS TO ABMAK TO RESOLVE LAND RIGHTS ISSUES IN TORORO

In September of 2013, the New Vision reported that the Government of Uganda “entered a joint venture with China to see the implementation of the long awaited US\$560m Sukulu Phosphates project” with Guangzhou Dong Song Energy Group.²¹⁶ The MOU between the Uganda Investment Authority and Guangzhou Dong Song for the ‘Comprehensive Industrial Development Project of Carbonate in Sukulu, Tororo Uganda’ was signed in the same month.²¹⁷ The company’s mining lease was granted on the 29 October 2014.²¹⁸

Things were going far from smoothly on the ground. In a letter from ABMAK to ORLDAO dated November 2013 they accuse ORLDAO of threatening and intimidating local people in order to preserve their deal and prevent Guangzhou negotiating directly. By this point it was clear that ORLDAO and the local MP had lost the support of the community and Guangzhou changed strategy.²¹⁹ They engaged first the government and then the lawyers to enter negotiations directly with the communities.

THE GOVERNMENT INTERVENES

On Feb 25th 2014, the Daily Monitor reported on a meeting at which the government and Guangzhou came to an agreement with local residents after almost a year in which “exploration activities could not go on due to resistance from the land owners in 14 villages.”²²⁰

According to a leaked internal government memo “after realizing this problem, H.E. the President intervened and a Steering Committee to resolve these land wrangles was put in place on 31st March, 2014. The Steering Committee met every fortnight in Tororo and several discussions were held with the project affected persons and local leaders.”²²¹

He also visited the area himself and promised that land rights issues would be resolved. He publicly chastised those who had frustrated the deal.²²²

As a result of the intervention the government did come and survey land in order to provide titles.²²³ According to the petition to the Speaker by PAPs dated April 2015 the government, in conjunction with Guangzhou, surveyed 5 out of 14 villages.²²⁴ The community members Global Witness spoke to told us that they were relatively satisfied with the results of the surveys.

FIRST MEETING WITH ABMAK

A number of PAPs signed Project Support Agreements in March 2014 which promised UGX1 million as a good will payment and opened the door for future negotiations.²²⁵ The community, now free from ORLDAO, created a new committee to negotiate with the company.²²⁶

Initial discussions between the community committee and Guangzhou lawyers went well. The community representatives were broadly happy with the terms offered by the company. The major point of contention was the length of the lease. However, according to community members Guangzhou never came back to the community with an offer.²²⁷ Instead Guangzhou and ABMAK initiated a programme which saw 123 families sign away their home, land and crops in agreements they claim they did not understand and which did not provide adequate compensation.

DENIS KUSAASIRA – ATTENTION TO DETAIL

When Global Witness visited the Sukulu area in August 2016 we met over 50 villagers who had signed ‘Surface Rights Agreements’ with Guangzhou. All of them told the same story. Local ‘middlemen’ or ‘land brokers’ had come to their houses or places of work to pick them up and take them to the Rock Hotel Classic in Tororo during August 2014. When they arrived they were confronted by a table of lawyers and company representatives headed by Denis Kusaasira. Each Surface Rights Agreement had a schedule denoting land area, value of buildings, and value of crops. Many of them told us they did not read the contract and did not realise that it was for 99 years. Many of the project affected persons are illiterate and used thumbprints rather than signatures. We were told that local government officials including the RDC and police had told PAPs to sign the agreements and that any issues could be resolved later. Residents complained that they were systematically undercompensated, something which was corroborated by the LC1 Chairman who also claimed to have been undercompensated for his land despite being part of the official process.²²⁸

Global Witness analysed a sample of the 80 of the 123 Surface Rights Agreements signed by local landowners

in Sukulu which we obtained. We found that landowners had been grossly under-compensated for their fruit trees and crops in comparison with the official 2013 Tororo District rates. In some cases landowners were paid anywhere between 70 and over 90 per cent less (for reasons that are unclear Tororo district never released 2014 rates). Even between landowners prices differed, with some receiving a third of the compensation that others did for the same item. While the landowners did appear to receive fair to generous rates for the land itself the shortfall in compensation for crops left the landowners poorer overall. Those with more land and crops fared worse.

Some of the residents were also told, by those present at the signing, not to show their agreements to anyone as they risked being the victims of electronic or physical theft. They did not do so out of fear of losing the compensation.²²⁹

In two letters dated November and December 2013 to the Chairman of the Tororo District Land board from the Permanent Secretary to the Ministry of Lands, Housing and Urban Development the latter makes it clear that leasehold agreements should not exceed 49 years under the National Land Policy of 2013. The second letter states that Surface Rights Agreements should be issued for a period “not exceeding 21 years” with the option of renewal.²³⁰

Denis Kusaasira has defended the compensation paid in several newspaper articles.²³¹ In a letter to Global Witness dated January 2017, he asserted that the landowners should have understood their surface rights agreements as they have a certificate of translation signed by area local authorities, which clearly indicate that the agreements were read over and explained to each landowner in a language they understand.²³² However, the relevant annex in the surface rights agreements is stamped and approved by the LC1 for the district who told Global Witness himself that the compensation was undervalued and that people didn’t really understand what they were signing. He told us he is involved in contesting the value of the compensation including his own and that he was told by officials at the time that they would rectify the under-valuations later.²³³ Kusaasira’s letter also states that the rates used were those approved by the Chief Government Valuer which is proper practice.

ABMAK did write to the district land board in October 2014 stating that 117 of the land title applications for the 123 households had been submitted.²³⁴ However, at the time of writing, the PAPs had not yet received their titles meaning that they have no legal title to the land they

have leased, something they have consistently called for as part of the process.

PROJECT AFFECTED PERSONS PETITION PARLIAMENT

In April 2015, residents submitted a petition to the Speaker of Parliament, with hundreds of pages of supporting documents, raising their concerns about the compensation process and content of the agreements. At the time of writing they had not received a formal response.²³⁵ They made a number of detailed complaints which included that the agreements they signed handed over their land for 99 years when they had previously been told by the government that 21 years was the maximum time for this kind of agreement.

They contested that the issue of spousal consent was not properly dealt with. Men signed on behalf of families leaving women and children vulnerable to men who chose to leave without their families or squander the money. They raised concerns about the length of time it took to receive compensation. They complained that the money they received for moving the graves of their deceased relatives was not sufficient to cover the costs.

The PAPs complained that Guangzhou had used “land brokers” and “threatening language” to intimidate them and that they did not have the information they needed to understand the law. Above all they complained that the process of asking individuals to sign pre-prepared agreements and the alleged failure to include religious and cultural leaders undermined the ability to negotiate collectively.

All of the complaints raised in the petition were also raised with Global Witness by the residents when we visited Sukulu in August 2016.

In the same petition the PAPs asked for.

- > Land titles.
- > The use of up to date compensation rates.
- > Quash 99 year leases and replace with 21 years.
- > Speedy resolution for families remaining on the licence area and awaiting eviction who cannot plan in anticipation of being evicted.
- > Assessment and compensation regulations to accompany section 20 of the Land Acquisition Act.

- > A proper Resettlement Action Plan for the area.
- > Consultation with the PAPs as part of the EIA process.
- > Proper sensitisation of the community.
- > An investigation into the actions of Guangzhou and a termination of their lease if they are found to have acted unfairly.²³⁶

The PAPs who were evicted are still awaiting justice. Elsewhere in the licence area many hundreds more households are facing an uncertain future as they await the company’s plans.

3.3 ALL THE PRESIDENT’S MEN – MR MOSES KAMUNTU ‘SAMPLES’

In February of 2012, Mr Kamuntu entered into a contract to supply a Kenyan businessman, Sharma Singh Varma of Kitmin Holdings Ltd., with 10,000 tonnes of iron ore every month for the next two years. Later, on the 19th of July 2012, according to a leaked draft internal government document Kamuntu was given two permits by the DGSM for the export of iron ore ‘samples’ totalling 2000 tonnes, worth around US\$60,000, to be transported in 64 trucks.²³⁷ The existence of export permits were confirmed by his former business partner, Kitmin Holdings. Kamuntu later confirmed in a conversation with Global Witness staff that he was exporting minerals as ‘samples’ to avoid tax.²³⁸ The DGSM Commissioner said that no ‘Samples’ permits had ever been issued to Kamuntu.²³⁹

When the export licences were issued Mr Kamuntu had two location licences and two exploration licences registered in his name on the Ugandan Mining Cadastre. Location licences should only be granted to small scale miners who will not spend more than 500 currency points (less than US\$3,000) to exploit their location licence and who do not use specialised technology.²⁴⁰ This type of licence arrangement does not seem to be commensurate with a deal to supply 240,000 tonnes of iron ore.²⁴¹

Kitmin told Global Witness in an email dated January 2017 that the iron ore came from ‘Kamuntu’s own mining location, a community based artisanal mining association’ and other sub-contractors. Some 200 people were employed in the process, they said. The company also told Global Witness that they had invested US\$560,000 in ‘start up costs and plant and machinery and haulage trucks.’²⁴² Kamuntu’s facebook page

contains photos of trucks being loaded and warehouses. Kamuntu told an undercover Global Witness staff member that he also holds licences in other names including those of his relatives and children in part to disguise them from DGSM officials.²⁴³

Of course Mr Kamuntu could have been sourcing iron ore from other areas to fulfil his contract. Though this does not explain why the DGSM would have granted ‘sample’ export licences, as by this point he was already four months into his contract with Kitmin. Presumably he would have been well beyond the point of supplying samples.

In a letter dated January 2017, the Commissioner denied that the DGSM had issued export permits for ‘samples.’²⁴⁴ Kitmin confirmed that Kamuntu had delivered 2000 tonnes of iron ore and that these were not samples but part of the supply for the larger contract.²⁴⁵

HALF A MILLION IN LOSSES

On the 24th of October 2012, President Museveni issued a directive prohibiting the export of unprocessed iron ore with the aim of encouraging value addition within Uganda. Moses Kamuntu was duly contacted and told that his export licences had been revoked.²⁴⁶

Kamuntu then lodged a complaint with the DGSM in which he estimated the loss of money to his business caused by the revocation of the permits to be US\$ 560,000.²⁴⁷ According to Kitmin this value was the sum provided in advance for machinery for the site²⁴⁸ – proving that Kamuntu was operating outside of the remit allowed under Exploration and/or Location Licence agreements. The contract itself was worth far more.

PRESIDENTIAL WAIVER

Kamuntu also managed to get an audience with the President to discuss the matter to his satisfaction. In his letter to the Mining Minister the President stated that because Kamuntu was already locked into a contract to supply a buyer, he should be allowed to fulfil his contract in order not to jeopardise his business.²⁴⁹ This may be a perfectly legitimate reason to exempt a business from the ban. However, it seems that Kamuntu was conducting substantial business from just two location licences and exporting significant quantities of iron ore as samples - all with the approval of the DGSM. It is not clear from the documents that the President was aware of these facts. It also appears that Kamuntu has been abusing this waiver to export iron ore and other commodities to other companies.

CURRENT BUSINESS

The DGSM is well aware of the scale of Mr Kamuntu’s iron ore business. Both because they have issued him with several export permits and because he shared details of his 240,000 tonne supply contract (with Kitmin) with them as part of his formal complaint. Despite this they have seen fit to issue his company, Kamuntu Investments, with a number of new licences.²⁵⁰

In an email received in January 2017, Kitmin Holdings told Global Witness that “we stopped importing [from Kamuntu] in November 2015 due to crash in commodities prices. However we are aware that Kamuntu continues to export in contravention to the ban and we have officially complained to the DGSM and Minister of Minerals to no response.” Global Witness has seen the email sent to the Commissioner, dated November 2016, in which Kitmin makes it clear that Kamuntu is abusing the authority granted by the presidential waiver (to fulfil the Kitmin contract) to sell iron ore to another Kenyan company called Skylight Ltd. The email refers to two Export Permits (No. 03222 dated 19 July 2016 and No 02251 dated 28th September 2016) along with other documents they provided to the department as being evidence of this fraud.²⁵¹

In November 2016, Kamuntu told a Global Witness employee posing undercover that he continued to export his minerals as samples to avoid tax. He also told Global Witness that he deals in minerals originating from the DRC, labelling them as Ugandan to get around regulations. Kamuntu said that he exports tantalite from the DRC, labelling it as iron ore to pay less tax.²⁵²

In a letter from the DGSM Commissioner to Global Witness dated January 2017 he stated that the “DGSM has not issued any import or re-export licenses to Mr. Moses Kamuntu and has not received any reports of illegal import or export of minerals.”²⁵³ Global Witness wrote to Moses Kamuntu and President Museveni in December 2016 but did not receive a response.

ENDNOTES FOR ANNEXES

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Global Witness investigates and campaigns to change the system by exposing the economic networks behind conflict, corruption and environmental destruction.

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